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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 30 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: Mr Sanber is in the witness box and I think he's being represented today by Mr Edwards.

MR EDWARDS: May it please.

10 THE COMMISSIONER: You have authorisation to appear on behalf of the witness.

MR EDWARDS: Yes. Yes, Chief Commissioner.

THE COMMISSIONER: Just give me one moment. Now, Mr Sanber, you're subject to the same oath you took at the commencement of - - -? ---Understood.

- - - your evidence to say the truth. Do you understand?---I do.

20 Thank you. Yes, Ms Davidson.

MS DAVIDSON: Mr Sanber, on Tuesday do you recall answering some questions in relation to a letter provided by Mr Felice, I apologise for the mispronunciation there, in relation to the name of what was TRN Contractors and the name change?---I didn't think it was, the letter was from Joseph. I thought it was from Marsdens to - - -

All right.---But anyway I do - - -

30 There was a letter from Marsdens that you were shown, and I can have it brought up if you would like to see it again, a letter that Joseph had drafted in response to that letter from Marsdens.---I don't recall seeing that but that's fine.

All right.---I didn't see it either way so - - -

Can we have volume 16, page 65 brought up on the screen, please.---Okay. This is - - -

40 Do you recall this is an email you were shown?---An email, yes. I didn't see a letter. That's what I was saying.

Well, the following page is the letter that - - -?---Okay.

- - - is attached to it.---Okay.

Referring to the website.---Yep.

10 And if we scroll back to page 65 you'll see down the bottom there the email from Joseph indicates correspondence, or a letter that he's drafted for placement on your letterhead and forwarding to Marsden, forwarding to Marsdens presumably in response to their letter.---Can you just be clear that it's not my letterhead but, yep, that's, that's fine.

Well - - -?---I, I, I can read the email. I don't recall seeing this email but, yes, that's fine.

All right.---Keep going.

20 I think that your evidence was that Joseph was a person who you had put Mr Abdi in contact with.---That is correct.

Do you have any reason to think that Joseph would have been copying you on emails in relation to a matter that you had not provided him with details in relation to?---Okay, I'll just take a step back. Is that, is this email originated from Joseph?

Well, this is an email, if you look at the bottom email in the chain - - -? ---Okay. Was that the original one, was it?

30 It's from Joseph.---Okay.

If you see the bottom email.---Yeah.

It's copied to both yourself and to Raj Sandy.---Yep. I can, I can read, yes.

40 Now, do you have any understanding or what is your understanding in relation to why that email was being sent not only to Raj Sandy, your alias, but also to the Gmail address that you accept was yours?---It still is mine, my current email address. I don't recall this at all but that's fine. I'm not disputing that it exists.

Right. But the suggestion that arises from it - - -?---Yeah.

- - - is that you were involved in providing instructions to Joseph.---I did not.

And that you were asking him to provide some legal advice in relation to the name change issue.---I did not.

He was your friend, was he not?---Still is, yes.

10

Not something that Mr, not somebody that Mr Nguyen knew.---No. Well, no, I don't think Mr Nguyen knew him.

The connection was with you.---Well, I would, I'd probably say that the connection wasn't with me. It was I made the introductions to, to Nima for a totally different matter and - - -

20

And notwithstanding that Joseph is copying you in relation to these emails not Nima, isn't he?---Correct. And I'm not sure, I can't explain to you why I was copied in on that other than maybe to say, hey, this is what your friends are asking me to do.

All right. But you'd agree it's not normal for a lawyer to copy in somebody in relation to something their friends asked them to do that didn't have anything to do with them, is it?---True.

30

So the natural conclusion that you would draw looking at these emails now is that you were involved in giving him some instructions or asking him to do something.---That's, that's your summation. As I said, I don't even recall this email exchange.

All right.---Was, was I actually, did I, I'm, again I don't have this information at hand. Did I actually respond from my email address at any stage?

Well, I'm asking you questions about this email that was received at your email address.---Yep. I don't recall seeing it.

40

The name was changed from TRN Contractors to ASN Contractors. ---Correct.

Were you involved in discussions in relation to the choice of ASN as the new name for the company?---When you say involved in discussions I was told to change it to that, to that acronym, yes.

Right. And it's an acronym for Abdi, Sanber and Nguyen, is it not?---I can't say exactly that that is accurate. It could be the aliases that, that Tony just wanted to use for his business name.

10 Well, I think you said you understood - - -?---Yeah. As I said - - -

- - - that the previous acronym - - -?---Was for the alias names.

- - - was also one that corresponded to your name.---The alias names, yes.

Well, your name and the alias name.---Well, go backwards and forwards but I attest to the fact that that was not my name so it was not for Sanber in the acronym if that's what you're trying to allude to, yep.

20 Well, I'm suggesting to you that it wasn't a coincidence that your name, that is your initial was part of both acronyms and that in fact you'd agreed to that.---I'm not going to refute that but I'm not going to say that that was the case.

Well - - -?---Because it wasn't the case that, there was no intent for me to have my name in there. The reason, as we, as we mentioned on Tuesday, as I discussed on Tuesday, that Tony wanted additional names to be shown on there was to have the appearance that it wasn't just a one-man band.

30 Yeah. This was the business cards - - -?---I don't, I don't know. Do, did you see business cards, do you have evidence of these business ever actually being printed?

Well, we've shown you the business cards or the design.---No, the design, the ones that were designed. I don't think they were, they were ever printed, well, I have never received one.

40 However, you agreed and accepted on Tuesday that you were involved in their design and the purpose of them, as you understood it, was, to your understanding, for the company to be seen to be larger than it was. You agreed- - -?---And what I said at the time also was that the names that were used were Tony's request to use them and it was for the purpose of

embellishing the size of the company and the acronyms used for AR, whatever it was, ARN, TRN was based on the acronym, the aliases, if you want to call them aliases, the names that were used at the time. And I say ACN or ASN, whatever it was, afterwards was for the exact same purpose. I'm just stressing that my evidence is that my name, my Sanber, S, whatever you want to call it, was not part, was not, I did not accept, I did not agree for that to be used as part of the acronym. Whether you want to make that association yourself or not, that's up to you but I'm telling you what the truth is.

10

But you agreed to the use of that alias in connection with your real telephone number - - -?---Correct.

- - - for the purposes of the business cards - - -?---No (not transcribable) for the purpose of business cards - - -

- - - and I'm suggesting to you also for the purposes of the name of the business.---Yeah. You're suggesting that. I'm saying my name was not. The only reason that my phone number was on there was so in, in the, and what I said that I accepted and I agreed to do was to have my phone number listed, so if someone called that phone number, it actually rang and that's the extent of it. I, I can see that you're trying to make other associations and I'm trying to explain to you that my position is that I never agreed for my actual name or for, to be used or, nor for me to actually use an alias.

20

Are you familiar with a company called Paynter Dixon Constructions Pty Ltd?---I am.

30

What is that company?---They, what do they do? They do refurbishment work and whatnot for, for a club, for clubs and pubs and that type of stuff.

Can we have volume 16.1, page 34 brought onto the screen? Now, you'll see this is an email from your Gmail address in August 2014 to a Mr Di Giulio of Paynter Dixon Constructions?---Yes.

And this is you providing or somebody using your email account providing an email and password of rogersmith@trncontractors and a password?---I can read that.

40

Are you able to explain why it was that you were doing that?---I didn't even know, I, can I have a second read what this email actually is?

Of course.---I really don't know what it is. What, what, what's the purpose of this email? This - - -

I'm asking you that question.---I don't know. Sorry. I don't recall this email. August 2014. Okay. Yeah.

10 Again, what this email suggests, I'm suggesting to you, is that the alias, the Roger Smith name associated with TRN Contractors was not simply something that was being used by Mr Nguyen because you were providing details of it to Mr Di Giulio.---I have no idea why this was sent, so I don't have a recollection of this. I can't even see the purpose of this, I don't, so I'm sorry if it's not clear, a clear response. I'd love to give you a, a clear response but I don't even know what this email, what the purpose of this email is.

All right. Could we have volume eighteen point - - -

20 THE COMMISSIONER: Just a moment. Just before we leave that. Can we go back to that document? Okay. That's your email address where it says "from"?---Correct.

And the person that you're corresponding with is Paul Di Giulio?---Yep.

That's a person that's known to you?---He is.

Right. And you've copied that into another Gmail address?---It's the same email, Gmail address.

30 Yep.---Yep. I'm not sure why either, but keep going.

All right. That's what's happened?---Yep.

And in the text of the email there's a statement that you've communicated the email and password are rogersmith@trncontractors.com.au and then there's a password, FAXU18421. You see that?---I do see that.

40 Okay. Now, why did you send those details to Mr Di Giulio?---That's what I was trying to say. I have no recollection of this, nor do I know what the purpose of this email was. I'd prefer to see a chain of emails so it can jog my memory, but I've got no clue what this is about.

All right. In what circumstances would you have used the email and the password there described?---I would not have used it, hence why I'm so confused about - - -

Well, you obviously did use it, didn't you?---I, that's not obvious, no. I don't, I don't think I've used this email address and I - - -

10 Well, how else would it appear in this email that you've sent?---I don't want to jump to conclusions, but I don't recall it, so if - - -

Well, do you know of any other circumstances in which it could be used in an email that you've sent?---I don't think so.

All right. Thank you.

MS DAVIDSON: You're not suggesting that somebody else sent this email, are you?---I'm not suggesting that, no. But I, I don't recall it.

20 If we could have volume 18.17, page 375 brought up on the screen. These are messages extracted from your telephone, Mr Sanber.---Yep.

To Mr Nguyen.---Yep.

In October 2014.---Yep.

And can you see there an incoming message from Mr Nguyen in about the middle of the page, numbered 4?---Yep.

30 Where you're asking - sorry, where he is asking you for, to send him the logo.---Sorry, is this from him or from me?

It's an incoming message to you.---Okay, yep.

And he says, "Can you send the logo? Need it for the website. Send it to tonynguyen86." Well, you can see the email address there. And then there's a password being provided to you and details in relation to an email address for rajsandy@asncontractors.---I see that, yes.

40 That's messages 3 and 6 in the chain.---Yes.

Do you agree that at that time you were assisting Mr Nguyen in relation to the website? That is the website for ASN Contractors.---I sent him the logo I believe. I believe I sent him the logo, yes.

And he there is providing you with password and email address details. If there was no intention that you would use those email address details, what could have been his reason for sending you the password?---To use them if I needed to, yes.

10 And it was his understanding, as suggested by these emails, these messages at least, that you would use them, wasn't it?---His, potentially, yeah.

Could we have volume 16.1, page 46. Just while I'm bringing that up, did you do any further work in relation to the website?---The website?

Apart from sending the email? Sending the logo, I should say.---I don't really recall much to do with the website. Maybe just in terms of the, the, the wordings on whatever statements they had up there. I may have helped with the wording on that. But I don't, I don't recall doing too much with the
20 website.

Do you recall assisting with the wording, that is, the drafting of the language that was used on the website?---I don't recall exactly but I assume that I would have.

