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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION TUNIC

Reference: Operation E13/1800

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 25 MAY, 2015

AT 10.07AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Yes, good morning. The resumption of this inquiry requires an amendment to the scope and purpose which I will read onto the record. In paragraph 1(f) there is simply a change to the name of the relevant organisation, namely David Salmon of A&DJ Building Services so that it now reads “received or may have received corrupt payments or other benefits as an inducement or reward for showing favourable treatment to David Salmon of A&DJ Building Service while Mr Bullock was employed by the MSB from about November 2003 to December 2014 inclusive.”

10

There is then an additional paragraph in the scope and purpose which is numbered 1(a) which I will read onto the record. “That Kevin Inskip of Plantac Pty Limited and/or David Salmon of A&DJ Building Services were directed or encouraged by Darren Bullock to participate in and did participate in tendering and charging the MSB for building works in excess of their true value.”

20

Given the lapse of time between the inquiry commencement and the resumption today and given the further investigations that have occurred in that interim period Counsel Assisting will be making a further brief opening, after which the Commission will take a brief adjournment. Apart from those housekeeping matters I should just indicate that Mr Roff, yes, Mr Roff.

MR ROFF: Thank you. I seek the Commission’s leave to appear on behalf of Mr Salmon.

30

THE COMMISSIONER: Yes, you have leave to appear on behalf of Mr Salmon and Mr Oates, you are appearing for Mr Inskip I take it?

MR OATES: Yes, Commissioner.

THE COMMISSIONER: Yes. Mr Oates, given the amendment to the scope and purpose the adjournment that the Commission will take will allow you to take some further instructions from your client in relation to that amended scope and purpose.

MR OATES: Yes, Commissioner.

40

THE COMMISSIONER: Thank you. Yes, Mr Naylor.

MR NAYLOR: Commissioner, during the first sittings of this public inquiry from 30 March to 10 April, 2015 the Commission heard evidence that Darren Bullock, the former district manager of the Picton office of the Mine Subsidence Board, received secret corrupt commissions from building contractor Plantac Pty Limited. The commissions were instigated by Mr Bullock in or about 2007 or 2008. Mr Bullock instructed Kevin Inskip, the principal of Plantac to incorporate an amount of money intended for

Mr Bullock into the cost of variations invoiced to the Mine Subsidence Board. Mr Inskip acted in accordance with these requests because he received a financial benefit and preferential treatment from Mr Bullock who had a key position in deciding how work was to be allocated among building contractors for repairs to residential homes caused by mine subsidence.

10 Commissioner, the amounts requested by Mr Bullock varied as the evidence has already revealed. Many of the payments were between 4,000 and \$10,000. Payments of Plantac variation invoices by the MSB are usually authorised by Mr Bullock himself as district manager provided a source of funds from which Mr Inskip could then pay Mr Bullock when Mr Bullock asked for money, sometimes referred to as the stuff.

20 When Mr Bullock asked Mr Inskip for money, Mr Inskip arranged with his wife for cash to be withdrawn from the Plantac bank account. The cash would then be placed into an envelope and handed to Mr Bullock by Mr Inskip when they next saw one another, usually at a building site. Mrs Inskip, who kept the books of account for Plantac, disguised the payments in the books by attributing them to payments to fictitious and sometimes real suppliers.

Over a period of about seven years from 2008 to 2014 as the Commission has heard, the amount paid by Plantac to Mr Bullock was in the order of approximately \$300,000. That amount correlates relatively closely with the amount of unexplained funds kept by Mr Bullock at his home over the same period.

30 Commissioner, since the hearing was adjourned on 10 April, 2015 the Commission has been embarked upon further investigations in relation to alleged corrupt activities involving Mr Bullock. It is intended to defer calling the MSB Chief Executive Officer, Greg Cole-Clark, as well as Kylie Hargreaves, Deputy Secretary of the Department of Trade and Investment and current Chairperson of the MSB, so that evidence in relation to these further investigations can be adduced. It is hoped that the evidence can conclude by the end of this week although I must confess there is some risk that this may not occur.

40 It is anticipated that the Commission will hear evidence that in or about 2007 Mr Bullock initiated an arrangement with David Salmon, principal of A&DJ Building Services, that involved Mr Bullock telling Mr Salmon to add specified amounts to the contract prices for building jobs in relation to which Mr Salmon had been invited to submit a tender or quotation. Sometimes the amount that Mr Bullock requested be added was a single amount. At other times it was specified as two separate amounts in equal proportion. Either way, the total amount was added to the tender quotation and invoice submitted by Mr Bullock – Mr Salmon rather without being separately identified, that is, it was secret. It is alleged that the purpose of

the arrangement was to enable Mr Bullock and Mr Salmon to share equally in the amount of secret corrupt commissions instigated by Mr Bullock.

When the arrangement commenced in or about 2007 the amount of the secret commissions that Mr Bullock allegedly requested be added was small, hundreds of dollars. It quickly rose to thousands of dollars although the amounts were variable and not consistent. In one case, Commissioner, in late 2014 Mr Bullock allegedly requested that \$30,000 be added to one of Mr Salmon's quotations which was subsequently invoiced. The alleged
10 scheme obviously differs from that about which the Commission has already heard evidence in that the building contractor, in this case Mr Salmon, profited from the arrangements as well as Mr Bullock.

A question arises however about how Mr Salmon could have increased the amount of his quotations yet remained price competitive with other contractors bidding for the same work. Another question arises about how quotations could include allegedly secret payments, some of significant magnitude, when the process of tendering was to be controlled by costs estimates that formed part of the claim approval process.
20

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Over a period of about seven years from 2008 to 2014 as the Commission has heard, the amount paid by Plantac to Mr Bullock was in the order of approximately \$300,000. That amount correlates relatively closely with the amount of unexplained funds kept by Mr Bullock at his home over the same period.
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10 When the arrangement commenced in or about 2007 the amount of the secret commissions that Mr Bullock allegedly requested be added was small, hundreds of dollars. It quickly rose to thousands of dollars although the amounts were variable and not consistent. In one case, Commissioner, in late 2014 Mr Bullock allegedly requested that \$30,000 be added to one of Mr Salmon's quotations which was subsequently invoiced. The alleged scheme obviously differs from that about which the Commission has already heard evidence in that the building contractor, in this case Mr Salmon, profited from the arrangements as well as Mr Bullock.

20 A question arises however about how Mr Salmon could have increased the amount of his quotations yet remained price competitive with other contractors bidding for the same work. Another question arises about how quotations could include allegedly secret payments, some of significant magnitude, when the process of tendering was to be controlled by costs estimates that formed part of the claim approval process.

It is anticipated that the Commission will hear evidence that Mr Salmon was involved in a practice, sometimes referred to as cover quoting. The practice involved the submission of a quotation that was deliberately higher than that
30 of a competitor. A cover quote is intended to be non-competitive but at the same time, to make it appear as though a tender process has been gone through. The practice begs the question as to how the contractor submitting a cover quote can ensure that his or her quote is non-competitive.

It is anticipated that the Commission will hear evidence that Mr Salmon received faxed copies of Plantac quotations sent from the MSB Picton office. It is anticipated that the Commission will hear evidence that Mr Salmon then submitted backdated cover quotes that were higher than the relevant quotations submitted by Plantac. It is likely that the evidence, that
40 evidence will be received showing that Plantac engaged in the same practice. Another question arises whether Plantac participated in an arrangement that involved Mr Bullock requesting an amount of money to be added to a tender or quotation. The proceeds of which were intended to be shared equally between Mr Bullock and Mr Inskip. There is already some evidence to this effect. Mr Inskip will be recalled to give further evidence. The evidence is likely to demonstrate significant failures to comply with MSB Policies and Procedures. A very real question is likely to arise as to whether Mr Bullock, in a highly organised way, overestimated the cost of

repairs in the initiating document, the Claim Investigation Report. In so doing, making provision for contractors such as Mr Salmon, to include sometimes quite high secret corrupt commissions in their quotations.

During the hearing, MSB files in relation to building works carried out at 43 properties in the Tahmoor area between 2006 and 2014 will be examined. Quite a number of the Claim Investigation Reports in these files were prepared by Mr Bullock as the investigating officer and then signed off by Mr Cole-Clark as the relevant financial delegate for approval of the claim.
10 On occasion, as the Commission has already heard, Mr Bullock prevailed upon district supervisors to sign reports that he had prepared so that he could then exercise his financial delegation to approve a claim. This denied an opportunity for the content of the report, including the estimated cost of repairs, to be properly scrutinised.

In many of the files only two quotations were sought and obtained by Mr Bullock. The relevant building contractors were Plantac and A&DJ Building Services. As the Commission has already heard, MSB Policies and Procedures required three quotations for works valued at over \$5,000 up
20 to 2013. From 2013 to 2014, three quotes were required for works with an estimated value of \$10,000 or more and from 2014, three quotes were required for works with an estimated value of \$15,000 or more. The absence of a third quotation is often unexplained. In a number of cases, Mr Cole-Clark accepted Mr Bullock's recommendation that either Plantac or A&DJ Building Services be selected as the successful tender when these were the only two tenderers.

It would appear, Commissioner, that in many cases where Plantac and A&DJ were the only tenderers, one was instructed to include an additional
30 amount to its tender while the other submitted a cover quote. It would appear that this arrangement was orchestrated by Mr Bullock.

