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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION NICKEL

Reference: Operation E12/1944

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY, 16 OCTOBER 2013

AT 2.02PM

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

THE COMMISSIONER: Mr McLure.

MR McLURE: Mr Binos, over lunch you've had an opportunity to look at the list and what are you able to tell us about that?---Um, basically all the number plates that are listed here are the ones that I did conduct without assessments.

10

Right. So how is it that you are able to recognise those number plates as being vehicles you used for false certifications?---Um, basically I was here last time and um, they showed me pictures and I went through the pictures with my barrister as well and um, basically indicates to me that they're the number plates that were not used to do assessments with.

All right. So based on your recollection being refreshed from looking at photographs of some of these vehicles you now recognise them as being ones that you used for false certifications, is that right?---Correct.

20

I just want to want to focus on a few. Excuse me. Do you see at the bottom of page 1 there is a vehicle U-F-Y-6-8-3?---Yes.

The Commission has been informed that you did provide assessment of a gentleman by the name of [suppressed] in that vehicle. Do you recall doing so?

---In U-F-Y-6-8-3?

30

Yes?---[suppressed].

You won't find, you won't find [suppressed]'s name on the list but the, the Commission has been informed that you did provide training to [suppressed] in that vehicle. Do you recall that?---No, I don't.

Well on the assumption that what the Commission has been told is correct is it the case that what you have done is you have retained details of the registration number of a vehicle you did use for assessment and then have re-used it for the false certifications that are listed in the document before you?---That could be right, yes.

40

THE COMMISSIONER: Is that, is that something you've done in the past with other vehicles?---Correct.

MR McLURE: Now, Commissioner, I don't think I tendered the assessor logbooks which I handed up before lunch. I tender those now.

THE COMMISSIONER: Yes. What number are we? 22. Yes, the assessor logbooks will be Exhibit 22.

#EXHIBIT 22 - ASSESSOR LOGBOOKS – CHRISTOPHER BINOS

MR McLURE: Mr Binos, would you mind opening please the assessor logbooks at page 771. In fact, I'm sorry, if you go to 763 first just so we identify which book we're looking at?---What was the number, sorry?

10 763. Have you got that?---Yep.

So we're looking at your logbook number 77?---Correct.

And then if you turn over to page 764 the way these assessor logbooks are arranged is you list on the first page any vehicle that you assert you have used for an assessment, correct?---Correct.

20 And then when you look at an individual entry for an applicant you just use the reference vehicle A, vehicle B and so on?---Yeah, correct.

So could you please look at page 771. Commissioner, the person who is named on page 771 is not on the list. I seek a non-publication order in relation to that person's name, address, and telephone number.

THE COMMISSIONER: The identity of the person named on page 771 of Exhibit 22 is suppressed.

30 **THE IDENTITY OF THE PERSON NAMED ON PAGE 771 OF EXHIBIT 22 IS SUPPRESSED**

MR McLURE: Mr Binos, by comparing, well you can see there it says vehicle E for that person there named?---E.

E?---E, yep.

You can see that?---Yep.

40 And then if you go back and look at page 764 you'll see that the registration number for vehicle E is Y-C-W-4-7-9?---Correct. Yes.

And if you look at Exhibit 21 which is the list that I gave you before lunch - - -?---Yep.

- - - and you look at page 3 of the list do you see Y-C-W-4-7-9 is at the bottom of that page?---Yes.

So what I want to understand from you is whether you say that this is a vehicle in respect of which you never provided any training or whether you may have provided training to someone like the person listed on page 771 and then subsequently used the registration number?

THE COMMISSIONER: You're saying really, do you understand the question?---I'm trying to work it out.

10 I think the question is did you ever use vehicle Y-C-W-4-7-9 for a genuine assessment and then use it for a series of certifications where you didn't assess, or is this just a vehicle that you never used for an assessment and just picked up somewhere on the internet or - - -?---No, I think last time the discussion was I did that student correctly once in that truck. That's a legitimate truck. I'm pretty sure that's a tabletop with a tail lifter on it, on the back.

MR McLURE: I don't think you referred to that one on the last occasion?

20 THE COMMISSIONER: It looks, sounds to me from this evidence that you're not sure?---I'm not sure.

To difficult for you to tell?---If I could, if I could, I'd be lying if I say yes or no.

MR McLURE: Beg your pardon?---I'd be lying if I said yes or no.

30 All right. But nevertheless you're sure are you that person A95 which is in Exhibit 21 that is someone to whom you did not provide actual assessment?--Couldn't tell you, I'd be lying if I did.

You're not sure either way?---Yes or no, I'm not sure. Not on that one.

All right. Can I have Mr McDonagh's logbook please which is page 499. 499. No, it starts at, it's pages 499 to 503. Sorry, one moment, Commissioner. Thanks. I'll show you this document. Mr Binos, I'm showing you a copy of an extract of the learner's logbook for Mark McDonagh. Can you see that?---Yes.

40 Now if you look at page 501 please. That's your signature on the left-hand side?---No, it's not.

I'm sorry, that's quite right. That's the motor registry signature. If you go down to page 502. That's your signature under assessor's name - - -?
---Correct.