When you say you assume that you would have, is that based on a memory that you have?---I don't have a recollection of - correct.

Right.---I don't, I don't recall it, no, but I believe that I would have helped
30 him. So I don't want to say, I don't want to, I'm trying to be as open and honest with you guys as possible. I don't recall it but it would make sense that I would have helped him with it.

What makes it make sense? Can you tell the Chief Commissioner.
---Because I don't think that, I don't think much of Tony or Nima's aptitude, ability, knowledge, et cetera, so - - -

So to the extent that the wording on the website - - -?---Yeah.

40 - - - you thought coherent, that was because you drafted it?---Potentially.

And the reason for you drafting it was because you hoped to assist in the success of the business.---No. I wouldn't say that. I would say that I was asked to help start the business and I do what I, what I say I will do and I accepted that I will help him set up the business and this was part, that would have been part of the work I would have done to assist in setting up the business.

Drafting a website or wording for a website is a reasonably significant time consuming task, is it not?---This whole thing was time consuming, yes.

10

And that wasn't work that you were doing simply for nothing, was it?---It was simply for nothing at the time, yes.

You had an expectation of benefit in the future in relation to that.---The benefit is as, whenever you do good things, you expect that good things come to you as well. That type of an effort, yes. So if I did something nice for, for others, I would also get nice things done for me as well.

20 And when you say nice things, if you're providing a benefit on your account to Mr Nguyen, you expected that he provide a benefit as a quid pro quo to you for that?---I'm trying to be careful in saying that that was my expectation. That wasn't a prearranged agreement. It was solely from my own, I don't know how to explain this. When I do something good for someone it's like karma. Good karma goes out. You expect good karma to come back to you. It's not necessarily that I said, "I'm going to do this work for you and you must give me something in return at a later date." That's not, there was no, never that type of agreement but it was basically a, I do good. And if you look at the rest of my emails, the rest of the work that I do, it, it's probably something that I do quite often in being generous with
30 my time and helping people out. You'll see it if you, I know this is investigating corruption but how about, you know, if you want to get a good picture of whether I am someone that is corrupt or not, you actually should be looking at the whole picture, and if you see from the evidence how much good I do or how much free helpful work I do for others, you will actually get that better picture of me.

Mr Sanber, this is an investigation into allegations, as you know, in relation to corrupt conduct including by you - - -?---Yeah.

40 - - - rather than into the entirety of your activities.---Okay.

But sticking with the activities that relate to ASN Contractors or TRN, it was not simply the case that there was an unspoken good karma. You had rather hoped that, and discussed the future success of the business with Mr Abdi and Mr Nguyen, had you not?---That's false, and that's exactly what I was trying to say is not true. I did not have a prearranged agreement to do whatever, I'm not going to repeat exactly what your words were. There was no prearranged agreement. There was - - -

10 The question wasn't as to a prearranged agreement. It was as to your discussions with Mr Abdi and Mr Nguyen as to the future success of the business. You hoped together that the business would be successful, did you not?---I, how do I answer this without constantly debating key, little points, little words that you're throwing in there? So what I'm trying to explain to you is that if I do something, I, I try to do it well and I usually do it well. So if I do something well, my expectation is that the business, if, for example, setting up this business. Setting up this business is to set it up for success, not set, set it up for failure.

20 And indeed you thought that bringing your abilities and contribution to the business would help set it up for success, didn't you?---Correct, yes.

Because I think a few answers back you said you didn't actually think much of Mr Nguyen and Mr Abdi's ability.---Correct.

Now, on Tuesday you'd indicated that one of the reasons you became involved in setting up the business was because you wanted to shine in front of Mr Abdi.---Correct.

30 Now, why was that if you didn't think much of his abilities?---Because he is a mouthpiece.

He is a mouthpiece.---Everyone is a mouthpiece, whether they're competent or incompetent. At the end of the day a mouthpiece is someone that's going to advertise for you.

40 And in what respect did you think Mr Abdi would be advertising for you? ---Well, he worked, as I, as I was trying to explain on Tuesday, even though I was transferred into Transport for NSW I didn't have any relationships with anyone in Transport for NSW. No-one really knew who I was from Transport for NSW. Nima Abdi was from Transport for NSW. My, and this is just, I don't think I'm spitballing here, but basically what I'm saying

is, my thought process at the time was if I do, if I have a, a good mouthpiece within anyone from Transport for NSW it'll help me achieve what I originally intended to do, which was move up in the ranks even though it was not something that occurs in the, in the public sector. You have, there's no moving up in the ranks. You, you have to apply for it and as I said previously I had made the mistake of going in at a too low a position and when I did that it made it harder to apply for higher positions because the question was, well, this guy is just a project engineer. Why is he - - -

10 You were frustrated by it I think was your evidence on Tuesday.---Yeah, exactly. Correct, yeah.

Was it also your thinking at this time, in relation to impressing somebody from Transport for NSW, that you might form a business of your own?
---With them, no.

No, not with them, of your own.---At that time I had not considered that, no.

20 So obtaining further work for yourself from Transport for NSW was not at this point part of your intention?---No.

Could we have volume 16.1, page 46 brought up? You will see this is a safe work method statement for ASN Contractors.---Yep.

Said to be prepared by Anthony Lee, project engineer, in consultation with Raj Sandy, the ASN project manager.---Yeah.

30 And it relates to a project referred to as the Somersby, I assume that word should be, petroleum remediation. Are you familiar with that project?---No.

Were you involved in preparing this document?---I prepared the template.

You prepared the template. So, a template safe work method statement to be used by ASN Contractors?---Correct.

The client is Tresca Pty Ltd. Do you know who Tresca Pty Ltd is?---I didn't at that time but I do now, yes.

40 And what is it?---A person from - his name is, I'm going to stuff it up, Abdal, Abdal Aziz.

It's Mr Aziz's company, isn't it?---He had that company but I, at that time I had never, I had not met him, had not known him and I didn't know about this company. I didn't fill this document out.

You didn't fill the document out.---No.

So to the extent that you were involved in - well, did you have involvement in drafting other safe work method statements on behalf of ASN Contractors?---Yeah. ASN, I did the TRN ones and I remember changing the letterhead or the, the, the title blocks and stuff like that and, for, for, for the ASN templated but I don't recall ever doing an ASN-specific - like, I don't - - -

So where you say you did the TRN ones, do you mean by that answer that you completed the TRN ones?---No. All, all templates. I completed, you know, the, if you look at safe work method statements there's a pro forma on how it's done and there's, you know, basic slips, trips, falls, that type of stuff and then you go into the - - -

It's a method statement, it's designed to set out a method rather than - - -? ---Yeah, exactly. Yeah. Correct. So I've, you know, they're supposed to be tailored. To do it properly you have a template and then you tailor it to the, to make it job specific.

Right. But you filled in content in relation to the TRN ones, not just putting on the letterhead on the top of a document? You did more than that?--- Some, some contracts, yeah, yeah.

And did you understand that they would be used for the purposes of the business gaining work?---Correct.

That was the point of preparing them, presumably.---Correct.

And do you recall at what point in time you did that?---Early in the piece. I don't know. I, like - - -

Right. So as to your assistance with setting up the company, so far I think we've agreed your name - well, your alias together with your telephone number, was on a business card. You assisted in relation to the preparation of the logo, correct?---Yes.

You asked your wife to assist in relation to the design of the business cards?---Yes.

And you've done that on two occasions, that is on the - - -?---Correct.

- - - first occasion and when the name changed?---Yes.

10 You were copied on correspondence from Joseph in relation to the name change, that is legal correspondence?---Yeah, that's evidence that you've put in front of me, yes.

You'd provided your name and - I withdraw that. You provided the Roger Smith alias and some email login details to a person who you knew from an interior construction and fit-out company.---Yeah, I, I've got no recollection of that, but that's what you've put in front of me.

20 I understand you have no recollection of it, but just in terms of your course of conduct, you'd provided, I think you agreed, the logo to Mr Nguyen for the purposes of the website in October 2014 and you'd also assisted him with the drafting of the website, that is the drafting of the words on the website.---As I said to you, I, I, at that point I don't recall but I, it would make sense that I did but I, I don't recall it so I don't want you to say that's evidence that I'm giving. It's what I recall. I don't recall, yeah.

Well - - -?---I would assume so.

I think your answer is that it was a safe assumption to make.---Correct.

30 That you assisted with the drafting of the website.---Yes, yep.

Because you wanted the website to be - presumably, tell me if I'm wrong about this - better than it would have been if Mr Nguyen and Mr Abdi had drafted it on their own?---Correct, yes.

40 And you also assisted in drafting a number of safe work method statements for either TRN, or altering them at the time that the name changed?---I, I don't recall altering them. I recall making one template for the ASN for Tony to make his changes. The information should have been the same, should be copied and pasted in with a new template.

The number and extent of those activities and the time that you devoted to them would logically suggest that you were in fact not just somebody who was doing a good turn to somebody else, but somebody who was a partner in this business.---I, it can suggest that but I'm telling you what the actual truth of the matter is. And I was not part of the business. I did what I was asked to do and I accepted to do, which was help set it up.

Did you know what Mr Nguyen thought was your role in the business?

---Come again, sorry?

10

Do you know what Mr Nguyen thought was your role in the business?

---Good question. Probably not, no. 'Cause - - -

Did he think you were just helping out - - -?---I - - -

- - - for good karma in the future?---I can't tell you what his state of mind was because I didn't talk to him that often. As I said on Tuesday, most of my communication in relation to anything to do with Tony was through Nima. So what Tony's mind was, what he thought of me or thought of my role, et cetera, I couldn't tell you, because - - -

20

I'm not asking you what Tony's mind was, what your understanding was of that.---My understanding of what, my, well, my understanding was what I know in my mind, which was I was, I was asked to help set up the business.

Did you ever say to Tony or to Nima, "I'm not a partner in this business. I'm just helping you for good karma in the future to do a good turn"?---I didn't, no, I didn't specifically address that at all.

30 Could we have volume 18.12, page 1 brought up. Now, this is not your text messages. These are messages from Mr Nguyen to a Michael Vo. Do you know who Michael Vo is?---No, I do not.

Well, I'll take you through the chain, "Started a business but the business is closed now since I jumped over to the public sector." This is in November 2016. And he's asked about, "What business was it?" And he responds, that is, Mr Nguyen responds, "Civil business, joint business with two other mates." And then turning to the next page, "When they started having kids, kind have" - well, I should assume that should be "kind of slowed down, "kid of slowed down." Do you have any idea what he might be talking about there?---If I use your previous question as context, potentially that his

40

state of mind was that I was part of that business, but I didn't start having kids during that time. I think I had two by that time, so it's - - -

So when was your first child born?---My first, my first was in 2011.

All right. And your second?---2014.

10 So 2014 was this period of time that we're talking about?---It was, no, well, early, sorry, yeah. Yeah, when was this? Sorry, this is 2016 you're talking about.

These are 2016.---Yeah.

I explained that to you at the start.---I had my third by then, yes.