The evidence to be educed is likely to show that Mr Bullock arranged for Mr Salmon to add a total of approximately \$190,600 to be shared between them in relation to the 43 properties during a period spanning eight years from 2007 to 2014 inclusive. During the same period, Mr Salmon submitted about 12 cover quotes in relation to jobs won by Plantac. It is not known whether any properties other than those 43 that will be examined during this segment of the public enquiry are similarly affected. It is known
40 that by October 2014, the MSB Picton office had completed repairs in relation to 407 claims in the Tahmoor area and that there were 40 other odd claims pending.

The Commission's investigation continues to evolve. Enquiries continue outside the hearing room. Should the need arise, additional witnesses may be summoned to give evidence at this enquiry. Thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Naylor.

MR NAYLOR: Thank you, Commissioner. Commissioner, before I call the next witness which will be Mr Bullock, may I begin by tendering a series of documents.

THE COMMISSIONER: Yes.

10 MR NAYLOR: First of all, Commissioner, you may recall – and these, these documents may I say arise from the evidence in the previous sittings - - -

THE COMMISSIONER: Ah hmm.

MR NAYLOR: - - - or are connected in some way with the evidence from the previous sittings. First off all, I tender monthly reports of the Picton District Office of the MSB for the period from January, 2007 to September, 2014, and may I explain, Commissioner the relevance of those. Commissioner, you will recall the series of questions asked by yourself of Mr Bullock on 8 April, 2015 about whether Mr Bullock had voiced
20 concerns in relation to the difficulty of complying with policies and procedures and Mr Bullock had stated that he thought his monthly reports would contain mention of the difficulties. ICAC has obtained the monthly reports for the period that I have mentioned. I can indicate, Commissioner, that there are some mentions in those reports of workload and recruitment difficulties and workload difficulties on a number of occasions. The balance of the reports will speak for themselves.

THE COMMISSIONER: Yes, that will be Exhibit T47.

30

#EXHIBIT T47 - MSB MONTHLY REPORTS

MR NAYLOR: Thank you, Commissioner. Second, Commissioner, an email from Peter Evans, the subsidence risk engineer of the MSB, to all MSB staff dated 9 December, 2011 annexing MSB minute paper dated 9 December, 2011 and schedule C, schedule of delegations as at 1 December, 2011.

40 THE COMMISSIONER: Exhibit T48.

#EXHIBIT T48 - EMAIL FROM PETER EVANS TITLED ‘CEO MEMO – UPDATED SCHEDULE C – DELEGATIONS – DEC 2011’ DATED 9 DECEMBER 2011

MR NAYLOR: The next tender, Commissioner, is another email from Mr Evans to all MSB staff. This one is dated 25 January, 2012 annexing another version of the schedule of delegations dated 1 January, 2012.

THE COMMISSIONER: Exhibit T49

10 **#EXHIBIT T49 - EMAIL FROM PETER EVANS TITLED 'FINAL – DELEGATIONS SCHEDULE C – 1ST JAN 2012' DATED 25 JANUARY 2012**

MR NAYLOR: The next tender, Commissioner, are minutes of the MSB held at Newcastle on 26 June, 2003 and annexures together with minutes of the MSB held at Newcastle on 27 February, 2012. Can I indicate, Commissioner, in relation to both of those that names of property owners appear in those minutes and also in relation to item 15 of the second set of minutes that is likely to be the subject of client legal privilege so I seek non-publication orders in respect of those aspects of those minutes.

20

THE COMMISSIONER: Well, without knowing the precise scope of the possible legal client privilege, is it preferable at this stage just to make a non-publication order in relation to the whole of the exhibit?

MR NAYLOR: If the Commission – it's very clear but there's just - - -

THE COMMISSIONER: Oh, it is in the course of the minutes?

MR NAYLOR: - - - there's just one item in the minutes that relates to legal proceedings.

30

THE COMMISSIONER: Can you – if you could just identify the page reference.

MR NAYLOR: Of course, Commissioner. So page – these are the minutes for 27 February, 2012, page 4, last page, item 15 litigation is referred to. I can hand up a copy, Commissioner, if that assists.

MS HOGAN-DORAN: Commissioner, I don't have a copy of that, Hogan-Doran for the MSB.

40

THE COMMISSIONER: Yes, all right. Well, in relation to the minutes of 26 June, 2003 and the minutes of 27 February, 2012 I make a non-publication order pursuant to section 112 of the Act in relation to the names of property owners appearing in those minutes and on the grounds of legal client privilege item 15 of the minutes of 27 February, 2012 and those two minutes collectively will be Exhibit T50.

I MAKE A NON-PUBLICATION ORDER PURSUANT TO SECTION 112 OF THE ACT IN RELATION TO THE NAMES OF PROPERTY OWNERS APPEARING IN THE MINUTES OF 26 JUNE, 2003 AND 27 FEBRUARY, 2012 AND ON THE GROUNDS OF LEGAL CLIENT PRIVILEGE ITEM 15 OF THE MINUTES OF 27 FEBRUARY, 2012

10 **#EXHIBIT T50 – MEETING OF THE MINE SUBSIDENCE BOARD MINUTES DATED 26 JUNE 2003 AND 27 FEBRUARY 2012**

MR NAYLOR: If the Commission pleases. The next tender, Commissioner, is a document entitled Operating Procedure Section 2, P01.1, Contractors (Infrastructure Works) January 2012.

THE COMMISSIONER: Yes, that document will be Exhibit T51.

20 **#EXHIBIT T51 – MSB OPERATING PROCEDURE SECTION 2, P29 SELECTIVE TENDER PANELS - PREQUALIFICATION**

MR NAYLOR: Next, Commissioner, a similar but slightly different document and a document entitled Operating Procedure Section 2, P29 Selective Tender Panels - Pre-qualification dated January 2012.

30 THE COMMISSIONER: Yes, that document will be Exhibit T52.

#EXHIBIT T52 – MSB OPERATING PROCEDURE SECTION 2, P01.1 CONTRACTORS (INFRASTRUCTURE WORKS)

MR NAYLOR: Next, Commissioner, a document entitled Contractors Infrastructure Works dated 1 May, 2012.

40 THE COMMISSIONER: That document is Exhibit T53.

#EXHIBIT T53 – MSB BUSINESS MANAGEMENT SYSTEM CONTRACTORS (INFRASTRUCTURE WORKS)

MR NAYLOR: Pardon me, Commissioner. They're all the tenders for time being, Commissioner.

THE COMMISSIONER: Thank you.

MR NAYLOR: Commissioner, I call Darren Bullock.

THE COMMISSIONER: Yes. Now, Mr Bullock, since you were here on the last occasion which was some time ago I should indicate to you again that the order that was made on the previous occasion and that I anticipate you would wish to continue is the order under section 38 of the Act which protects you from the use of your answers against you in civil or criminal proceedings but does not protect you should it be found that you've given false or misleading evidence to the Commission. Do you understand that?

MR BULLOCK: I do.

PREVIOUS SECTION 38 APPLIES

THE COMMISSIONER: Do you wish to be sworn or affirmed?

20

MR BULLOCK: Affirmed.

THE COMMISSIONER: Yes, can he be affirmed, please.

<DARREN WILLIAM BULLOCK, on former affirmation [10.48am]

THE COMMISSIONER: Mr Bullock, just before Mr Naylor resumes I just want to draw something to your attention. In the light of the opening that Mr Naylor has made this morning and in the light of the adjourned period, the adjournment period during which these further inquiries have been carried out, you will recall that but a short moment ago I informed you that the order under section 38 does not protect you should it be found that
10 you've given false or misleading evidence to the Commission and I want to bring home to you the full force of the effect of that qualification to the section 38 order. What it means is - is that if you answer in the course of the questioning from henceforth in a manner that is determined to be misleading or false you are liable for prosecution under section 87 of the Act which has a maximum penalty of five years' imprisonment. Do you understand that?---I understand that.

Lest there be no mistake about it you appreciate that your answers can be used in a prosecution against you under that section, you understand that?
20 ---I understand, I do.

Yes, Mr Naylor.

MR NAYLOR: Mr Bullock, have you ever received payments of money from David Salmon, in circumstances whereas district manager of the MSB Picton office you arranged for Mr Salmon to add an amount of money to quotations, tenders or invoices submitted to the MSB for work done by Mr Salmon's building entity, A&DJ Building Services and where it was intended that you and he would share in the amount being added?
30

MR CHEE: I object. That proposition needs to be broken up.

THE COMMISSIONER: Well, perhaps can be summarised, Mr Naylor. But anyway the full force of the proposition has been put so you can put it again in perhaps a more encapsulated form, but at least Mr Bullock is aware of the terms of the proposition.

MR NAYLOR: Let me break it up this way, Mr Bullock. As former district manager of the MSB Picton office, did you ever arrange for Mr Salmon to add an amount of money to quotations, tenders or invoices that he submitted
40 to the MSB for work done by a A&DJ Building Services?---Not that I can recall.

And I need to suggest to you, sir, well ask you this question. That were there occasions where that occurred, that is, where you arranged for Mr Salmon to add an amount of money to quotations, tenders or invoices that were submitted to the MSB and where it was intended by you, that you and

Mr Salmon would share in the amount being added after the money had been paid to Mr Salmon by the MSB?---Not that I recall.