- - - and assessor's signature?---Yes.

And same again in the bottom half of the page?---At 503? Oh, sorry, in 502.

Yes?---Yes, yes, it is.

And then, then over in 503 for the final competency assessment?---Yes.

That's your signature?---Yeah.

10 Now you see that the vehicle is registration number B-Q-4-1-V-H, do you see that?---Yes.

That is a vehicle in respect of which you are sure you did not provide any training or assessment, correct?---Correct.

THE COMMISSIONER: Your answer is yes, I'm sorry?---Yes.

Now how, how do you know that?---By the - - -

20 How do you know that?---By the number plate.

What you, you recognise the number plate as being one that you have never actually trained anyone on?---Correct.

MR McLURE: Now if it was going to put to you - I withdraw that. If someone was to say to you that on 29 December 2012 you went to Mr McDonagh's factory at Wetherill Park and spent the day training and assessing him in one of his trucks you would say that is untrue wouldn't you?---Yes.

30

THE COMMISSIONER: Well one of these trucks.

MR McLURE: One of his trucks. I'll just clarify that so there's no misunderstanding between you and me. If it was put to you that on 29 December 2012 you went to Mr McDonagh's factory at Wetherill Park and you spent the day training and assessing him in a truck owned by him or at least a truck that he brought to the training session you would say that is untrue wouldn't you?---I didn't go there on that day, no.

40

THE COMMISSIONER: I beg your pardon?---I didn't go on that day, no.

MR McLURE: You didn't go to his factory - - -?---To his factory.

- - - at Wetherill Park on any day did you?---I didn't say any day but that day, no, probably not.

THE COMMISSIONER: How do you know that?---'Cause it was close to New Year's Eve like I probably didn't go.

MR McLURE: Well were you working on the 29 December 2012?---Well I suppose.

THE COMMISSIONER: That's last year, last year?---Yeah. Yeah, I know, yeah. Well by the dates, yeah.

MR McLURE: No, no. You - - -?---But I wasn't doing assessment.

10 You weren't doing assessments. Why, what were you doing do you know?
---No.

All right. But you're certain you did not provide actual assessments to applicants for heavy vehicle licences between Christmas and New Year of 2012 are you?---Yes, that's right.

All right. So do you accept that you never assessed Mr Mark McDonagh in his competence to drive heavy vehicles?---Yeah, no. Because that number plate there is one of the trucks I used to use from um, carsales.com.

20 Right. And that's the reason why you know that the entries that are this document I've provided to you are false in the sense that they suggest that you did provide him with an assessment, correct?---Correct.

I tender pages - - -

THE COMMISSIONER: But did you, you answered that question?---Yes.

MR McLURE: I tender the document. It is an extract of Mr McDonagh's logbook which was issued on 28 December 2012.

30 THE COMMISSIONER: Exhibit 23 is an extract of Mr McDonagh's logbook issued on 28 December 2012.

**#EXHIBIT 23 - EXTRACT MARK MCDONAGH LOGBOOK
ISSUED 28 DECEMBER 2012**

40 MR McLURE: Do you have any recollection of how much you asked Mr McDonagh to pay you in return for making the false entries in his logbook?--Anywhere between 15 to 1800 probably.

I'll show you this document. Do you see that I've shown you an extract of a copy of Mr Alexander Daubney's logbook that was issued on 18 December, 2012?---Yes.

And if you look at page 2539 you will see that it records assessments that were purported to have taken place on 29, correction, 19 December, 2012?

---Correct, yeah.

And do you notice that the registration number for that vehicle is the same registration number of the vehicle we were discussing a moment ago in relation to Mr McDonagh?---Yes.

So once again, may the Commission take it that you know that you did not provide any assessment of Mr Daubney's driving in vehicle B-Q-4-1-V-H? ---That's right.

10

And it's true, isn't it, that you didn't provide any assessment to him on 19 December, 2012 or at any other time?---That's right.

And the reason why you know that is because the registration number, B-Q-4-1-V-H is a registration number that you were using when you were making false entries in people's logbooks. Correct?---That's correct, yeah.

20

And if it's not already clear, if you just turn over to page 2540, the same position applies to the purported final competency assessment that was apparently conducted or said to have been conducted on 19 December, 2012. Correct?---Correct, yes.

30

Pardon me one moment, Commissioner. So if it was going to be said to you that on 19 December, 2012, Mr Daubney met you at a café in Smithfield from where you and he left in a truck which had concrete on the back of it, this truck being supplied by you, and you conducted a day of, correction, perhaps an hour of driver assessment with him, that would be untrue, wouldn't it?---Wasn't that that truck with the registration with a boom lift on it?

Well, have you still got the extract of the logbook in front of you?---Yes.

If you look at page 2539?---Yeah.

You can see the registration number, B-Q-4-1-V-H and you've written in for the vehicle body type boom lift?---That's correct.

Do you see that?---Correct.

40

But you've also told the Commission a number of times now that this is a vehicle that you know you never provided training to - - -?---That's correct.

- - - anyone in, correct?---Correct.