In 2014 you had a child. We agreed on that.---Say that again.

20 In 2014 you had a child but not your first child. Is that your evidence?
---Correct. Yeah, but regardless, I'm not sure where this questioning is going. Yeah. Keep going.

Well, to the extent it refers to a joint business with two other mates, that suggests Mr Nguyen's understanding was that you were in business with him. Would you agree with that?---I would agree that's the conclusion you draw from reading those texts, yes.

30 And to the extent that Mr Abdi's evidence is that you were a partner in the business of ASN Contractors or TRN Contractors, what is your, does that reflect an inaccurate understanding of the situation?---A very inaccurate understanding of the situation, and we'll talk about it later on but it's a repeated inaccurate position. But we'll talk about that one as you progress.

Right. Are you referring to RJS Civil there?---Yeah.

We'll come to that. Could we have volume 3.2, page 253 brought up on the screen.---Yep.

40 Now, these are emails in November 2014 where John Dabit of Dabcorp is sending an email to you at your Gmail address and you're responding.
---Yep.

Who's John Dabit?---He's, he's a director of Dabcorp who I know, I'm friends with, yes.

Did you introduce him to Mr Nguyen?---I introduced him to Nima.

To Mr Abdi.---Yes.

10 And what was the context in which you did that?---There was the job that, that Tony was, actually, I'd be mistaken if I say when it was 'cause I don't recall exactly, but it was in, in relation to work that ASN was trying to do. I gave him, I gave Nima John's contact details and introduced them to each other to say that John can undertake that work.

This is the Glenfield Junction car park defect rectification?---Correct.

20 Would you agree that again this document, sorry, this email, which includes an email at the top from you, involves you assisting Mr Dabit, who you understood was tendering in relation to some of the Glenfield work. Is that right?---Well, no, don't, don't put words in my mouth. I didn't, you asked me, and I'm trying not to make links. You asked me how, who John was and whether I introduced him to, to Tony. I said I introduced him to Nima not to Tony. Regardless this email is a separate piece where I don't know if, if John had the job at the time or did not have the job at the time or whether it was tendering or was not tendering, I don't know exactly the stage but John had not done any work in a rail corridor or for government before and he asked me to assist and this is me again being helpful and generous and doing things, nice things for people. He asked me to have a look at his method statement - sorry, I don't know his method statement, have, have a look at some documentation to, to help him get it up to speed so that it
30 would be suitable.

And you'd agree what you were providing him with was ASN documents?
---Yes.

They were documents that I think your previous evidence was you were preparing to assist to Mr Nguyen.---Yeah, I don't want to specifically say those exact documents were but, yes. I, I need to read each, each and every one and, and then somehow jog my memory to work out whether they were in fact ones that I'd worked on or not but - - -
40

How was it that you came to have authority to provide ASN documents to Mr Dabit?---Authority. No one gave me any authority to do anything.

Right. So how was it that you thought that you could be providing documents that had been prepared for ASN's purposes to Mr Dabit? ---'Cause I believe these are templates and if they are just the templates they were ones that were, that I'd saved on my hard drives so I've passed them on to Tony.

10 Again would tend to suggest - - -?---No authority. No was asked or given or anything like that. I just passed on documents.

But - - -?---Yep.

It would have been a natural thing to do for you to pass on documents if they were documents associated with a business that you had an interest in, would it not?---No. I'd probably suggest that again, I don't want to keep saying this but you look at the rest of the evidence, the rest of the emails that I may have sent to John. I'm pretty sure I sent him companies - sorry,
20 method statements or, or documents from other companies as well not, just ASN. So I'm just again trying to make sure that you're looking at the entire picture not just honing in on, on one email.

All right.

THE COMMISSIONER: What other companies did you send details from?---Potentially, I had, I had a lot of different - so part of my roles in the past was that I'd actually review other work, safe work method statements, other project management plans, et cetera, so I had collated a vast array of,
30 of different documents that you'll actually find some, some, some of my hard drives that, that was handed in to the investigators have all that on there, so rather than me try to answer them I'm happy for them to, for you to look at the hard drives that you still have in your possession to, and you'll see that there's maybe 20 or 30 different companies that I've got documents for.

Well, I'm just wondering the ones that you sent to Mr Dabit.---Yeah, I'd have to look at my emails. We're talking about 2014. I don't have exact
40 recollection of, of everything I did six, seven, nine years ago.

I see. All right.

MS DAVIDSON: If you see the bottom email from Mr Dabcorp [sic] there he's sending you a construction methodology and program of works.---Yep.

Do you have any understanding as to why he would have been sending that to you?---To review.

To have it reviewed.---Yep.

- 10 Because you were interested in the work that was being conducted.
---Because I am able to assist in telling him what he needs to produce and how it needs to look to be able to pass the mustard I guess in, in a, in that type of project.

- Right. But you knew at that point it related to the Glenfield Junction car park defect rectification work, did you not?---I can't, I don't recall, I, I, I don't know when that work was on. I was, I was aware of that work and I spoke to John about that work. That's how I know about that job. But I, I wasn't on the Glenfield project at the time. I was not, I was on the Sydney
20 Light Rail at the time or Inner West Light Rail extension at the time, so - - -

If you'd note the subject line of the email - - -?---Yeah.

- - - it's, in fact, Glenfield?---Yes.

- So I suggest to you the reason that he was sending you the documents were because you were involved in ASN, that was a contract that ASN had or - - -
?---You can suggest whatever you want. You asked me if I knew at the time what it related to and I, and I explained to you that I don't recall at the
30 time whether this was prior to the job being awarded or not or afterwards or, or whatnot. I, I can only, I can only answer what I know. I can't, I, I don't want to be saying yes to things that I don't recall or can't place in that moment of time because it, it is, this is evidence that I'm providing at the end of the day. So please don't be frustrated with me but try not to jump to conclusions too often.

We'll go to the chronology of the Glenfield job. There was, well, I think you'd said you weren't on the Glenfield job at that time?---Yes.

- 40 Are you able to assist in relation to the period of time that you were working on the Glenfield Junction Alliance?---I was never working on the Glenfield

Junction Alliance ‘cause, well, I don’t, the Glenfield Junction Alliance is an organisation. It’s not a project. I was working on the South West Rail Link project.

Which was co-located with those who were working on the Glenfield Junction Alliance?---Correct.

Is that correct?---Yes. Correct.

10 So are you able to assist in relation to the period of time? I think you said that - - -?---It was some - - -

- - - in late 2014, you were not?---Correct. So, I don’t recall when I started working at the Novo Rail Alliance but it’s when I, when I started working for Novo Rail and until I stopped working for Novo Rail. So that was early 2014 is when I moved across to the Sydney Light Rail, I recall that but that’s, that’s - - -

20 Can we bring up volume 16, page 68? You’ll see that this is a series of emails in August 2014 and if you look down the bottom, you’ll see it’s an email from Mr Abdi, presumably sent to TRN Contractors enquiries, because that’s who the response is from, “seeking to engage a suitable contractor to carry out works to rectify a number of defects to do with our Glenfield multi-storey car park” and then there’s an address given. There’s a response from Roger Smith in the second email there. Do you see that? ---I do.

30 Thanking him for the opportunity to price, and asking to attend a site inspection. Have you ever seen this email before?---Never.

To the extent that Roger Smith, an alias of yours, asks to attend a site meeting, do you have any understanding of who may have sent this email if it wasn’t you?---It definitely was not me, however, if you’re asking me to hypothesise on who it was, the answer would be either Nima or Tony ‘cause I know Tony had set up the email addresses and had all the passwords and login details and what, whatever it may, may be. But I had no involvement in this.

40 You would agree that a site meeting would involve somebody physically showing up?---Correct.

And that Roger Smith was a person who didn't exist?---Correct.

With your telephone number associated with it?---Correct.

Did you receive telephone calls in relation to arranging a site meeting?
---No.

There's then a quotation from Mr Roger Smith or said to be from Mr Roger Smith. Were you involved in preparing the quotation?---No.

10

That's on 27 August 2014, just so that we can - - -?---Timeline it, yep.

I think you said you were concerned about the chronology.---Yeah.

Did you know that Mr Abdi had a role at Glenfield at that time?---I understand that he was still on the, on that project, yes.

He was still on the Glenfield Junction Alliance project.---He was still at Glenfield, yes.

20

And he was in fact a project manager in relation to - - -?---I don't know where, I didn't, I did not keep tabs on his position. I, the last I recall that he was a project engineer when I left Glenfield.

Right, but you knew he was working on, was that coming to the conclusion of the Glenfield project, to your understanding?---Yes, that's, yeah, correct.

And that would be consistent with defect rectification work being something that he was responsible for or responsible for managing, would it not?

30

---Yes.

And you knew that Mr Abdi could assist in his role in TRN or ASN Contractors obtaining Transport for NSW work, did you not?---Again, this is jumping to conclusions. I - - -

I'm asking for your understanding of the situation.---Yeah, exactly. So my understanding of the situation, if you go back to when I actually helped set up the company, was not that it was going to be work done on Transport for NSW projects. If, I do know that ASN did do work on Transport for NSW projects but it was a surprise to me that, that they were going to be brazen enough to do that.

40

You were aware, I suggest, that Mr Abdi could use his influence to obtain work for ASN?---I'm not sure what his influence was, to be honest. I, being a project engineer is a fairly junior position. I don't know how much influence he would have had, but - - -

Being a project manager is not such a junior position, is it?---Correct. If he was a project manager at the time he would have had more influence, but as I said, I did not know that.

10

Which would have enabled him to assist ASN in securing work.---As I said, I did not know that. If, if he was a project manager at the time, I don't think I knew that.

I suggest that in your, in the course of your assistance to Mr Nguyen, which you said was through Mr Abdi - - -?---Yes.

20 - - - you were aware that Mr Abdi was able to assist in securing ASN Transport for NSW work.---Can I refer you to my last response because you're, you're trying to make the same statement. I've tried to explain to you that I did not at the time consider that Nima Abdi in his position could have, could have assisted much, maybe slightly, but not much, as a project engineer. That's my response to that. If you're asking me what my state of mind at the time was, I can't really recall exactly but, but what I do know is as a project engineer you don't have much say so, but if you're trying to tell me that he was a project manager at the time, that's something that changes things.

30 Well, you say maybe slightly - - -?---Yes, he could suggest, "Let's use these guys," and then, and then, but it doesn't get, like, a project manager doesn't even it off. It has to go up a little bit more senior. There's a process.

Right, but such a person has considerable influence in relation to - - -?
---Yeah, correct.

- - - securing the contractor for a project?---Yeah.

40 I think you've indicated that you knew Mr Dabit, that is the director of Dabcorp, from university.---Correct. Yes.

Was he a friend of yours at the time?---I keep saying, I'm friendly with a lot of people. He's, I would consider him a friend, but someone that I speak to maybe once every year or every two years. It's not a, someone that I am in constant communication with.

But you would agree you were in contact with him much more frequently than that around the time of this project?---Much more than once a year, yes, but not much more than that.