All right.

THE COMMISSIONER: Well, just pausing there, Mr Bullock. You said, "Not that you can recall." Are you suggesting that that's something that you may have done but that you have now forgotten?---No.

10 Well, then the answer should be, "No, that did not happen." Because there is a very, very obvious distinction, isn't there, between saying I don't remember something and something didn't occur. Do you mean to be rejecting Mr Naylor's proposition to you? Do you want to reject it outright, do you?---Yeah. I can't remember.

Well, let me go through it again. What Mr Naylor has suggested to you would be patently wrong, would it not?---Yes.

It would be effectively illegal, would it not?---Yes.

20

Are you suggesting that if you did such a thing you would not remember it? ---What does that mean?

Are you suggesting that if you did such a thing as Mr Naylor has suggested, that you would not remember it?---I still don't know what you're, I can't the question?

Mr Bullock, if your house was robbed five years ago, you would remember it wouldn't you?---Yes.

30

All right. If Mr Naylor had said to you, "I put it to you that your house was robbed five years ago," and you said, "Not that I can recall," would that be an accurate or an inaccurate answer?---Inaccurate.

Right. Let's go back to the proposition Mr Naylor put. Are you suggesting that you did no such thing as was put to you by Mr Naylor or are you suggesting that you simply can't remember whether you did it or not?---I did no such thing.

40 Thank you. Yes, Mr Naylor.

MR NAYLOR: And, sir, have you ever received payments of money from David Salmon in circumstances where you had engaged in the arrangements that I've just asked you about?---Not that I know of.

All right. When you say, "Not that you know of," do you deny the proposition - - -?---I do.

- - - that you ever received payments of money in the circumstances that have been described in my previous questions?---I do.

All right. Mr Bullock, have you ever arranged, while you were district manager of the MSB Picton office, ever arranged for Mr Inskip of Plantac to add an amount of money to quotations, tenders or invoices that were submitted by him, or by his company, Plantac, what's the answer to that question?---No.

10 And have you ever made those arrangements in circumstances where it was intended that both you and he, that is, Mr Inskip, would share in the moneys that were received by Mr Inskip after his invoices were paid by, by the MSB?---No, not to my recollection.

All right. Have you ever received payments of money from Mr Inskip after the arrangements which I have suggested were put into place?---No.

20 All right. The last series of questions, sir, relates to any other contractors, that is to say, did you ever as district manager of the MSB Picton office ever arrange with any other contractors, that is, contractors other than Mr Salmon and Mr Inskip, arrange with them to add an amount of money to quotations, tenders or invoices submitted to the MSB for work done by those contractors?---No.

And in circumstances where it was intended that you and the other contractor would share in the proceeds of that once the relevant invoices had been paid by the MSB?---No.

30 And that you subsequently received payments of money from the contractors in the circumstances that I've described, that is to say, you received payments of money after you had arranged for amounts of money to be added to the relevant quotations, tenders or invoices?---No.

All right. Commissioner, at this time I would ask that Mr Bullock be stood down while I interpose another witness.

THE COMMISSIONER: Yes, all right. Yes, Mr Bullock, you can stand down and you can take a seat at the back of the room for the time being.

40

THE WITNESS STOOD DOWN

[10.57am]

MR NAYLOR: Commissioner I call David Salmon.

MR ROFF: Commissioner, I can indicate Mr Salmon is just outside of the courtroom.

THE COMMISSIONER: Yes, thank you. Well, he's being brought in now.

MR ROFF: Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Roff. Just take a seat, Mr Salmon. Mr Roff, I take it that you have told Mr Salmon of his availability – or the availability of an order under section 38 of the Act and he wishes to take advantage of that?

10 MR ROFF: Precisely, Commissioner.

THE COMMISSIONER: All right.

MR ROFF: Thank you.

THE COMMISSIONER: Mr Salmon, I just need to make sure that you appreciate the limits of the order. The order that I can make under Act protects from the use of your answers against you in civil and criminal proceedings that might be brought at some future time. However it does not
20 protect you if it should be found that you have given false or misleading evidence to the Commission because if that were the case you would still be liable for prosecution under section 87 of our Act which carries a maximum penalty of five years imprisonment. Do you understand that?

MR SALMON: I do.

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Salmon?

30 MR SALMON: Sworn, thank you.

THE COMMISSIONER: All right. I'll deliver the section 38 order and then you can be sworn.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in
40 respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN

**GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO
NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT
OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR
THING PRODUCED**

THE COMMISSIONER: Yes, thank you.

THE COMMISSIONER: Yes, Mr Naylor.

MR NAYLOR: What's your full name please, sir?---David John Salmon.

And, sir, you are the principal and director of a building company called A&DJ Building Services?---That's right.

10

And that's a business name is it not?---It is.

Behind the business name is a company called Dekane Pty Limited?
---Correct.

All right. And for how long has A&DJ Building Services been operating?
---20-odd years.

20 Commissioner, it might be appropriate at this time if I tender, pardon me, Commissioner. Commissioner, just before I continue with asking Mr Salmon some questions it's appropriate if I might at this point tender four volumes of materials.

THE COMMISSIONER: Yes.

MR NAYLOR: Those four volumes which are numbered pages 1 through to 3236.

30 THE COMMISSIONER: Sorry, to?

MR NAYLOR: 3236.

THE COMMISSIONER: 3236, yes.

40 MR NAYLOR: Those bundles comprise for the most part property files, MSB property files in relation to 43 properties. There'll be a schedule that will become available, Commissioner, in respect of the contents of the tender. It also comprises documents furnished to the Commission by Mr Salmon and some SMS and call charge records together with ASIC searches in relation to A&DJ Building Services and Dekane Pty Limited, and I can indicate in relation to the latter that the page references for the ASIC searches are at 2905 through to 2913.

THE COMMISSIONER: Yes, those four volumes will be Exhibit T54.

#EXHIBIT T54 – TENDER BUNDLES 8 VOLUMES PAGES 1 – 3236

MR NAYLOR: If the Commission pleases.

Mr Salmon, for how long – I withdraw that. You know Mr Bullock, don't you?---Yes, I do.

And for how long have you known Mr Bullock?---Over 30 years.

10 When did you first meet Mr Bullock, what were you both doing at that particular time?---I think we were both apprentice carpenters.

Working for which person or organisation?---The Department of Public Works.

And after a period of time did Mr Bullock move on from the Department of Public Works to work for Westpac?---Ah, yes, he did.

20 And did you maintain a relationship with Mr Bullock once that had occurred?---Yes.

What was the nature of the relationship?---Just as friends.

All right. What, what work were you doing at the time?---I think I was still with the Department of Public Works.

At some point did you get engaged or become engaged by Mr Bullock when he was working at Westpac as a building contractor for Westpac?---Yes.

30 And do I understand that to mean that Mr Bullock had arranged for work for you as a building contractor when he was working at Westpac?---Ah, yes.

All right. And a point in time sir, Mr Bullock moved on from Westpac, did he not?---Yes.

Do you know what his next position was?---He worked for AAMI Home Insurance.

40 Right. And did you maintain your relationship with Mr Bullock?---Ah, yes.

In what capacity?---As a contractor for AAMI.

All right. Is it your understanding that the contracts that you obtained, I take it as a building contractor?---Yes.

That the contracts that you obtained from AAMI were arranged by Mr Bullock?---Yes.

All right. At some later point in time, Mr Bullock changed positions again, did he not?---He did.

Where did he go, to the best of your knowledge?---Another company.

All right?---Davids Holdings, I think.

And after that?---Ah, possibly the MSB. There may have been another position he had, but I'm not sure.

10

Did he go back to the Department of Public Works as far as you were aware?---Ah, sorry, yes, he did, yes.

And while he was at the Department of Public Works, did you maintain a relationship with him?---Yes.

In what capacity?---Friends.

All right. Were you then a building contractor?---I was.

20

Did you get work from the Department of Public Works that was arranged through Mr Bullock?---One job, I think.

Right. Pardon me, Commissioner. Sir, you mentioned that Mr Bullock moved on to the MSB. Once that occurred did you maintain a relationship with him?---As friends.

All right. In any other capacity?---I was a building contractor at the MSB.

30

All right. Do you know, do you remember when you started work as a building contractor for the MSB?---Around '05, '06.

All right. I'll show you a document, Mr Salmon?---I'll just have to get my glasses.

Just go to the smaller one of those two documents first, if you wouldn't mind and just turn over - - -?---Which one?

40

- - - the front page to the next page. That would appear, sir, would it not to be an application by you on behalf of A&DJ Building Services to become a selected tenderer?---Yes.

Dated 27 May, 2005?---Correct.

All right. And you'll see on the front page, sir, that there's a checklist that relates to that application?---Yes.

I tender that document, Commissioner.

THE COMMISSIONER: Yes, that's Exhibit T55.

#EXHIBIT T55 – SELECTIVE TENDERERS CHECKLIST (FOR CONTRACTORS UP TO \$20,000.00) FOR A & DJ BUILDING SERVICES

10 MR NAYLOR: Sir, just looking at the other document that you've got with you?---I only have one.

The larger bundle?---I don't have them.