- 10 Just looking at this email that's on the screen, given that it's sent from Mr Abdi and includes, well, it is on the bottom email, a request for quotation. That rather suggests, does it not, that Mr Abdi is inviting particular contractors to provide a quotation?---Correct.

Which would suggest that he has an influence in, ultimately, who is to be selected, does it not?---That's, yeah. I, I don't know. I can't answer that.

All right. Did you provide Mr Dabit's name to Mr Abdi - - -?---I did.

- 20 - - - in connection with this project? That is the Glenfield multi-storey car park defect rectification.---That's what I was trying to say to you previously. I don't recall - I know you're trying to place the time, time frame, and I don't recall at what stage that was given to me. I can't, I can't recall whether it was before, during, after.

But it wasn't in connection with any other project that you can think of, was it?---I don't know if it was in relation to a project.

- 30 Well, what would have been, what other purpose could you have had - - -?
---Do you have any builders that you can, that you can pass details along?
Here you go.

Well, builders in relation to Transport for NSW work that he was working on, presumably.---I wouldn't say that because I don't know what he was doing.

You thought it was just private builders for some private project?---I don't know, I don't know what I thought at the time.

- 40 That's not right, is it, Mr Sanber?---What do you mean it's not right?

Well, it's not true to say that in providing Mr Dabit's details to Mr Abdi you had no idea what it was in relation to.---I'm trying to provide accurate evidence to you. Again, I'm sorry I'm getting a little bit frustrated, but what I'm trying to say to you is I don't recall at the time the purpose of me giving him John's details, whether it was specific to Glenfield, specific to any other job. I don't recall that.

If we could bring up volume 16.1, page 226. So this is 10 November 2014.
---Yep.

10

And it's an email from you - withdraw that. From Mr Dabit to you, providing a tender submission, or at least that's what it says it is - - -?
---Yep.

- - - for, judging by the attachments - - -?---Yep.

- - - defects rectification work at Glenfield.---Correct.

20 Now, do you understand why Mr Dabit sent that to you?---To have a look at it to make sure it was up to scratch again.

You're aware from the previous email that Mr Abdi had also asked TRN Contractors to tender for that work?---From what you just showed me, yes.

Were you involved following that invitation from Mr Abdi in the preparation of a quotation - - -?---No.

- - - for TRN Contractors?---No.

30 In relation to Mr Dabit's quotation, do you recall reviewing that and providing information to him?---I recall, yeah, I recall reviewing it and talking to him about it, yes.

Reviewing him and talking to him about it?---Yep.

And again, what was your purpose in doing that?---To help John - - -

In assisting him?---Yeah.

40 And was that simply for good karma as well?---Yes.

Could we have volume 6.1, page 315 brought up on the screen. This refers or this is part of the Project Procurement Tender Assessment Committee report for the Glenfield Junction project or the car park rectification project. You'll see there's a reference there to the tender opening, the tender box opening. Do you understand what that tender box, electronic tender box opening process refers to?---I have an idea of what it is, yeah.

10 Can you explain that?---In, well, I've never, I was never involved in this but my understanding of tenders and what a tender box opening would - I'm just, based on my knowledge would understand that it would be tenders need to be submitted prior to, before a certain date or before a certain time/date, and then after that time no other tenders are accepted and then they open the box, they open the tenders at the same time to, to do an assessment.

Right. And do you understand part of the purpose of that being to preclude collusion between tenderers?---Correct.

20 So that one tenderer shouldn't have access to another's?---Yes.

So if it was the case that you were a person with an interest in ASN Contractors, I realise that's not your evidence, but if it were the case, you shouldn't have had access to Dabcorp's tender prior to the opening of that tender box, should you?---Me? Yeah, if, yeah, if I was part of, if, yeah, yeah, that's true.

That would have been collusive tendering?---Correct. Yeah.

30 And a person associated with ASN shouldn't have been colluding with a person associated with Dabcorp?---Yeah. I was not, but, just to be clear, this had, I had nothing to do with this. I had never seen this before. And if you're looking at, what, what was the date on this?

The closing date for the tenders was November 2014.---Yeah. Again, I was not, I was on a different project completely.

40 You will recall that the email that we were looking at previously in relation to you sent, well, Mr Dabit sending you a project of works, that is the construction program - - -?---Yeah.

- - - I could bring the email up again if you'd like to see it - - -?---Yeah, no, I, yeah.

- - - and you sending on safe work method statements that were from ASN Contractors was in late November 2014? Do you recall that date?---Yes.

Just having seen, well, understanding this context or the date - - -?---Yeah.

10 - - - in relation to the tender process, do you recall that ASN Contractors were subsequently successful in relation to this project?---Yes.

And would it logically follow that by November 2014 - well, I withdraw that. Were you aware of there being a subcontractor arrangement put in place between ASN Contractors and Dabcorp?---I was, I'll just take it a step back. As I said, I had no idea about this. I did not know this was the tender, did not know who was on the tender. I had no involvement in this tender. I didn't, I don't even know if, if, so I don't know who Dabcorp actually worked for, whether it was, I don't, like, if you're saying that ASN Contractors won this tender, I accept that that's what you're telling me.

20 This is not something I knew - - -

Well, I think you gave an answer a few moments ago saying that you were aware that ASN Contractors won this tender?---Well, I was, I wasn't aware that they'd actually won the tender, so maybe I'll withdraw that. What, I was aware that they were doing the work after. So I, I did not know about this tender is what I'm trying to say to you and my - - -

30 But you knew they were contracted to do the work?---Well, that's where my recollection, I was not sure whether Dabcorp was doing the work for Transport or Dabcorp was, Dabcorp was doing work for ASN but I know that Dabcorp was doing work because John asked me to help review the method statements and stuff like that and the program, not for a tender submission but - - -

But in relation to actually doing the work?--- - - - in, in relation to actually doing the work.

You'd reviewed the tender submission earlier, hadn't you?---Correct.

40 And then he was providing you with an - - -?---Yeah.

- - - instruction methodology and program of work - - -?---Yeah.

- - - I suggest to you in relation to ASN Contractors who you knew were the company who - - -?---Yeah. Well, that's what I was trying to say to you. No, that's, that, and, again, I'm trying to tell you the truth of it and what I recall. I did not know when, when Dabcorp asked me to, when John asked me to review to help, I did not know whether that was to go to Transport for NSW directly or whether it was to go to ASN Contractors and through ASN to do the work. I, I did not know that layering of, of contracts.

10

Can we have volume 16.1, page 331 brought up on the screen?---Just have a look.

Do you see this is an email on 28 November. I think the email is from Mr Dabit to you with the safe work method statement that we had - - -? ---That's not what - - -

- - - in volume 3.2, page 253 - - -?---That's not what's up.

20

- - - was slightly earlier. This is 28 November, so some three days following that email. This is an email from Raj Sandy again using your telephone number to Mr Abdi attaching a safe work method statement for the Glenfield car park rectification work. Was that a safe work method statement that you'd worked on?---Sorry, let me just go, just to understand what you're asking. Are you asking if that safe work method statement from ASN Contractors was one I've worked on?

Yes.---I don't know. I don't think so, no, because - well, I'm confused. So this is in November, 28 November 2014?

30

This is 28 November 2014 and you'll see Mr Sandy, whoever that is, is asking Mr Abdi to review and confirm his approval for ASN Contractors to commence work onsite.---Yeah, this, listen, this email was not from me and I don't know what that safe work method statement is so I can't answer that positively.

So it wasn't a safe work method statement that you had been involved in.---I can't tell you that because I can't see that safe work method statement.

40

All right. This is not an email that actually includes the attachment. The contract between ASN and - well, the contract in relation to the Glenfield

car park defect rectification works is volume 16.1, page 112. This is the instrument of agreement between Transport for NSW and ASN Contractors and if we could scroll down to page 114 you'll see it's executed there by Raj Sandy.---That's not me.

Do you recognise that handwriting?---No.

10 Do you have any idea who it would be purporting to be Raj Sandy on that occasion?---It looks very similar to the handwriting next to it, which is Susan Po's, whoever wrote that one, I'd suggest the same one.

Subsequent to the commencement of that work Mr Sandy's name continues to be used in association with it. Could we have volume 16.1, page 332 brought up on the screen. You'll see that that's an invoice in relation to the Glenfield Junction car park defects rectification work and it lists you - I withdraw that. It lists Raj Sandy with your telephone number as the contact person in relation to the invoice.---Ah hmm.

20 Would you expect that a contact - well, firstly, have you seen this document before?---No. Well, the template not this. I think I drew up a template. Oh, no, that was for the RJS one. I don't know if, I don't know if I put this template together but regardless I've never seen this completed invoice previously.

All right.---And you will not find it on my system or on my hard drive.

30 I'm not suggesting it was on your hard drive. To the extent that it lists your telephone number there, would you expect the person listed as a contact person in relation to the invoice to be someone who would in fact be contacted by the recipient of the invoice?---Yeah. It's very risky whoever did this to - - -

And that includes contact by telephone.---Correct.

Such that if your telephone number is included there, as we see it was, it was quite likely that you'd be called by somebody from Transport in relation to the invoice.---That's safe to assume that, correct.

40 Were you in fact called in relation to this invoice?---Never. Never.

Again I suggest that the reason that you were listed on the invoice was because you were involved in - - -?---That's - - -

- - - the success of ASN Contractors in relation to this job.---No. This is actually, it's pissing me off seeing this type of stuff because I did not agree. So what I said to you earlier on Tuesday and earlier today, is that I'd agreed for my phone number to be used, from a business card perspective, from a, if someone needed to contact me, not put my name on invoices 'cause this is, sorry, excuse me. I'm just a little bit peeved off at, I don't want to jump
10 to conclusions but it seem, yeah. This is crap. This is not me.

Because the conclusion that one would naturally draw if your telephone number is associated with an invoice - - -?---Yeah.

- - - is that you were a person who could be contacted in relation to that invoice and that you were aware of the works referred to in the invoice and able to answer questions in relation to them. The Commission looking at those invoices would draw that conclusion, would it not?---You, yeah.

20 And did you ever say to Mr Nguyen or Mr Abdi, "Don't include my telephone number on ASN documents"?---I did not realise, excuse me. Sorry. We did not have conversation explicitly, no.

'Cause it was a very risky thing for them to do - - -?---Very.

- - - if you didn't know, wasn't it?---Extremely risky.

And so the alternative view - - -?---So I would suggest to you - - -

30 - - - is that you did know and - - -?---That's not true.

- - - therefore it was not so risky.---Nah. I'd suggest to you that, no, I'm not suggesting. I don't want to jump to conclusions. I don't want to say things that I shouldn't say because I don't have evidence of it, but basically that was very risky on whoever drafted this. Whoever sent it in, it was very risky because I would not have known what to say if someone sent me this.

Correct, but it wasn't really risky, was it, because you knew about this job?
---That's not true. What do you mean? Sorry, I knew about this job?

40

Well, you knew about the work that - - -?---No.

- - - ASN was doing on this job, such that if you had been contacted about the invoice that had been sent, you would have been able to convincingly answer questions.---I'm again trying to be honest and transparent. I had no idea that this was happening.

10 Could we have volume 16.1, page 340, the same volume. Now, this is a document which is a quotation document in relation to a variation, the first variation for the car park defect rectification work. Do you see that?---I do see that.

With some additional works quoted in relation to a pit or shaft junction, a shaft and some other things.---Yep.

And again you'll see at the bottom your telephone number and Raj Sandy's email address - - -?---Correct.

20 - - - listed. Would you expect - well, firstly, have you seen this document before?---No.

30 Would you expect that Transport for NSW as the contractor in relation to a project where variations were occurring, might contact the person who has priced the quotation to ask questions about the variation?---I, yes, that would be a reasonable conclusion. If you want me to jump to conclusions here, I'm going to just do it once and hopefully you're not going to try to tell me to provide evidence because I don't have evidence of this, but I would suggest that whoever wrote this, whoever sent this to Transport, whoever received it from Transport, would have been in on it if, because otherwise it's too big a risk. So I'm, I would suggest that I was never going to receive a phone call.

Right, and that's because it was sent to Mr Abdi at Transport.---Is that, yes, I didn't realise that till just reading now, yeah.

40 Right. So to the extent that it had been prepared by somebody who knew that Mr Abdi wouldn't be contacting anybody in relation to this variation, if somebody else from Transport for NSW, that is, not Mr Abdi, had wanted to know about the variation, however, you would have expected them to contact the person who was named.---Correct.

Which should - - -?---That's why I'm saying it's a big risk because I was not involved, included, communicated with about it at all.

So it's in the same category, is it, from your perspective, as the invoice document?---Correct.

I note for completeness that the payment for that variation was in fact made.

THE COMMISSIONER: Sorry, what was that?

10

MS DAVIDSON: The payment for that variation was in fact made. It was a quotation that was subsequently accepted but I don't think I need to take this witness to that document. Chief Commissioner, might that be a convenient time?

THE COMMISSIONER: Yes. All right. We'll come back in 20 minutes or so.

20 **SHORT ADJOURNMENT**

[11.25am]

THE COMMISSIONER: Yes, Mr Sanber, you're subject to the same oath you took at the commencement of your evidence to say the truth. Understand?---I understood.

Thank you. Yes, Ms Davidson.

30 MS DAVIDSON: Chief Commissioner, I seek a variation to the order pursuant to section 112 in relation to the transcript of Mr Sanber's compulsory examination on 17 November 2021, pages 260 and 261.

THE COMMISSIONER: Yes, granted.

**VARIATION OF SUPPRESSION ORDER: SECTION 112 ORDER IS
VARIED IN RESPECT OF RAJA SANBER'S COMPULSORY
EXAMINATION TRANSCRIPT DATED 17 NOVEMBER 2021,
PAGES 260 AND 261**

40

MS DAVIDSON: I'm sorry, Chief Commissioner, we're just organising the electronic copy to be brought up on the screen. We don't yet have it in electronic copy but if we can provide a paper copy to the witness.

THE COMMISSIONER: Yes.

MS DAVIDSON: Mr Sanber, do you recall coming to the Commission for the purpose of a compulsory examination in 2021?---Yep.

10 This is a transcript of that examination. You'll see at the commencement of the page 260, and this is a question put to you, "Did you have an expectation at the time of providing him with an alias and your phone number that you would at some point receive a financial benefit?" And you indicated, "At some point yes, but there was no dollar figure expected." Do you recall giving that evidence?---No, that's slightly out of context.

Well, the question was asked in the context of you providing Mr Nguyen with your telephone number for the purposes of creating an alias and the question was asked would you at, did you have an expectation that you
20 would at some point receive a financial benefit and you said, "At some point yes." Was that answer incorrect?---My recollection of that, that question and the answer was in terms of, I haven't had a chance to read the entirety of it but it was, my response was more in terms of did you, did you expect to get a benefit from, from doing this work not specifically in terms of allowing him to use my phone number and receiving, it was, the, the non-dollar figure was in terms of actually getting a quid pro quo potentially in future - - -

All right. So it was a financial benefit in terms of a quid pro quo in future?
30 ---Not financial. Sorry, no financial benefit. So if, if that's what was noted in there - - -

Your answer was at some point yes. Is your evidence now that that was an inaccurate or untrue answer?---Inaccurate - oh, I said what I said but I think it's my, maybe the, the way I answered it wasn't exactly the appropriate words to be used.

All right.---Would it get a - - -

40 Well, if we go to your next answer maybe that will assist. You said in the passage I've just taken you to there was no dollar figure expected and then

you said, “But that where, that what there was was assistance in getting work for myself in future whenever I create my own business, which I did, to be able to win work.”---Yep. This was me jumping ahead in time in terms of, in terms of the Inner West Council type of stuff which was more in terms of if I did, if I did a good service to Tony then I might get one in return. There was no plan. There’s no Machiavellian plan that he was going to leave whatever job he was doing and move to a council to get me work in the future. It was just again good karma. You do good things for someone you end up - - -

10

It was more than good karma, wasn’t it? It was a quid pro quo.---Listen, my, my grasp of the English language is, is okay but it’s not perfect and my, what I was trying to say at the time was that I would get a benefit in the future, not an agreed upon benefit, not a dollar figure amount, not a specific instance where we had some idea in future that this was going to happen where there’s some plan that we put together, put forward and I think you’re taking things out of context. Sorry, but that’s, that’s fine. My answer is it wasn’t a specific quid pro quo. If, I don’t know what the difference between quid, for me quid pro quo means you, you scratch my back I scratch yours. If I do a good thing I might end up getting a good thing but there was no agreement saying you must return the favour. If, if it happens, if he’s, if he has opportunity to do, return the favour - - -

20

Well, your answer was “What there was was assistance in getting work for myself in future whenever I create my own business - which I did - to be able to win work.”---Yeah, exactly.

That was your understanding and expectation.---Again you’re transporting yourself in time and that’s what, this is where I say my response wasn’t quite accurate in that I went to what I thought, where I thought you were going with the questions or whoever that person that was asking me the questions was was taking me to where I thought you were referring to the assistance I was given in future when I did start my own business.

30

Right. So when you give an answer - - -?---So that’s the context that I was answering that in.

Well, you see your following answer and you say - “Oh, I see. And the expectation was from, that Nima would help you do that?” And you answered, “Tony,” that Tony would help you do that.---Again that’s me - I don’t know how to, how to say this without repeating myself again. This

40

was me thinking that you were leading to a certain, in a certain, to a certain point of time and me trying to take that conversation to that point of time.

Well, again, you were asked a further question to clarify it.---Yeah.

The next, line 18, when, Mr Sanber - - -?---18?

Yes. You see line 20 marked, so line 18 is two lines up from that.---Sorry. Okay. Yeah.

10

“When, Mr Sanber, when you said you thought Nguyen could potentially help you in future if you set up your own business, was the intention that he could act as a false employee of any future business of yours?” You say, “No. I’m struggling to explain this. There was no written formal agreed agreement. It was more of a “what I have done for you, you do for me”, right, without any specific details as to what that would be.” “Just assistance in general?” was the question, “with not agreement as to what that assistance might be?” And your answer was, “Correct.” You were then asked a question. “Mr Sanber, if there were no employees in Mr Nguyen’s company and your evidence is that ASN would be set up to tender for Transport for NSW projects, how was it that they proposed to undertake any work with no employees?” Was it your understanding that ASN would be set up to tender for Transport for NSW projects?---No. Again, this is, I’m not familiar with this whole process in terms of being asked questions and giving evidence. I, I’ve never been in court. I’ve never had experience or knowledge of how to appropriately response to certain questions - - -

20

THE COMMISSIONER: Well, it’s very simple. You just be truthful.

30

---Well, I was trying to be as truthful as possible, but, so, so where I was going with that is the question started referring to, similar to what, to what was being done previously. A few additional words that I, and expecting me to give a yes or no answer or a quick response whereas I - - -

40

No one’s expecting you to give any answer other than the truth.---Well, the truth is that there was no understanding at the time. So my response to this was not quite accurate because I did not expect that it was going to be tendered for Transport for NSW projects at the time. It was to set up a company, full stop, to do work anywhere and what I was trying to say is I wasn’t, obviously not experienced in this stuff, I’ve, I, I was trying to answer it as accurately as possible but I was, you can see I was stuttering,

like I am now, I'm just saying, the answer is yes, that it was to, to do work but not specifically for Transport for NSW projects.

MS DAVIDSON: Right. Well, you didn't qualify your answer - - -?
---Exactly. That's what, what I'm trying to say is I'm not experienced with picking out the extra words, extra little pieces that you, that you throw in that I might, and hence, so I've had slightly more experience, this is, this time around and that's why previously when you were throwing in a few other words, I'd pause and say, "No, I, I, I agree with 90% of what you said
10 but there's a little bit that I didn't agree with." So I should, I should have done that at this stage but I did not.

Can I suggest to you that Ms Cathcart was not throwing in additional words in relation to your understanding there because she was reflecting evidence, but we can come back to that.---Let's do that.

You indicated your understanding was that ASN proposed to use subcontractors, if you see the following, you qualify contractors and then subcontractors. And the following question is, "And you've told the
20 Commission this was a conversation between yourself, Nima Abdi and Tony Nguyen that took place at a sandwich shop. Is that correct?" And you say, "Yes. The events that I recall in giving evidence is that conversation." You've suggested in your evidence on Tuesday and today that there was no conversation between the three of you in relation to the purposes of setting up ASN Contractors. Was this answer untrue or do you recall a conversation in a sandwich shop - - -?---I do recall a conversation in a sandwich shop, yes.

And what was that conversation?---It was about, that's, that was when I got
30 asked to assist set up a company for Tony Nguyen.

For the purposes of setting it up to contract for Transport for NSW work?
---That, again, no. That's not the case. That's what I'm trying to point out. There was no discussion at that stage that it was going to be for Transport for NSW works. It was to set up a business for Tony.

Was there a later discussion that it was going to be to set up for Transport for NSW work?---No.

40 You were then asked, you see this is just below line 40, "Is it a singular conversation, Mr Sanber?" "That's the one I'm remembering. It was a

singular one but I, there were other ones. I just don't recall exactly the details of those ones right now." You're then asked about the substance of those conversations by the Commissioner. You indicated that you're not required to provide direct speech, and your answer, turning to the top of page 261, was, "I think we had more than one conversation about the ASN works that they were going to undertake. Or, sorry, the tender and - not the tender, I'm speaking using incorrect words, in being able to tender. It was more about speaking about the company's capabilities. And the question, like, previously asked about how it would be done, you know, in
10 contractors, you know, we can access, we can utilise. When I say 'we', as in his company."---Yes.

Does that accurately reflect your recollection of subsequent conversations about works that ASN was going to undertake?---ASN did not exist at that time, nor did TRN, to be honest, maybe, but there was no thought that the name change was going to be ASN. It was at that stage, it was where, again, I - - -

The works that the company was going to undertake will decide the
20 question of the name.---Thank you. Thank you. Yes.