So just go again to the first page in?---I only have one document.

I'm sorry. I'm sorry. Because I haven't given the next document to you, my apologies?---Ta.

20 So if you just over the first page, the first page is a checklist, I'll take you to the next page. That appears, does it not, sir, to be an application by you on behalf of A&DJ Building Services to become a selected tenderer and it's dated 17 May, 2011?---Correct.

And behind that there are a range of documents that you filled in or annexed as part of that application, that's right isn't it?---Yes.

30 And the front page is a checklist that it would appear was prepared by the MSB in relation to your application, I don't suggest it's your document but its nevertheless related?---Yeah.

I tender that document, that bundle of documents, Commissioner.

THE COMMISSIONER: Exhibit T56.

#EXHIBIT T56 – SELECTED TENDERERS CHECKLIST FOR CONTRACTS: \$50,000 & \$50,000 TO \$150,000 FOR A & DJ BUILDING SERVICES

40

MR NAYLOR: Sir, these documents suggest that from about June 2005 – well, in June, about May or June 2005 you applied for and it's the case is it not that you did, you were successful in being appointed a selected tenderer, that's right, for the MSB?---Yes.

And the later document that I took you to would indicate that you reapplied for that in May 2011, was that application successful?---Yes.

Right. And am I right in thinking, sir, that during the intervening period, so all the way from 2005 up to 2011, you remained a selected tenderer for the MSB?---Correct.

And during that period, sir, did you pay any money to Mr Bullock?---Yes.

There was, was there not, a system whereby those payments were ultimately made to Mr Bullock?---Yes.

10

There was, I'll try to use a generic term, scheme, but there was a system whereby you were invited, were you not to add to quotes and tenders an ultimately invoices that you submitted to the MSB that you were invited to add to those documents amounts of money and that those invitations came from Mr Bullock, is that right?---I'd say they were directions more an invitations.

20

And just sitting there now, do the best you can, can you explain how the system worked?---At the conclusion of a job we were directed to add some money to the final invoice to inflate the invoice.

All right. And so you were inflating the amount of the invoice, this is an invoice in respect of the original contract price?---Correct.

Right. And normally what happens in the process, sir, is a quote gets submitted prior to the point in time when you ultimately come to submit an invoice?---Mmm.

30

Was any part of the system related to those quotes?---It was at the end of a job that the invoice was inflated.

Right. But what about quotations prior to the invoices?---Not usually.

In due course, sir, I'll take you to a series of property files and show you a number of documents. Can I first of all though take you to – just before I take you to any more documents, your evidence is that you were directed by Mr Bullock to add an amount of money to invoices that you submitted to the MSB?---Most of the time, yes.

40

In relation to original contract prices?---Most of the time.

All right. Well, you say most of the time, were there circumstances in where, in which that didn't occur and which, in which something else occurred?---Yes.

What were those circumstances?---At a tender meeting I was directed to add money to the price before the tender went in.

Right. And the tender meetings, these are meetings that occur on site with those who have been invited or are participating in submitting tenders?
---Correct.

And is it the case that Mr Bullock attended those meetings as well?---Yes.

And how, how did it occur, can you just walk us through, how did it occur that you were asked or directed to add to the price of the tenders or the cost of the tenders?---At the tender meeting we looked at the scope of works.

10

Yes?---Looked around the job and then I was directed to add an amount of money to the tender.

And who gave that direction?---Darren Bullock.

All right. And was that a verbal direction or was it in writing?---Both.

Both, that means - - -?---Separate jobs.

20

Separate jobs. Sometimes it was verbal and sometimes it was in writing?
---That's right.

All right. And how much are we talking about?---Random amounts.

Right. Well, hundreds, thousands, tens of thousands?---It was random.

Well - - -?---Different amounts.

30

There wasn't a consistent amount?---No.

All right. Let's go back. So there were occasions when Mr Bullock directed you at tender meetings to add a certain amount to the, the quote or the tender that you would submit?---Yes.

And was that direction given in the presence of other contractors who were on site?---I can only recall once that that happened.

Right. And that was in relation to which job?---47 Abelia Street.

40

All right. So in relation to all the other jobs he would take you aside while he was at – while you were at these tender meetings and either write something down or verbally instruct you to add an amount to your tender price?---Most of the time.

All right. Well, when you say most of the time, were times – are there times when that didn't occur?---Yes.

All right. What happened on the other occasions?---We would complete the job before I'd even given a price.

You would, you would complete the job before you gave him a price?
---Yes.

Does that mean to say you completed the job before any quote was submitted?---Correct.

10 Right. You would then submit a quote?---A final, final price - - -

Yes?--- - - - by a text message.

All right then. Am I correct, sir, in understanding that there were occasions – well, and then you submitted quotes that were backdated. Is that - - -?
---Yes.

Is that a correct understanding?---Yes.

20 All right. And the quote having been submitted backdated as it was, you would subsequently submit an invoice?---Correct.

And the invoice would include the additional amount that you'd been instructed to add on by Mr Bullock?---Yes.

And that additional amount was – the instruction was received I think you said by way of text message?---Yes.

30 All right. In due course the MSB would pay these invoices and you'd received more money than what the job was really worth?---That's right.

All right. And what did you do with that extra money?---The amount added was paid to Mr Bullock.

All right. And how were the payments effected, how did you pay Mr Bullock?---In cash.

All right. And whereabouts did those payments occur?---On job sites.

40 All right. And did you keep any of the money for yourself?---There was an amount kept, yes.

All right. Is it the case that it was intended that the amount that was added by Mr Bullock would be shared between you and he?---It was shared.

All right. And this money that was given to Mr Bullock in cash at job sites, was that put into – where, where did you get the cash from?---I'd previously sold a business.

Yes?---And um, kept a large amount of that proceeds at home.

Yes?---And that's what was used to fund it.

Right. So let me just understand this, the MSB would pay, you had, you had some cash, or some money that you kept at home from the sale of a business?---Yes.

10 And you used that money to pay Mr Bullock?---Correct.

When invoices that you had submitted to the MSB were paid they, they were paid I guess by cheque or direct deposit were they not?---That's right.

And if it was a cheque you'd deposit it into a bank account?---Yes.

And if it was a direct deposit obviously that's where it would, would end up?---Yes.

20 Did you ever withdraw moneys from a bank account and use that money to pay Mr Bullock?---No.

So the payments that were made to Mr Bullock didn't go through a bank account?---No.

Did you put them through any books of account at all?---The payments?

Yeah?---No.

30 No. So the situation is you were receiving a source of income from the MSB, you needed, or you paid Mr Bullock in accordance with the arrangements that you've described - - -?---Yes.

- - - and when you needed to pay Mr Bullock you'd dip into the cash reserve that you kept at home?---That's right.

And that occurred throughout the period that you were paying Mr Bullock?--That's right.

40 Do you remember when you started paying Mr Bullock?---I couldn't give you the exact date but it was probably '07, around about then.

Do you remember when the most recent payment was made to Mr Bullock?--Yes.

When?---Um, oh, a couple of months ago, 83.

Do you know if that was before or after Mr Bullock had resigned from the MSB?---It was after.

Was it before or after Christmas?---After Christmas.

Do you remember how much it was?---Yes.

How much?---3,000.

10 Do you remember in relation to what job if any it was paid for?---Yes I do.

Which job?---47 Abelia Street.

Why were you making these payments to Mr Bullock?---He requested it.

Well you were financially benefitting as well were you not?---To a slight degree.

20 It was in your interests was it not to make these payments for the purpose of securing work from the MSB, is that right?---It would appear so.

If the witness might be shown Exhibit, it's Exhibit T54. I'll just take you to the pages. Commissioner, T54 is that very large - - -

THE COMMISSIONER: Yes.

MR NAYLOR: - - - exhibit of in excess of \$3,000. The process I propose to adopt is just to, to show the relevant documents on the screen.

30 THE COMMISSIONER: Yes.

MR NAYLOR: Otherwise the paper will become unmanageable.

THE COMMISSIONER: Yes.

MR NAYLOR: If the witness can be shown please page 2899. Hopefully I have the page number correct. Mr Salmon, if you need to see, if you would prefer rather, to see a hard copy a hard copy can be made available?---I would.

40

Okay, all right?---Thank you.

I'd like to tell you which volume it's in but it's 2899, volume 5?---Oh, thanks.

Sir, at page 2899, do you have that?---Yes.

Right. I'll describe this document for you, it may not be familiar to you. It's called an extraction report. It's a document obtained from the carrier, the telecommunications carrier in respect of a mobile phone and if you turn over the next several pages what you will see are a series of SMS messages. It's in reverse chronological order so in fact entry number 1 is the most recent exchange of text message dated 17 November, 2014 and then if you go over to page 2904, entry 144 is dated 14 September, 2011 and if you can accept from me, sir, that these are exchanges of text messages between you and Mr Bullock from the period September 2011 to November 2014 and I
10 just want to, I'll take you to the relevance of these in respect of the various properties as we go along but it will be helpful to obtain some brief explanation of what's going on now. So if I can take you to page 2904 first of all and ask you to look at the entry numbered 139?---Yes.

And you see that that's an outgoing SMS message from your phone to Mr Bullock's phone and it says "Extras 2780 plus", do you see that?---Yes.