The company that you three together were engaged in discussing.---Yeah, discussing. The, yes.

And then you were asked, if you see line 9 on the second page, 261, "During those conversations was there any discussion about whether either you or Nima or indeed any other employee of Transport for NSW would be able to assist in ensuring ASN got work?" And your answer was, "I was not privy to those, any of those conversations." And then you were asked, "But
30 you understood that they had taken place?" And your answer was, "Yes." And you were asked, "Did you understand that Nima would be able to assist ASN in some way?" "Yes." Were those answers accurate?---The yeses? Is that what you're saying?

As to your understanding.---The, the qualification, I'd say, is understanding at the time or understanding now? I think my responses was, was in relation to my knowledge at the time of being asked the question, not at the time of setting up the, the business.

Well, to the extent that you're asked today whether you understood that Mr Abdi would be able to assist, and your answers were you didn't think so or "only to a minor extent" - - -?---Correct.

That wasn't true, was it?---No, that's exactly true. As I said to you, the qualification that I was adding that, I did not add on line, for question line, starting line 9, was that my response was, "Yes," but that was based on my knowledge at the time of being asked the question, not my knowledge at the time of - - -

10

THE COMMISSIONER: But you're being asked here about the conversations which you were part of.---Yeah.

And you said, "Oh, I was not privy to any of those conversations." "But you understood that they had taken place?" "Yes."---Yes.

"Did you understand that" - - -?---I'm not disputing that.

- - - "Nima would be able to assist ASN in some way?" "Yes."---Yes.

20

Talking about your understanding.---Say that again, sorry?

Talking about your understanding at the time, isn't it?---Well, that's why I'm trying to qualify here, is that my responses were based on my, my knowledge at the time of being asked the question, not at the time of setting up the business.

MS DAVIDSON: You didn't explain that at any point - - -?---Correct.

30

- - - during the compulsory examination, did you?---Correct.

And it would have been the logical thing to do if you were saying, answering a question asked to you in the past tense in relation to your understanding, "Did you understand?" to say, "Not at the time but I understand it now," because that's exactly what you've done in answering some questions today, isn't it?---Yeah. So my answers today are, are more developed.

40

THE COMMISSIONER: Look at the following questions and answers, "And, as you understood it, how would that assistance" - and your answer is, "I, I wasn't aware of how. I was just aware that he would render some

assistance.” “Right. The assistance being to at least try to ensure that ASN got some work?” “Correct.”---Correct.

That’s not talking about your understanding at the time you gave your answer, is it?---Is it not?

MS DAVIDSON: “As you understood it” is the way that you were asked, Mr Sanber.---Okay. Is there a question you want me to answer now?

10 Well, I - - -?---Sorry.

I’m suggesting to you that these answers accurately did reflect your understanding at the time. Is that right?---My answer is my understanding at the time was - so I don’t know if this is going to overwrite my previous answers, but my understanding at the time was that he would render some assistance. How that assistance would be made, it could have been as simple as having, doing what I did, which is help set up the company, take some - well, I didn’t take any calls, but have my phone number on there if a call was to be made.

20

But it was more than that, wasn’t it? Because it was, you were specifically asked, this is line 22, that assistance being to try, at least to try to ensure that ASN got some work and you said “correct”. So that was your understanding at the time, wasn’t it?---Yeah. That’s true. Yes, in the specific terms of the question being asked, correct.

Moving on. You see at about line 28, Ms Cathcart asked you “Mr Sanber, was there anyone else present at the sandwich shop when you had this conversation with Mr Nguyen and Nima Abdi?” “No.” “And you said that you expected at some point to receive the financial benefit, is that correct?” and you said, “Yes, although the details of that were not agreed.” Is that answer incorrect?---That’s not correct. That’s, it’s, it was - - -

30

You were under oath when you gave these answers, were you not?---Yes, it’s, I’m not saying it was a lie, it was, it was more of a yes I would eventually get some type of benefit from it.

40

You would receive the financial benefit but the details were not agreed. That’s what you said?---Yeah. In, in my terms the financial - yeah, listen, I, my meaning, my meaning at the time was that there would, if I did set up my own business and I was able to generate income, it could be through

some assistance from them. Whether, whether they assisted me in setting up the business or my own business, et cetera, it would be replicated. So it was more of a, I don't know how to explain this, it wasn't a direct financial

- - -

THE COMMISSIONER: How did you communicate that?---We did not communicate that. It was, that, that's what I'm trying to say. There was, this was a very brief conversation. I remember that I visit, we, Nima and I went to that sandwich shop quite regularly and I remember that the one time
10 Tony was there and it was very brief, it wasn't a very detailed conversation. It was "Raja, can you please help Tony set up a business." "No worries. What do you need me to do?" and went through some details. That, that's my recollection of our conversation. There was nothing to talk about who's going to get paid what, how it was going to work, who were going to, who the company was going to be getting work from, et cetera. That wasn't really discussed.

MS DAVIDSON: For completeness, to take you to your final answer down the bottom of that page, "So your evidence is that you didn't expect to," this
20 is the question, "be paid a financial benefit in cash or payment, but the financial benefit you would receive is future assistance with any company that you would set up."---Yes.

"Correct, yes."---Correct.

And - - -?---Which is what I was trying to say. Sorry, I should have read that before. Yep, that's consistent, correct.

Chief Commissioner, I tender that extract of the compulsory examination
30 transcript. It will be Exhibit 92.

THE COMMISSIONER: Exhibit 92.

**#EXH-092 – EXTRACT OF RAJA SANBER'S COMPULSORY
EXAMINATION TRANSCRIPT DATED 17 NOVEMBER 2021
PAGES 260 AND 261**

40 MS DAVIDSON: Now, you had indicated, in answer to some questions I asked you about the first page of that document, and your evidence being

that ASN would be set up to tender of Transport for NSW projects, and you indicated that they were, you thought words that had been thrown in. Chief Commissioner, if I might hand up and have provided to the witness a further extract from the compulsory examination transcript. This is page 256.

THE COMMISSIONER: Are you seeking dispensation?

MS DAVIDSON: I do seek that dispensation. I apprehended you might wish to read it prior to me seeking it, Chief Commissioner.

10

THE COMMISSIONER: Just a moment. Yes, granted.

**VARIATION OF SUPPRESSION ORDER: SECTION 112 ORDER IS
VARIED IN RESPECT OF RAJA SANBER'S COMPULSORY
EXAMINATION TRANSCRIPT DATED 17 NOVEMBER 2021,
PAGE 256, LINES 1 TO 47**

20 MS DAVIDSON: If that could be brought up on the screen now. You see from about line 10 you were asked, "It was the case, as you understood it," this is line 12, "wasn't it, that he wanted to use that alias so that Transport for NSW didn't know he had any involvement with this company ASN?" "It's likely, yes." And then you're asked, "Well, you know that, don't you?" And you say, to summarise, obviously he wouldn't want that to be known and the alias would be a cover for that. And you were asked then, "Okay, is it fair to say that, as you understood it, he wanted that to happen because this company, ASN, was going to tender or at least seek work from Transport for NSW?" and your answer was "Yes," to which it was, "Yeah,"
30 and then you said, "Fair to say."---It is fair to say that, correct.

So when you were asked, as you understood it, that he wanted - again, using the past tense - "As you understood it, he wanted that to happen because this company ASN was going to tender or at least seek work from Transport for NSW?" and you answered, "Yes," was that an accurate answer as to your understanding?---To that question, yes.

And at the time that you understood - - -?---Yes.

40 That ASN was to be set up to tender for Transport for NSW work?---Yep. I can explain that further, sorry, just so you understand.

Well, that's contrary to an answer that you gave earlier.---No, when I answer these questions, is it - you've asked me, or whoever asked me in this one, what's the, what are the words?

Ms Cathcart.---Ms Cathcart. Is it fair to say that this could happen? And, yes, it's fair to say that Transport for NSW, amongst many other different organisations, private and public - I was trying to give, I'm, I've got this, this fault in me where I try to answer specific questions with very broad responses. Yes, it is likely that there is a chance, you know, it's like, is there, I don't know, is there a chance I'm going to hit a home run? Yes, there's a chance. I'm, I'm not very good at playing baseball, baseball, but if I do swing and I hit the, hit a ball, I, it is likely that it, you know, there is a chance that it will make a home run. I was trying to - - -

The question you were asked was not about chances, was it, Mr Sanber?
---Well, no, it was, it was - read it out again. It was saying - - -

20 "Is it fair to say that, as you understood it" - - -?---Yeah.

- - - "he wanted that to happen because this company," that is he wanted the use of the alias to happen - - -?---Yeah.

- - - "because this company, ASN, was going to tender or at least seek work from Transport for NSW?" And you said, "Yes."---It's fair to say that, correct.

It's fair to say that?---It's fair to say that, that, that Transport - - -

30 It's fair to say that was your understanding?---No, it's fair to say that that's what he would be using the aliases for.

And as you understood it, he wanted that because ASN was going to tender or at least seek work from Transport?---As one of the many possibilities of gaining work, yes. That's what I'm trying to say.

Chief Commissioner, I tender that extract of the transcript.

40 THE COMMISSIONER: Exhibit 93.

**#EXH-093 – EXTRACT OF RAJA SANBER’S COMPULSORY
EXAMINATION TRANSCRIPT DATED 17 NOVEMBER 2021 PAGE
256 LINES 1 TO 47**

MS DAVIDSON: You gave some evidence earlier in relation to assisting Mr Dabit with his tender in relation to the Glenfield Junction Alliance project, that is reviewing documents for him.---I don't mean to keep correcting you here but there was no Glenfield Junction Alliance project.

10

The car park defect rectification works?---Correct, yes.

I should clarify the question.---Yep. Sorry, I'm just trying to avoid having the same thing happen to me again.

You recall giving those answers?---Yes.

20 Did you know whether the tender documents that you or the bid that Mr Dabit was submitting was a dummy bid?---No. I, I, was it a dummy bid? I, sorry, I don't know, I don't know at which stage, I didn't know whether that was going to, I didn't know who that was going to. So sorry, maybe the question, the response is I actually don't know.

Are you aware of how much was ultimately paid by Transport for NSW in relation to the car park defect rectification - - -?---No.

- - - works at Glenfield?---No.

30 Well, if you'll take it from me that the total including the variations but not including GST that was paid was about \$246,000. Do you know how much Dabcorp was paid in relation to those works?---No.

Well, if you'll take it from me that that was approximately \$121,000. So those two figures led to a profit of around \$125,000 for ASN Contractors. Were you aware of that?---I was not aware, no.

40 Did you have any discussions with Mr Abdi or Mr Nguyen in relation to profits from the car park defect rectification works?---I don't recall having any conversations about, about that but I'm not saying that they didn't occur. I don't recall them.

Was there any discussion in relation to splitting the profits from the Glenfield Junction car park defect rectification works?---The same response.

You don't recall.---I don't recall, no.

Did you receive any payment - - -?---No.

- - - in relation to the Glenfield Junction rectification work?---I did not.

10 Are you familiar with a company called Sydney Haulage?---Rings a bell but no.

Rings a bell but no.---I don't know, I'm not familiar with them but the name rings a bell.

Could we have volume 16.1, page 358 brought up on the screen. Do you recall when the car park defect rectification works at Glenfield finished?
---No. I was not on the job.

20 Well, take it from me that the payments from Transport were made to ASN in January 2015. This is an email to you from an admin address at Sydney Haulage referring to an invoice template. Do you have any idea why Sydney Haulage would have been sending you an invoice template?---No. I don't know Sydney Haulage as I said earlier.

If we scroll down to the following page you'll see the template you were sent and it's in fact an invoice made out to ASN Contractors.---Okay.

30 Are you able to shed any light on why you would have been sent an invoice template addressed to ASN Contractors in February 2015?---No. But again I don't recall Sydney Haulage. There's plenty of haulage companies. Sydney is a very common business name for businesses in Sydney but I don't, I don't recall seeing this.

If we turn to page 360, the following page. This is a reply from you - - -?
---What did I say?

- - - to the same email address. Well, it includes an attachment and if we go to page 361 you'll see that in the attachment it's an invoice with
40 significantly more detail filled out but still made out to ASN Contractors.
---Is this a PDF or is this a MYOB? I'm confused.

If we scroll back up to the previous page you'll see it's a Word document and if we go back up to page 359 you'll see it looks like the same template. If you have a look at that document carefully you'll see the balance due at the bottom is \$95,700.---Yep.

And it relates to pits and pipes and concrete jersey barriers. Do you see those amounts?---I can see it, yes.

10 Yep. And then returning to page 361 you see the amount is still the same, \$95,700?---Yes.

But in the version that you're sending back, there's considerably more detail filled out. Do you see that?---Yeah, I do.

It seems to still relate to pits and pipes and concrete crash barriers. I don't know whether a concrete crash barrier is the same as a concrete jersey barrier. Do you know?---They are.

20 Right. But there's some more division or specification in relation to the invoice that's being sent and you're sending it back to Sydney Haulage. Were you filling in details of a Sydney Haulage invoice at this time?---I don't remember this at all. I don't remember doing this, I don't remember the emails. Was I, I'm assuming you've got my - - -

Well, this is an email, you'll agree? I showed you page 360.---Yeah. Yeah, yeah, yeah.

30 This is an email sent by you. You're not suggesting somebody else sent it - - -?---I - - -

- - - or developed the document, are you?---I don't want to suggest something I don't know but I, I don't know. I, I don't recall this at all.

Did anybody else have access to your Gmail address - - -?---Don't think so.

- - - so far as you were aware?---I don't think so, no. Yet - - -

40 So the logical conclusion to draw from that would be that you sent the email and to the extent there were changes in this document, they were made by

you?---It's a logical conclusion but I do not recall it, nor do I recall doing any work on it. But, yes, it is a logical conclusion to make.

What possible reason could you have had for filling out a Sydney Haulage invoice addressed to ASN Contractors?---That's what I'm, I, I don't recall. That's, I, I, I'd like to answer it, yes.

10 Were you making additions to it to make it seem more credible?
---Commissioner, how do I answer a question like that when I, when I've just said I don't recall doing it.

THE COMMISSIONER: Yes.---How do I - - -

MS DAVIDSON: Well, presumably - - -?---Again, you - - -

THE COMMISSIONER: What's being put to you is that you filled this in to make the document appear more credible.---Yeah, but I understood, I understood the question - - -

20 And your answer is you don't recall doing that?---I don't recall, I don't recall the, this document at all.

MS DAVIDSON: Did you know a Mr George Sayid, associated with a company called GSP Projects?---It does not ring a bell.

If we can have volume 16.1, page 362 brought up? As you see, this is an email of the same date, 10 February 2015?---Yes.

30 And the subject line is "Invoice template"?---Okay.

You see that? And again - - -?---TRN.

- - - the address is - - -?---Okay.

I'm sorry. The attachment is entitled "TRN Contractors invoice"?---Yeah.

40 And if we go to the following page, page 363, this is again an invoice made out to TRN Contractors. The date on this one is earlier, it's dated June 2014, in relation to traffic safety signage. Do you have any idea, if we can return to page 362, why Mr Sayid would have been sending you what's described as an invoice template made out to TRN Contractors on 10

February 2015?---No, I don't know who, I, I don't know who George Sayid is and I don't recall ever dealing with GSP Projects in any, in any fashion.

To the extent that both of these invoices were made out to either ASN or TRN Contractors, would you agree it suggests that they were being sent to you because they were in some way relevant to that business?---It would suggest that, but, again I don't, I don't remember any of this.

10 Were your accountants at the time BANQ Accountants?---No. I've only ever had one accountant.

You've only ever had one accountant?---Correct.

And who's that?---NM Taxation.

Are you aware of a Mr Peter Abboud?---Yes. I know Peter.

20 Was he someone you had a relationship with?---I used to play soccer with him.

Right. Are you aware that he worked at BANQ Accountants?---I knew he worked at an accounting firm. I'm not sure which one it was.

30 Could we have volume 16.1, page 364 brought up. This is an email from you to Mr Abboud at an email address that's banq.com.au. This is slightly later in April 2015, that you're forwarding on a, a document that's described as ASN Contractors invoice, and if we turn to page 365, you'll see that that's another email from GSP Projects. You'd previously sent an invoice from GSP Projects to ASN Contractors, and if we go back to page 364 you've seen, "See attached modify company and numbers to suit." Do you have any idea why you would have been asking Mr Abboud to modify company and numbers on a GSP Projects invoice?---No. Is there more context? No, I don't. I don't, I don't remember any of this. Is there more context? Is there a response or something or a - - -

I don't believe there is a response, no.---Just to jog my memory.

40 My question to you is were you, in sending an invoice template involving an ASN Contractors' invoice, facilitating invoices by those companies which were false invoices to ASN Contractors?---It's, I could see how you could conclude that, yes, but I don't - - -

Do you have any recollection of doing that?---I don't have any recollection of this at all.

THE COMMISSIONER: Why would you be sending such - - -?---That's why I was asking.

- - - material - - -?---That's why I was asking for more context, 'cause I'm not sure.

10

- - - with references to a company that you say you had no involvement in? ---I didn't say I had no involvement in. I said I'd helped set it up. But this exchange of emails - - -

Well, you had no operational involvement in. You said you set it up. ---Yeah. Correct.

20 Yeah. These are documents that are sent on your email that have references to ASN Contractors and with a request for invoices by two bodies involved, GSP Projects and the accounting firm.---I'm just looking. I can see what conclusions we can draw from this but I don't remember this. That's why I wouldn't mind some - - -

Take your time. Just think back.---I'm trying to, and that's why I asked if there's any other emails, phone calls, something, text messages that might jog my memory that are around that time. You've got my records. It would help, it would help me be able to answer the question, please.

30 MS DAVIDSON: There's no response to this email from Mr Abboud. ---Are there any text messages from anyone around that same time that I can, that will jog my memory to, to help me answer that?

I'm not withholding from you documents that, or information that would be relevant to this.---Okay.

40 What I've showed you is the emails where you in February appear to be collecting from other persons' invoice templates and an email in April in which you're sending them on to Mr Abboud, or at least one of them on to Mr Abboud and asking him to modify company and numbers to suit. ---Yeah. I don't, I don't recall these things. They don't - - -

THE COMMISSIONER: Is this something that you do with some frequency, is it?---No. That's, that's why, that's why, well, you've got all the evidence so, I'm assuming you do. I can't recall but I'm happy to, if I can get my memory jogged by having more information, more context provided.

MS DAVIDSON: Did you attend the offices of Mr Abboud at any stage?
---I don't remember going into an office but I do remember when I introduced Tony to, Peter to Tony. I think we met in a cafe not far from his
10 office but I don't recall going into the office.

Right. You introduced Peter to Tony for what purpose?---To set up a business.

So that was earlier than this period in 2015, presumably?---Much earlier, yeah. Correct.

Did you then have ongoing communications with Mr Abboud in relation to the ASN Contractor's business?---Not, not in relation to the ASN business
20 but, like, we've got, we had, I haven't played soccer for a while but the, the team had a, a sort of a, I don't know, a chain of emails that we'd go back and forward but that's with the whole team.

And it related to soccer?---Soccer, yeah.

Do you recall ever receiving cash from Mr Abboud?---Mr Abboud? No. Or anyone, no.

But you would agree that in relation to sending on these invoices it appears,
30 insofar as they were ASN Contractors invoices, that you were facilitating the modification of invoices made out to ASN Contractors?---I agree that that's what it appears, yes.

And one purpose for doing that would be, could it not, facilitating the withdrawal of cash?---I'm not, I don't understand how that would work. So, but that's - - -

That's not something that you ever received from Mr Abboud?---No.

40 Are you aware of Mr Abdi or Mr Nguyen attending the offices of Mr Abboud for the purposes of receiving cash?---I, well, for, I've received, I

believe - oh, hang on. I started answering a different question. I, I believe that Tony, at least Tony, if not Tony and whoever else, I thought maybe Susan may have attended, attended the offices - - -

The accountant's office?---Yeah. To, to set up the business and I'm not sure what other further communication they would have had together.

10 All right. My question wasn't in relation to attending for the purpose of setting up the business.---Yeah. That's, that's, when I started answering that question I started answering that and then, yeah, sorry. I jumped the gun.

Were you aware of the, going back to what the question was, attending for the purposes of receiving cash?---I don't recall that, no.

Did you come to be aware of it later?---Sorry - - -

20 Of such an event happening, of them attending for the purposes of receiving a large amount of cash at the accountant's office?---I, I'm trying to understand, I'm trying to recall. Do I, so I, I believe that at least Tony attended the office to set the business up. I'm not sure if - I may, may have been made aware that they were going to, they, that at least Tony as going to close the business and obviously have to meet or speak to or deal with the accountant. I'm not, yeah, to close the business and I'm not sure if that involved the withdrawal of cash or, or not but - - -

But you were aware that there was a conclusion to the business?---Correct.

30 Were you involved in discussions about closing the business?---I was, the discussion that I recall was to be made aware that they were closing it down.

And that closing it down would involve cashing out moneys held on behalf of the business? Was that part of the discussion you had?---I don't recall money specifically being discussed.

Do you recall a discussion of proceeds of the Glenfield Junction car park rectification works?---No.

Did you receive a share of - - -?---I didn't.

40 - - - or a payment at the time that the business was closed?---I did not.

Well, the evidence of Mr Nguyen is that there was an agreement as to the three of you, that is you, Mr Abdi and himself, splitting three ways the profits from the Glenfield Junction car park defect rectification works. Is that your, do you have any reason to think that his understanding of that was inaccurate?---Yes, because I did not receive anything so he's either delusional or lying.