And above that entry 138 an incoming text message from Darren, from Mr Bullock, "4780". What do those two entries mean to you?---The one I
20 sent would have been the cost of a job and the other one was the inflated price coming back.

Right. And the price differential is \$2,000?---Correct.

Right. So Mr Bullock, am I right in this understanding, that Mr Bullock had asked, has asked you to add \$2,000 to the cost of the job?---That's right.

Right. And am I right in thinking, sir, that this – would this be in relation to an invoice or a quotation or you're unable to say just looking at this
30 document?---Oh, an invoice I'd say.

Right. Well, let's go to the next one up, entry – I'll take you to the – I withdraw that, Commissioner, all of these entries, sir, relate to particular jobs on particular properties do they not?---That's right.

All right. Well, I'll take you to the relevant properties in due course but let's just get some understanding of the nomenclature if we may. The next entry up, item 137, outgoing text message from your phone to Mr Bullock's phone on 21 November, 2011 says, "Burnett, first visit 300 plus G, second
40 visit 760 plus G, repair and paint." What does that mean?---The first visit at that job, the cost was 300 plus GST, the second one 760 plus GST.

Yes?---The second one, 760 plus GST.

All right. So the total cost would be 1,060, would it not?---That's right.

And the next entry up, item 136, that's a text message from Mr Bullock. It says, one invoice 1,000 for electrician and plumber. What does that mean? --It means that those two amounts at 137 to be added together.

Yes?---And then an invoice with, um, ah, \$2,000 added.

Right. So when the text message from Mr Bullock to you says, electrician and plumber, what does that mean?---It's just a code.

10 A code to add to the cost of the job?---Yes.

Right. And why would the code be done in that way? Why wouldn't it just say 2,000, for example? What was the significance of separating it between the electrician and the plumber?---I don't know.

Right. Well, was it intended sir, that you'd get 1,000 and Mr Bullock would get a 1,000?---It would, yes.

20 Right. Let's just go up a little up to entry 133. Text message from you to Mr Bullock on the 28 February, 2012. Campbell 1280 plus GST. That's a message you sent, yes?---Correct.

And the entry immediately above it which is on the same date and is received just a couple of minutes later from Mr Bullock 1,000 EA. What does that signify?---That's to, um, inflate the invoice for that previous message - - -

Yes?--- - - -by \$1,000 or \$2,000 all up.

30 2,000 all up?---Yeah.

And 1,000 EA means then, does it not, it was intended that Mr Bullock would get 1,000 and you'd get 1,000?---That's right.

Right. Sir, can I take you to page 2900, so that's the page immediately behind the first page. Sir, there's an entry number 6, I'm sorry, entry number 7. Message sent from your phone to Mr Bullock's phone, 30 September, 2014 at 1.45pm, other 3670 plus, see that?---Yes.

40 What's the significance of that?---It's just, it's another job, a cost of a job.

You're telling him the real cost of the job?---Correct.

And that includes an amount of profit for you?---It would.

Right. And above that entry number 6, same date, a short while later you receive a message from Mr Bullock two plus two what does mean?---That would be the amount to inflate the invoice by.

So what does two mean then?---2,000.

Right. So you need to inflate the invoice by a total of 4,000?---Correct.

And the 4,000 gets added to the 3,670?---Yes.

So the total invoice you would expect to see is 7,670?---Yes.

10 And it's two plus two because 2,000 was intended for Mr Bullock and 2,000 was intended for yourself, that's right isn't it?---Sort of.

What do you mean sort of?---Well, when you inflate an invoice you become liable for a lot more tax.

Yes?---And as far as I was concerned the extra two was to cover the tax that would be payable.

20 All right. Again, sir, I'll, I'll have to take you back to these messages in a more, more methodological way as I go through the relevant properties that relate to them but just, can we go down to entry 12. I'm sorry. Let's start, let's start with entry 14. This is a message sent from your phone to Mr Bullock's phone on 29 August, 2014 at 7.38am, "I'll be in Tahmoor after 8.00 this morning". And a reply comes back within seconds from Mr Bullock, entry 13, "Drop in". And then a short while later you send a message to Mr Bullock, "On the way. Will park under Coles". And a reply comes back less than 30 seconds later, "Okay". Then a message goes from you a very short time later, approximately seven minutes, to Mr Bullock, "Parked". What does all that mean?---It meant that I was to meet
30 Mr Bullock.

Why?---Um, I don't recall the exact reason.

All right. Well, you parked under Coles. Is that right?---That's right.

And do you remember sitting here, sitting there now at any time parking under Coles meeting with Mr Bullock and anything occurring?---We've met a number of times at that location.

40 For what purpose?---Um, I can't give exact details but at some stage I did hand over some money.

Right. Well, I'll come back to that document later. Sir, you've produced a number of documents to the Commission have you not?---Correct.

And they are documents that you had stored at your home?---Yes.

All right. By way of example, again I'll have to take you to these documents more methodically and in more detail in due course, but can I take you first of all to page 2677, volume 6. It should be in the folder that you have, sir. Do you have that document?---I do.

This, this would appear to be a bundle of documents that was sent out to contractors invited to tender, in this case for a job at a property at 125 Thirlmere Way, Tahmoor. That's right?---Yeah.

10 All right. And so on each occasion that you were invited to tender you would receive a bundle of documents which would include a scope of works?---Yes.

All right. And you'd take that bundle of documents with you to the meeting that you would have on site with Mr Bullock and any other tenderers that, or prospective tenderers who had been invited?---Yes.

20 All right. And if you can turn over to the next page, 2678 there's some handwriting that appears at the top right-hand corner. Do you see that?---Yes.

It would appear to say – it's a little bit obscured on my copy but it would appear to say 12 K plus 12 K, is that - - -?---That's right.

Am I reading that correctly?---Yes.

What does that mean?---Um, that's an amount we would be, would have been directed to add to that job.

30 And is that your handwriting?---It is.

All right. And you were directed – so that's a record of what you were told by Mr Bullock at the tender meeting for this particular job at 125 Thirlmere Way, Tahmoor?---I don't know if it was at the tender meeting but that was the amount to be added.

I see. And that, what, what is meant by that handwriting is that you were to add a total of 24,000 to cost of the job?---That's right.

40 And it, it's, it's described in that way notionally at least to be, for the, for, for 12,000 to be allocated for Mr Bullock and 12,000 to be allocated for you and I understand from your earlier evidence that the 12,000 allocated for you was intended to cover the additional tax involved?---That's right.

Sir, can I take you to page 2713. Same bundle, sir. Have you got that?---Yes.

Right?---Sorry.

That, that would appear, sir, to be a scope of works in respect of the job to be done at a property located at 42A King Street, Tahmoor, that's right?--- That's right.

10 If you just turn over the pages there's some handwriting on the first and second page and indeed the third page which is just another copy of the front page of the scope of works. Then at 2716 there would appear to be a handwritten, or hand drawn sketch going over – page 2719, that's a scope of works which appears to have been prepared by Mr Bullock on 11 October, 2007. If you go to page 2720 you see that handwriting?---Yes.

Is that your handwriting?---No.

Who's handwriting is it, to the best of your knowledge?---Darren Bullock.

And what, what does it mean so far as you understand?---That's the amount to be added to the job.

20 Well how did Mr Bullock's handwriting get on a document that was in your possession?---It was handed to me.

It was handed to you?---Yes.

Whereabouts, do you know?---On the job.

30 On the job. Okay. Can I take you back, sir, to page 2702. Now, this, this is in respect of a different property. This would appear to be a quotation submitted by yourself in respect of a job to be done at a property situated at 49 Pitt Street, Tahmoor?---Yep.

And you've quoted an amount 5,070 plus GST?---Correct.

And you've described they're the works to be carried out?---Yes.

Over the page sir, do you recognise that document, this is at page 2703?--- Yes, I do.

40 What is it?---It's a Plantac quotation.

Right. And in what circumstances did you receive this document, do you know?---It would've been faxed to me.

Right. There would appear to be a fax imprint on the top, at the top of the page, yes?---Yes.

13 July, 2006, 1700 or 5.00pm?---Yes.

This imprint would seem to suggest that it came from the Mine Subsidence Board Pic?---Correct.

So am I correct in thinking that you were faxed this document which a Plantac quote?---Yes.

Sorry, a Plantac quote, yes, that's right. And the amount of the quote is 4,000, it's a bit hard to read, I'm sorry, 4,5020, 620, I'm sorry, 4,620 plus an amount for GST?---Yes.

10

And it's a quote that also relates to 49 Pitt Street, Tahmoor?---Correct.

It's dated 29 June, 2006?---Yes.

It's signed and we compare it to your document which is the previous page, your quote is higher?---Yes.

20

Right. Do you know when, I'll withdraw that Commissioner. Did you, do you know if you submitted this quotation to the MSB Picton?---I assume I did.

Right. And why would you have submitted this quote to MSB Picton?---I was directed to.

Right. Who directed you?---Darren Bullock.

30

Right. And do you know when it was submitted by reference to the information that I've just taken you to on the fax document?---I couldn't say for sure when I submitted it, but I did submit it.

Do you know if it would've been before or after you received the fax?---It would've been after.

Right. And so what was the purpose then of you submitting a quotation which exceeded the Plantac fax after the Plantac fax had been submitted to MSB?---It was a cover quote.