Did you use any money that you understood to be part of the proceeds of the closure of the business in relation to a fig farm on Mr Abdi's property?
10 ---No.

Did you invest in a fig farm on Mr Abdi's property?---Yes.

Was Tony Nguyen also a partner in that business?---No, as far as I understood.

In connection with your investment in that business did you pay for various items to be installed or delivered to - - -?---I did.

20 - - - Mr Abdi's property?---Yes.

And was that the property in Glenorie?---Correct.

And what was the mechanism by which you paid for those? Were invoices sent directly to you?---Yes.

And do you recall when you first discussed with Mr Abdi investing in his fig farm or investing in the fig farm?---I don't know the dates but I'm guessing around 2016, that, that time but, yeah.
30

Is there something that enables you to place the commencement or the initiation of that investment or that business commencing? Did you invest at the start of the business so far as you understood it?---As far as I understood, yes.

Is there something that enables you to place the timing of that?---I'm trying, yeah, 'cause the, I spent a number of weekends and, and evenings at a, at another farm dismantling a, a greenhouse structural frame to then be relocated to, to Nima's yard, to Nima's property.
40

To erect on Mr Abdi's property?---Correct.

And that was for the purposes of - - -?---The greenhouse. Oh, sorry - - -

- - - using as a greenhouse to grow figs?---Correct.

And that was in 2016 that you - - -?---I believe so, yeah.

- - - spent that time. Could we have volume 18.13, page 3 brought up on the screen. These are messages extracted from your phone at the time to
10 Mr Nguyen. Do you recognise Mr Nguyen's number there?---I don't know his number but if that's off of my phone it would mean that corresponds to the phone number he's got.

You're asking him a question about where he was.---Yeah.

And then you sent him a link to some information or a website in relation to some shade cloth premium, or shade cloth or premium weed mat.---Yep.

And you say, "Also need 400 of weed mat staples to fix mat into the
20 ground."---Yep.

To which his response is, "Can you call Nima."---Ah hmm.

Do you have any recollection of what that related to?---No, I don't, I don't remember these text messages but - - -

Would it suggest to you that it was - well, did you have any reason at your own property to be installing or dealing with Mr Nguyen in relation to weed mat or shade cloth?---No, I don't recall what this is about.
30

Can we turn to page 5 the same volume. Here you're saying at the top of the message that you need eight times 20 litre bottles of Yara Hydrofer from T&W Greenhouse and you send a picture of that and you indicate how much that costs.---Yep.

Again this is August 2016. The earlier messages were also 15 August 2015.---Yeah.

Do you recall having discussions with Mr Nguyen about fertiliser?---No.
40

Would you agree that you had no reason to be asking Mr Nguyen, well, would you agree this seems to be a request to him to purchase fertiliser?
---No.

Can we turn to page 7 of the same volume. You see down the bottom there this is a message to you asking, “Do you have the Asian guy’s number who installed the plastic for us?” And your reply on the following page, “No. Gave it to your mate.” Does that question and answer in respect of “install the plastic for us” prompt your recollection in relation to what this related to?---No.

Would it appear to relate to installation of, or at least purchases of weed mat or shade cloth or fertiliser in relation to the fig farm?---I wouldn’t, I don’t want to say purchase of but it’s in relation to that stuff, yes, but - - -

Is there any reason for you to be corresponding with Mr Nguyen in relation to that if he wasn’t a partner in the business?---Yeah, I can speculate to, yes.

Well, I don’t want you to speculate if you don’t have any recollection.
20 ---Well, I don’t know. No, I don’t know. I don’t have that recollection.

Right.---So I’ll offer some, some, well, not explanation to this, but some additional response to the previous answer about whether he was part of the business. The only link that I have about Tony being remotely involved in the fig farm was specifically to do with Nima suggesting that Tony had a relative that worked at the Flemington markets, I think it was, and we could use Tony’s contact to sell figs.

Right, but this doesn’t relate to any of that, does it?---Correct, but I can, yes, correct.

Then page 11 of the same volume. You can see there this is slightly later. It’s October 2016. You see in the top message Mr Nguyen is sending you some pictures. They’re quite small but would you agree that one of those pictures appears to be a greenhouse?---Yes.

Do you recognise that greenhouse?---Yes.

Is that the greenhouse at Mr Abdi’s property?---Yes, it is.

The one that you assisted in constructing?---Yes.

Do you have any idea of why Mr Nguyen would have been sending you photos of that nature if he wasn't a partner in the business in relation to the greenhouse?---He frequently visited. He was frequently at Nima's place.

10 Could we have volume 18.13, page 59. This is a message later. It's in 2017. And it's from a number, well, do you recognise that number that it's from, that is the top number, as being associated with Mr Abdi?---I don't recognise that, but, yes, I can, I'm happy for you to tell me that it's his. I don't recall his number.

You'd take it from me that it was associated with him. He's saying to you and Mr Nguyen, "500 grams net, \$8 each." You can see what the message says in respect of sugar in the jam.---Yep.

20 And, "Each jar has five figs which you'd sell for \$1.20 each minimum." Scrolling to the following page, he's telling you he's mastered the jam production. He will begin Wednesday this week. Do you have any idea why he was sending that to both you and Mr Nguyen if Mr Nguyen wasn't a partner in the business?---The business wasn't to produce jam. He, I recall the conversation around producing fig jam and it was totally sort of Nima's thing where he said, there was a, there was a small amount of figs and he said he was going to try to make it like a farmers market out the front of his house and he was going to create jam and sell it out the front of his house.

If it was totally Nima's thing, why was he sending details of the pricing to yourself and Mr Nguyen?---It, it was to say, see, this is what is possible.

30 But they were the figs certainly of the business, they were figs grown as part of the business that you were a part of?---Yeah, I, I, I don't recall if, yeah, I can, I can jump to that conclusion, yes.

Do you recall when you established your own company, that is, Sanber Group, which traded as RJS Civil?---2015.

It was about October. Is that right?---Yeah.

And you were the sole director and shareholder of that company?---Correct.

40 And you remain the sole director and shareholder of that company?---I do, yes.

There hasn't been anybody else who in that time has been a director or shareholder?---No.

What was your purpose in establishing that company?---My purpose was to undertake small civil contracts.

Small civil contracts?---Yeah.

10 And you subsequently did perform some small civil works for the Inner West Council or for Leichhardt Council?---Not civil works, but, yeah, I did some work.

Small works?---Yes, very small.

But you'd intended that the company would do bigger things than that. Is that right?---Yeah, well, yes, bigger things than, than the fences that I put up, yes.

20 Right. The first job that you did for Leichhardt Council did indeed relate to the installation of a fence. Do you recall that?---Yes.

And that was in White Street in July 2016?---Yeah. I don't recall the exact date, but, yes, that sounds right.

Chief Commissioner, if I could have shown to the witness MFI 9? Do you have a copy of that, Chief Commissioner, or would you like me to provide an additional one?

30 THE COMMISSIONER: Yes, I do. I have a copy here.

MS DAVIDSON: Mr Sanber, this document's a summary prepared by the Commission of work or contracts that Sanber Group had with the Inner West or Leichhardt Council.---Correct.

Have you seen this document before?---The, the spreadsheet itself, no, but -

- -

If you could just take a minute to have a look at it?---Yeah.

40

Is the listing that's included there of the four projects accurate, to your recollection of the work that you did for Leichhardt Council?---Sounds right. Seems right, yes.

If there are any corrections or additions that you think need to be made to that document, by all means let us know. You'll have the opportunity to have a look at it over the lunch break. But you'll see in relation to the first job, that that was September 2016?---Okay.

10 THE COMMISSIONER: Just one moment.

MS DAVIDSON: Your company had been in existence - I'm sorry, Chief Commissioner.

THE COMMISSIONER: I just don't appear to have MFI 9. Hang on.

MS DAVIDSON: I can provide you with - - -

20 THE COMMISSIONER: I'll just check. Just give me a moment. Do you have a copy there?

MS DAVIDSON: Yes.

THE COMMISSIONER: Okay. Thank you. Yes.

MS DAVIDSON: Your company by September 2016 had been in existence for almost a year. Had you been doing work prior to the point of doing this work for the council?---No. I, I priced a lot of work but did not get any.

30 Do you recall in relation to - well, do you recall providing a quotation in respect of the White Street fencing job?---Yes.

If we could have volume 3.9, page 131 brought up. Do you see this is an email by which Mr Nguyen emails you asking for you to provide a quote for the supply and installation of new fencing. You're in this email at the top seemingly emailing it to yourself in response to an email from Mr Nguyen. Do you recall whether Mr Nguyen approached anybody else in relation - or do you know whether Mr Nguyen approached anybody else?---I wouldn't know.

40

And returning, if we could have MFI 9 brought up again. Did you understand what the threshold was in relation to Mr Nguyen needing to approach more than one contractor to provide quotes?---I may have but I, I don't recall an actual conversation about it but I - - -

So when you say you may have is there a figure that occurs to you now in relation to that?---15, 10,000, 15,000. That's only because of my experience I know that there are certain thresholds, especially for councils and, and whatnot for the number of tenders that you'd - - -

10

Were you aware, in relation to all the work that you did for Mr Nguyen, that is these jobs listed on MFI 9, whether there was any competitive process in relation to them?---I, I was not aware of whether there was a competitive nature to them. Well, sorry, I'll take a step back. The, and this is why if, my previous conversation was that there was, I only thought there was two jobs because I thought the other ones were variations to, not separate jobs. So - - -

20 When you say the other ones were variations to, what are you referring to there?---So, 21 White Street, there was a fence that I got a, a job to do.

Yep. That's the first one we see on the list there?---And then, yeah, and then, and then I got asked, I assumed it was a variation to that job, was to undertake handrail construction as well because it very, you know, and similar to the fencing at Hearn Street Park, there was a fence being installed there and, and I thought it was a variation to that while I was on, on that job to also change the, the seat for the swing.

30 In relation to the pricing of those jobs, did you discuss the pricing or the quotations that you submitted with Mr Nguyen before you submitted them? ---Yes.

And was that for the purposes of inflating the prices?---It was for the purpose to make sure it's going to get me the job.

40 When you say making sure it was going to get you the job, there was no competitive process that you were aware of. So what was the point of the discussion?---I wasn't aware of whether there was a competitive process or not.

But he didn't suggest to you, "Oh, I've got to get three quotes for this", did he?---We didn't have that discussion, no.

And you'd seen in the emails he was seemingly coming just directly to you for a quote?---Well, you would usually go to - even if you go to others you don't copy them in, everyone on the same email. You don't usually want to disclose who - - -

10 But you would expect to be aware if you were competing with somebody else, the customer was obtaining more than one quote, wouldn't you?---No, you wouldn't. You would assume that they're undertaking, they're doing whatever they're required to do under their own procurement processes.

Would that be a convenient time, Chief Commissioner?

THE COMMISSIONER: Yes, all right. We'll adjourn until 2 o'clock or so. Thank you.

20 **LUNCHEON ADJOURNMENT**

[1.04pm]