40

Right. And what's your understanding of the purpose of the cover quote?---The understanding of it, what do you mean?

Yeah. Why would you put in the cover quote?---I was directed to.

Right. And that was by Mr Bullock?---Yes.

And did Mr Bullock say why he wanted you to put in a cover quote?---I can't recall why.

All right?---But, yeah.

All right. Now, the rest of the documents in the bundle that you have together with the SMS messages that I've already taken you to in part, concern various properties and I want to take, begin now to take you to the various property files and just have you identify some documents. Can I take you first of all, sir, to property file for 6 Dennison Close, Appin. This can be found at page 1 of volume 1, page 1, T54?---Okay. Thank you.

10 Now I'm not suggesting, sir, that you would be familiar with the entire contents of these documents, these are files or were files kept by the MSB, I just want to ask you to identify aspects of them. So – and just so you're aware and for the benefit of others in the hearing room usually the way in which these files are organised is that there's a cover page and then behind it there are documents which are usually in reverse chronological order but not always I have to say?---I don't have that, if that's on the screen it's not on - - -

You should have - - -?---54?

20 No, it's page 1?---Oh, 1, sorry.

I just want to walk you through the first of these files and it may become a little easier as we go along?---Yes.

30 It's important to try to understand the chronology. So if you go first of all to page 50, that's a copy of the claim application which the MSB receives from the owner of the property saying my property is my property is damaged and I'd like it repaired, the claim is to the effect that it's due to mine subsidence, I'm not suggesting you would have seen that document. If you go then to page 13, we'll be skipping around a little bit I apologise, now this is a document that would appear to be a Plantac quote dated 29 June, 2006 for an amount of \$4,340 plus GST. Then go over to the next – and it would appear, it's a bit hard to read, it looks like the stamp, the received stamp is 4 July I think, go over the page, page 14. There's a copy of what would appear to be a quote submitted by you dated 5 July, 2006 in an amount of \$4,770 plus GST so it's a little bit more than the Plantac quote. It's stamped 5 July, 2006, you see that?---Yes.

40 Then the next thing that happens on 6 July, you're looking at page 11, this is a fax that is sent from Mr Bullock to Mr Inskip of Plantac saying "Please attend to the following" and in relation to this property there's a description of what needs to be done, do you see that?---Yes.

Right. Then go to page 7. This is a Plantac invoice that corresponds with the quote that I've just shown you at page 13, Plantac invoice for 4,340 plus GST, you'll see its dated 13 July?---Yes.

Right. And it would appear to relate to the works that were the subject of the fax so the direction is given on 6 July, 13 July presumably the work's been done and an invoice gets submitted, see that?---Yes.

Then we go to – have you still got volume 6 there, sir?---Volume, volume 1.

10 Keep volume 1. Keep that, keep, keep to one side the documents I'm just asking questions about and I want you to go to page 2701 which I think is in volume 6. Now, that's a copy of your quotation that I've already taken you to. Yes?---Yes.

And the bundle that we're looking at now, the bundle of documents that you supplied to ICAC. So the copy of the quote at 2701 is the copy that you have supplied to ICAC and over the page 2702, I've just asked you some questions about that and you see – go back to page 2700. That's a fax cover sheet. Yeah?---Yes.

20 And it says, the date on the fax cover sheet is 5, is the same as what's on the quote. Yes?---Yes.

And it's the same. So you've sent to the MSB, to Mr Bullock's attention, those two quotes, one for 49 Pitt Street and one for 6 Denison Place. Yes?---Yes.

And over the page, 2703. I've just asked you some questions about the faxed copy of this Plantac quote?---Yeah.

And that was in relation to 49 Pitt Street?---Yes.

30 And if you go over the page. It's very difficult to read I'm sorry. It's actually easier if you look at them on the screen than in hard copy?---I've got to stand back.

Yeah. 2704 is the relevant page and what it looks like is it's another faxed copy of a Plantac quote dated 29 June, 2006 but this one is in relation to the property that we're looking at - at the moment, 6 Denison Place, Appin. Do you see that?---Yes.

40 Right. And it corresponds, does it not, with the copy of the quote that I had just taken you to at page 13 of the other bundle?---Yes.

Right. And you see at – I'm swapping between bundles I'm sorry, but at page 2704 that fax copy of the quote in relation to Denison. There's the fax – there's, there would appear to be a fax imprint on the top of the document 13 July, 2006, 1700?---Yes.

Right So it would appear that you've been faxed both of these quotes at the same time, the one for 49 Pitt and the one for 6 Denison. Yes?---That's right.

Right. And your evidence in relation to 49 Pitt as I recall was that you sent in a quote in respect of 49 Pitt, and that's the one at 2702, after you got the fax. Yes?---That's right.

And the same in relation to Denison. That's right, isn't it?---Yes.

10

So the dates that appear on both the fax cover sheet at 2700, 5 July and in relation to 6 Denison at 2701, 5 July, those dates are not the dates on which you prepared the quote and the fax. That's right, isn't it?---That's right.

So you have backdated the quote, yes?---It would appear so, yes.

And sent it in to Mr Bullock after you received the fax of Plantac's quote on 13 July?---Correct.

20

And why did you send Mr Bullock a quote for 6 Dennison that was higher than the quote submitted by Plantac?---It would be a cover quote.

Right. And is your answer in relation to 6 Dennison the same as in respect of 49 Pitt, that is to say you were directed or instructed by Mr Bullock to submit the cover quote?---That's right.

And do you remember asking Mr Bullock or him telling you why he needed for you to submit a cover quote?---I don't recall that.

30

All right. Well, we've looked at 6 Dennison and 49 Pitt. I'll take you to page 558 which is a property filed in relation to 16 Stuart Place, Tahmoor which you'll find in volume 2. So if you can just return volume 1 to the Commission's Associate and substitute for it volume 2?---Which page number?

Start with 558 just so that everyone's on the same page. And that's the front of the file, that's the front of the MSB file for this particular property. All right. Sir, unless I otherwise take you to the relevant documents the documents will speak for themselves but you can take it from me that in, in all of these files there's one of those claims made by the owners. I don't need to take you to those documents?---All right.

40

But I'll just try and confine it to the documents that relate to you. Now, let's, let's start at page 666. Have you got that?---Yes.

That, that would appear to be the, to be a scope of works?---Yes.

And at page 669, it's prepared by Mr Bullock. It bears, bears a date of 2 November, 2006?---Yep.

If you go to, if you go to 664 first of all, 664 would, have you got that?---Yes.

All right. That's a quote, it would appear to be a quote by Plantac dated 2 November, 2006?---Correct.

10 And the amount quoted is 8,980 plus GST. And just go over the page, 665. It looks like at least from the documents that you also submitted a quote the same date, 2 November, 2006. Higher amount, 9,730 plus GST?---Yes.

Received stamp 2 November. Now, do you still have volume 6 there?---Is that that one? Yeah. Yes.

20 Go to – now, this page, I have to apologise in advance, is so faint that it can't be read in hard copy, page 2705, you'll need to look at it on the screen and it might be helpful if we can enlarge it and scroll down as we go. It's very faint but what it appears to be, sir, when you look carefully is a copy of the Plantac quote that I've just taken you to on the file and can we go back to the top of the page. There's – I'll just make a couple of observations about this, first of all there would appear to be a fax imprint at the top of the page, see that, 10 November, 2006?---Yes.

Right. And this is a document that you've provided to ICAC is it not?---It is.

30 Right. And so this is a document that you received, a fax that you received, and just scroll down, keep going, down to the bottom of the page, you see - -?---Yes.

It's very faint but I think there is a received stamp down the bottom of the page. Now so this is the situation, that you've received a copy of the Plantac quote on the 10th of November and you have submitted it seems the quote dated 2 November, 2006?---Yes.

Sir, was that the backdated quote?---It appears to be.

40 Right. And why would you have submitted a backdated quote?---I would have been requested to.

Right. And would it have been submitted after you got this fax on 10 November, 2006?---Yes.

Right. And you perhaps can't explain this but it bears a received stamp on the bottom of 2 November, 2006, you see that? Going – I'm sorry, I'm swapping and changing. Go back to volume 2, page 665?---Oh, yes.

This is your copy of the quote, your quote as it appears on the MSB file?
---Yes.

Do you know how or why, you may not know the answer to this, do you know how or why a received stamp dated 2 November, 2006 appears on your quote that wasn't submitted to the MSB until after 10 November or on or after 10 November, 2006?---I don't know.

10 No. Okay. And I'm sorry, you might have answered this question already but why did you submit this quote?---I was requested to.

By Mr Bullock?---Yes.

And did he explain to you why it was necessary for you to submit this quote?---I can't recall that.

All right. Put volume 2 to one side, in fact if you can give it back to the Commissioner's associate and I'm going to ask for volume 1, I'm sorry, I'm
20 wrong. Page 3052 which is volume 8 and go to page 3052, this is a file relating to a property at 61 Pitt Street, Tahmoor and go to page 3067 this, sir, do you have that - - -?---Yes.

- - - would appear to be a Plantac quote for works to be done at that address dated 20 November, 2006?---Yep.

The quoted amount is 17,768 plus GST and it bears a received stamp, an MSB Board Picton received stamp of the same date as the date of the quote. Go to page, the page before it. That's, that would appear to be a quote
30 submitted by you bearing the date 23 November, 2006?---Yes.

And if one looks at the description of the works the words are different but basically the nature of the work is the same, it's for the same job is it not?---Yes.

And your quote is higher, a couple thousand dollars higher plus GST. See that, 19,620 plus GST?---Yes.

If you go to page – can you see at page 3058 – you'll have to go forward a
40 little bit in the bundle. Have you got that?---Yes.

That's the, that would appear to be a Plantac tax invoice dated 13 December, 2006?---Yes.

And it's for the, it's for the amount which was quoted in the quote that I've just taken you to?---Yes.

It's hard to read but it would seem to have a received stamp of 13 December on it. And then just to track through the chronology the page before it, 3057, again this is not a document that I suggest you're familiar with but it's a compensation claim payment form which suggests that on the same date, 13 December, 2006 in fact the tax invoice, authorisation was given for payment of that tax invoice. Now, if you go to page, back to the other bundle, volume 6 that we were looking at before. This is the bundle of your documents. Go to page 2707?---Yes.

10 Yes. And this again, sir, would appear to be a faxed copy of a Plantac quote?---Yep.

Right. And it's the Plantac quote another version of which I've just taken you to in the MSB property file for 61 Pitt Street, Tahmoor, that's right?---Yep, that's right.

20 Dated 20 November, 2006 and again, let's have a look at the fax imprint on the top of the page, 13 December, 2006 at 11.23, I think it is. It suggests that you received this document by fax at that time on that date. And if we can then, sir, go back to your copy of the quote that appears in the MSB file at page 3066. Have you got that?---Yes.

Is it the case, sir, like the others, that this quote was submitted after that fax was received by you?---Ah, it appears to be.

Right. And so it was submitted after 13 December, 2006?---Yes.

30 Right. And do you know why you submitted this quote?---It was what I was directed to do.

By?---Darren Bullock.

Right. Did he explain why he wanted the quote from you?---I can't recall.

Do you know why your quote as it appears on the MSB file bears a date, 23 November, 2006 which appears to be before when you actually sent it to the MSB, that is on or after 13 December, 2006?---Which file is that in, sorry, what number?

40 Your quote at 3066 in the MSB file?---What was the question again, sorry?

I'm just directing your attention to the received stamp at the bottom of your quote?---Yes.

You see it bears a date 23 November, 2006?---Yes.

And your evidence is that you didn't send it in until on or after 13 December, 2006?---Right.

Do you know why it bears a received date which precedes when it was actually sent?---No.

No. Okay. You can put that, we'll go to the next file. If I can ask you to return volume 8 to the Commissioner's Associate and ask for you to be provided with - - -?---Which ones?

10 MR NAYLOR: - - - volume 2?---Does it say 8 on it? Right.

And go to page 723. You see this is the front of the file for a property at, an MSB file for a property at 25 Patterson Street, Tahmoor?---Yes.

See that?---Yeah.

20 All right. Go first of all, sir, to page 745. Now this, sir, would appear to be an invoice that you've submitted for work done at 25 Patterson Street, Tahmoor, roof repairs in fact. The date of the invoice 9 March, 2007 and the amount is \$308 including GST, see that?---Yes.

Right. Still got volume 6 there? These are your documents?---Yes.

Go to page 2711?---Yeah.

And that would appear, sir, to be a remittance advice received by you from the MSB in relation to invoice payments, payments of your invoices, see that?---Yes.

30 And the first, there are two invoice payments mentioned there both dated 9 March, 2007. One's for an invoice numbered 4757 and if you just go, go back to the MSB file which is volume 2, at page 745 you see 4757 is the invoice number that was allocated to this invoice?---That's right.

And next, next to that in handwriting there are some, there's something written. And what it would appear to say is 25 Patterson, yes?---That's right.

And is that your handwriting?---It is.

40 Right. And across the page the amount is \$308 which is the amount that you were paid and then under the heading discount there's some more handwriting, 100 plus 100. Do you see that?---Yes.

What, that's your handwriting as well?---It is.

What does that signify?---That's the amount the invoice um, was varied, or inflated rather.

Right. So a total of \$200 was added to the invoice?---Correct.

In what circumstances was that addition made, or what – I withdraw that. What, how is it that you came to add \$200 to this invoice?---That’s what I would have been instructed to do.

By?---Darren Bullock.

10 Right. So would that be a pre-GST amount or a post-GST amount, the 200?---Pre.

Pre. So if the invoice that you’ve rendered is for \$280 plus GST the amount that you were instructed to add was, was in addition to \$80? So it was \$80 plus \$200 gives you 280?---Correct.

Plus GST. So the real value of the work that you would otherwise have invoiced for had it not been for the instruction or request made by Mr Bullock would, would have been \$80?---That’s right.

20 Right. So do you remember any occasions prior to this which is in March 2007 – I appreciate I might be taxing your memory – but do you remember any occasions prior to this when you were asked to add on or inflate the, the amount rendered in an invoice?---I don’t recall any.

All right. I’ll ask for that volume, volume 2 to be returned to the Commission’s Associate and for you to be given volume 7. Go to page 2947. Once again, sir, this is the front page of an MSB file. Do you have that?---Yes I do.

30 For a property situated at 14 Stuart Place, Tahmoor. And there are quite a few documents in this file. I’ll just take you to the ones that are relevant to you. Go to page 3010. Have you go that?---Yes.

That would appear to be a tax invoice rendered by you in respect of works done at 14 Stuart Street, Tahmoor, it happens to bear the same date at the invoice that we’ve just looked at, 9 March, 2007?---Right.

You see that?---Yes.

40 And you’ve billed in this invoice \$3,880 plus GST, you see that?---Yes, yeah.

And this is – just go to the previous page, again, this is a, this is a compensation claim payment form which I don’t suggest that you’re familiar with but it would appear to record that you were in fact paid for that invoice on the instruction or at the authorisation of the signature of the delegate there, do you see that?---Yes.

All right. And can I take you to the other volume, volume 6. Go to page 2712. Now this is a similar document to what I took you to in the earlier file, a remittance advice that you – these are your documents, it's a remittance advice that you received from the MSB, that's right isn't it?
---That's right.

10 And the first of the four invoices which are referred to there corresponds does it not to the invoice that I've just taken you to in the other bundle at 3010, the invoice that you submitted to - - -?---Yes, that's right.

14 Stuart Street, Tahmoor?---Yes.

And you see there's handwriting there on that page?---Yes.

And the handwriting next to 4,268 which is the amount including GST is 1,000 plus 1,000, see that?---That's right, yes.

20 Right. And what does that signify to you, that handwriting?---That's the amount that was added onto that, that job.

Right. And who asked you to add on that amount to that job?---Darren Bullock.

Right. And so if we look back at the invoice and that handwritten document together, the 1,000 plus 1,000 is 2,000, yes?---Yes.

So if we deduct from the pre-GST amount on the invoice then it's 1,880 plus GST?---Yes.

30 That would have been the true value of the work that you did?---Correct.

Right. And when it says 1,000 plus 1,000 that was intended to indicate, was it not, that Mr Bullock would receive \$1,000 and you'd receive the other 1,000 which would, you would use to defray your tax and any other expenses you might have, is that right?---That's right.

40 Sir, just before I go on this practice that you had embarked upon in about 2007, and I'm going to take you to more files as we go along, this practice of adding an amount to the invoices at Mr Bullock's direction notionally to include an amount for him and an amount for you to be used to pay your tax and whatever else expenses, you were aware were you not that you were involved with Mr Bullock in a process of defrauding the MSB?---That's right.

Right. And you were aware that that was wrong?---I was aware, yes.

You were aware it was illegal?---Yes.

Right. So why did you agree to participate in the arrangement?---At the time I had a lot of personal problems.

Yes?---A young family. Um, serious illness in the family.

Yes?---Bills coming in. We'd already done a number of jobs there for the Mines Board prior to this.

10 Yes?---And um, I protested at the time and it just happened.

All right. So you're saying you needed the money, the money helped?---I needed the work.

Yes. And is it correct to say, tell me if I'm wrong, that by agreeing to participate in this arrangement you had an expectation that you would receive more work from the MSB?---Continuing work.

Yes?---Not so - - -

20 And - - -?---Not so much more work but continuing.

All right. Well – but what would have happened if you had said to Mr Bullock no, I'm not doing it, what, what do you think would have happened?---I think that would have been the end of our work.

Right. Okay. From the MSB?---Correct.

30 I take you, sir, to – you can return that file. I'll ask for you to be given volume 1 and go to page 78 please?---Thanks.

That's the front page, sir, of a file, an MSB file for a property at 125 Thirlmere Way. I've already asked you some questions about this but I need to get into the detail a little bit more. So go first of all to page 128 and this, this would appear to be – pardon me, just before I ask that question. Commissioner, I think I neglected to seek a non-publication order in respect of the contents of this Exhibit T34 so far as the names of property owners are concerned.

40 THE COMMISSIONER: Did you say T34?

MR NAYLOR: Yes. That's the large bundle of documents - - -

THE COMMISSIONER: Yes.

MR NAYLOR: - - - that we're going through.

THE COMMISSIONER: Yes, all right.

I'll make a non-publication order in respect of the names of the property owners contained in Exhibit T34.

I'LL MAKE A NON-PUBLICATION ORDER IN RESPECT OF THE NAMES OF THE PROPERTY OWNERS CONTAINED IN EXHIBIT T34.

10 MR NAYLOR: Thank you, Commissioner. So just going back to page 128 and following, this, this is a scope of works in relation to a job to be done at 125 Thirlmere Way. At page 131 you see it's – the specification has been prepared by Mr Bullock on 7 March, 2007. See that?---Yes.

Right. And then you go forward in the bundle a little bit. Go to page 113? ---Yeah.

Do you see that's a letter that you appear to have been sent by Mr Bullock inviting you to submit a tender?---Right.

20

See that. Yeah. Now, can I take you to volume 6. Go to page 2677.

THE COMMISSIONER: Just while we're doing that, Mr Naylor, the, the exhibit that you sought the non-publication order for a short time ago should have been T54 not 34.

MR NAYLOR: I'm - - -

THE COMMISSIONER: Yeah.

30

MR NAYLOR: I'm sorry, Commissioner.

THE COMMISSIONER: But that's okay.

MR NAYLOR: I apologise.

THE COMMISSIONER: No, it's T54. Thank you.

40 MR NAYLOR: Yes. I got the four part of it right. All right, so in volume 6, sir, page 2677, do you have that?---Yes.

That's the front page of what would appear to be a tender bundle that you would have received, and these are documents that you've provided - - -?---Yes.

- - - that you received from the MSB in relation to the tender invitation for this, this particular job?---That's right.

And can I take you to – so if you just work through the pages there there's the scope of works, contract conditions. Page 2690. There's some handwriting at page 2690?---Yes.

And that's your handwriting?---It is.

And these are your workers are they not for how much it would cost you to do the job?---Yes.

10 And so looking towards the bottom right-hand corner it looks to me like you've worked out the cost of the job for you would be 8,900 and then you've – then the next line is times 120 per cent. That, that means does it not you've added 20 per cent for your profit on top of the cost of the job?---That's right.

So, so the, the cost plus the profit is 10,600, that's right?---Yes.

Then there's an amount 24,000 underneath?---Yes.

20 And that's been added up to a total of 34,600, that's right?---Yes.

And beneath that say 36,900, yes?---Yes. Yes.

What's the 24,000 mean?---Um, that appears to be what was added to the job.

Right. And if you go back to page 2678 - - -?---Yes.

30 - - - there was some handwriting in the top right-hand corner which I'd already asked you some questions about?---Yes.

Right. That's 12,000 plus 12,000?---Yes.

That, that's intended to be the same add-on, the same amount of inflation that the 24,000 refers to?---Correct.

All right. So you've, you've added on, and I think your evidence was that you added on the 12,000 plus 12,000 at Mr Bullock's direction or request?--
-Yes.

40

And you – pardon me. So just go to page 107 of volume 1. I'm sorry, I've taken you to the wrong page. 108. Have you got that?---Yes.

108. That would appear to be a tender form that you have filled in for this particular job?---That's right.

That's your signature above the date 18 April, 2007?---It is.

And you've specified or you've quoted the amount at 36900?---Yes.

Plus, well that's exclusive of GST?---Yes.

That corresponds to your workings that I've just taken you to in the other file?---That's right.

Now you didn't, you didn't win this job, did you?---No, apparently not.

10 Go to page 105 of volume 1. You will not have seen this document before, sir, but this is a minute prepared by Mr Bullock, it would appear, dated 23 April, 2007. So a few days after your tender was submitted and it recommends that the Plantac quote be accepted. See the Plantac quote comes in a bit under yours but your quote is less than a quote submitted by the other tenderer, Fairmont Homes?---Yes.

Yes. So it would appear from the documents that Mr Bullock has selected or recommended rather that the lowest quote be accepted and it would appear also from that page that the CEO of the MSB has accepted. Mr
20 Bullock's recommendation for the Plantac quote to be accepted. Sir, let's just go back to this tender bundle in the other folder 2677 and following. That is the bundle of documents that you received which include your workings. Do you remember when you, the circumstances in which you were told by Mr Bullock to add a total of \$24,000 to your quote?---No, I don't.

I'm sorry?---I don't.

Right. Do you remember attending a site inspection?---I don't recall, no.
30

Right. Is it the case that you do remember on occasion, being instructed by Mr Bullock to add to your quotes or to inflate your quotes while at site meetings?---It did happen at site meetings.

Yes?---But other times would be by telephone.

Right. Do you have any knowledge, sir, as to how the quotes submitted by Plantac and Fairmont Homes were arrived at?---No.

40 I'll take you to another property file, sir, same volume, volume 1, page 170. Pardon me, Commissioner. Sir, this is a file for 34 King Street, Tahmoor. Can I take you first of all to page 243. That's a scope of works?---Yes.

Page 246. It would appear on the face of the document to have been prepared by Mr Bullock on 24 July, 2007. And then if you go back in the bundle 230. That's a letter, is it not, that was sent to you by Mr Bullock inviting you to tender - - -?---That's right.

- - - for this particular job?---Yes.

Go to the other folder that you've got, volume 6, page 2935. Probably start at 2934. These, this is a document that you provided to ICAC, sir, which is your copy of the scope of works?---I don't have that.

I'm sorry. Volume 7, you need to be provided with volume 7. I'm sorry. And you can return volume 1?---Sorry.

10 I know you've got several folders there, sir?---That's okay.

I'll try and steer you through them. So volume 7, page 2934. That would appear to be your copy of the scope of works that you had kept and which you subsequently supplied to ICAC?---That's right.

And it's a bit hard to read on the hard copy and even on the soft copy but there's handwriting down the side of the page?---Yes.

And over the page, 2935?---Yes.

20

There's handwriting down the side of the page?---Yes.

And down, down near the bottom there seems to be an amount 24,210 plus GST. Yes?---That's right.

Right. Above that there's an amount, it says profit next to it, 4,036?---Yes.

And above that an amount of 20,180. See that?---Yeah.

30 All right. So am I right in thinking that the 20,180 is what you had worked out your cost to be for doing this work?---That's right.

You added a profit and you came up with the total cost which was, including profit 24,210 plus GST?---Yes.

All right. Now, in volume 1 go to page 221. That's the, that's a tender that you submitted in relation to this particular job?---Yes.

40 And the amount that you've tendered for, over the page 222, 40,210 exclusive of GST?---Yes.

Now that exceeds by 16,000 the amount that you had worked out what the value of the job was to you including profit?---That's right.

And how is it, sir, that you added \$16,000 to the cost of what you thought was the real value of the job including profit?---It appears that's what I was directed to add on.

By whom?---Darren Bullock.

Right. Do you have a memory now of the circumstances in which you received that particular direction?---No.

All right. Let's just stay with volume 1, go forward in the bundle a couple of pages from the tender form to the document described as a minute paper at page 220?---Oh, forward, sorry.

10 Have you got that?---Yeah.

That would appear to have been prepared by Mr Bullock on 3 August, 2007, it sets out what your quote was, 40,210, it sets out what two other quotes were as well and he's recommended that your quote be accepted because it was the lowest, do you see that?---Yeah.

And it seems to have been approved by Mr Cole-Clark, the CEO of Mine Subsidence Board. Then going forward to page 217. This is a letter to you dated 3 August, 2007 saying your tender is acceptable. Got that?---Yes.

20

That's 3 August. Go to page 198. Now, you won't have seen this document before but I just draw your attention to aspects of what's written on the document. Towards the bottom of the page under the subheading "Repairs" there's some typing and some handwriting and then next to commencement date is written 6/8/2007. Do you see that?---Yes.

Which would suggest that works commenced on that date?---Yes.

30 That's three days after the letter was sent indicating that you, you were successful with your tender?---Yes.

Do you have a memory now if you actually started work that day?---No, I couldn't recall that, no.

Okay. That's all right. Then go to page 203. Now, this is your tax invoice is it not?---Yes.

For the amount that you'd quoted for?---Yes.

40 And which had been accepted?---Yes.

Tax invoice dated 2 October, 2007?---Yep.

There's a small amount of variations, \$380. But otherwise it's, it invoices for the total amount of the contract price, 40,210 plus GST, that's right?---Yes.

And the previous page, 202, again a document that you wouldn't necessarily be familiar with but it would seem to record the fact that Mr Bullock authorised payment of your invoice?---Right.

So this is a situation, sir, where at Mr Bullock's direction you inflated your quote and then were subsequently paid \$16,000 plus GST in excess of what the true value of the job was. That's right isn't it?---It, it appears to be.

10 Right. And just go back to page 220. That's the minute that I had taken you to recommended acceptance of your quote. Have you got that?---Yes.

And there's, Plantac is mentioned there as having tendered?---Yes.

And one other. Do you have any knowledge about how Plantac and the other tenderer devised or came up with the amounts that they tendered for?--
-I have no idea.

Right. Commissioner, that's - - -

20 THE COMMISSIONER: It's a convenient time, yes.

MR NAYLOR: Might be a convenient time.

THE COMMISSIONER: We'll take the luncheon adjournment and resume at 2 o'clock. Thank you.

LUNCHEON ADJOURNMENT

[12.56pm]