So back to what I was asking you a moment ago, if it was going to be said to you that on 19 December, 2012 you met Mr Daubney in a café in Smithfield and supplied him with a truck which had some concrete blocks on the back

of it and you then did an hour's driving assessment with him that would be untrue wouldn't it?---Maybe it was true.

Well, how can it be true if you've written in Mr Daubney's logbook for 19 December, 2012 that you'd assessed him for a day in a vehicle B-Q-4-1-V-H when you, when you know you've never assessed anyone in that vehicle?---I understand, I probably did put him in a truck with one of the driving school trucks for about an hour but I didn't report it, just like a, a trial.

10

THE COMMISSIONER: Sorry, I can't hear you, Mr - - -?---I've probably put him in that truck with the concrete blocks in the back for about an hour's trial and then yes, I did do the assessment without conducting it.

MR McLURE: Do you have an actual memory of doing that?---If you're stating that it was a truck with concrete blocks I have done that before, yes.

No but what I'm asking is do you have an actual memory - - -?---No, no.

20

- - - of doing that with Mr - - -?---No.

- - - Daubney?---No.

And in fact the document in front of you that is his logbook would tend to suggest to you that you did not do that with him, correct?---Oh, probably, yeah.

Because - - -?---I could have, I could not.

30

THE COMMISSIONER: But I don't understand - - -?---It could be possible.

- - - you see, the logbook that you've entered, the logbook shows you've entered the vehicle registration number, was that B-Q-4-1-V-H?---Yeah, we are allowed to do a one hour trial with them without instructions.

No, Mr Binns, I haven't finished the question?---Sure.

40

I'll start again. The logbook for Mr, is it Daubney, shows that on 19 December, 2012 you assessed him from 10.30am to 15.30pm on vehicle B-Q-4-1-V-H. Now, if you wrote, if you had actually assessed him for one hour on a different vehicle surely you would have written that down in your logbook?---Oh, only for assessments you write it down but for training you can, don't have to log it in if you're just doing training without instructions. It could be possible I did or didn't, I can't remember.

So you took, so what did you say you did, you might have done - - -?---You, you can give - - -

So you trained him not assessed him?---Yeah, you can just train him without giving him instructions or let him just drive for about an hour, that's possible, like a trial.

All right. Yes.

MR McLURE: All right?--- It's like a trial.

10 Thank you, so - - -?---You can do that but maybe I did, maybe I didn't.

Okay. So just so that there's no confusion, you accept don't you that at no time did you provide assessment of Mr Daubney's driving competence in accordance with the RMS's requirements?---No, that's right.

The most that you might have done is you might have done a training session with him for an hour?---Might have, yeah, correct.

20 So if it was going to be suggested to you that you met him at a café in Smithfield on 19 December, 2012 and you provided him with an hour's assessment that would be untrue wouldn't it?---Possibly.

Well, not possibly, is there any doubt about it?---I can't remember. Yeah, probably some doubt.

THE COMMISSIONER: But assessment is - there is a difference - - -?
---Training.

30 - - - between assessment and training?---Correct.

That's what you've explained?---Correct.

And the logbook, Mr Daubney's logbook, shows an assessment session. You say as I understand your evidence that that session, that that entry's false?---Correct.

And you did not carry out an assessment session as recorded in the logbook?
---Correct.

40 But you say that you may have - - -?---Possibly.

- - - given him a training session - - -?---Can't remember, yeah, could - - -

- - - for about an hour on another vehicle you simply can't remember?---I can't, yeah.

Is that correct what I've said?---That's correct.

Now, sorry - - -

MR McLURE: I'm sorry, yes.

THE COMMISSIONER: Yes.

MR McLURE: I tender, I tender the - - -

THE COMMISSIONER: That's Mr - - -

10

MR McLURE: Daubney's logbook.

THE COMMISSIONER: Mr - - -

MR McLURE: Which was issued on 18 December, 2012.

THE COMMISSIONER: Mr Daubney's logbook issued on 18 December, 2012 is Exhibit 24.

20

#EXHIBIT 24 - LOGBOOK OF ALEXANDER DAUBNEY ISSUED 18 DECEMBER 2012

MR McLURE: Thank you. I'll show you this document. Mr Binos - - -?---
Yes.

- - - I've shown you an extract of a copy of Mr Florio's logbook issued on
26 October, 2012. Do you see that?---Yes.

30

If you look at page 404 and 405 your signatures appear in three places there
under the, in the box assessor's signature don't they?---Correct.

Now again, the vehicle registration A-V-3-0-Q-D is a vehicle that you
positively know you did not provide training or assessment, correction - - -
?---No, no.

You did not provide assessment in. Do you agree?---That's, that's one of
our driving school trucks if I can recall that number plate.

40

THE COMMISSIONER: Sorry, it's one of your driving - - -?---Driving
school trucks, one that I hire from the driving school. I'm pretty sure that's
the one. A-V-3-0-Q-D.

MR McLURE: Well, can I, I assist you?---You sure can, yep.

The Commission has been informed that vehicle A-V-3-0-Q-D is a ute that's owned by a company that's based in Murwillumbah in - - -?---Oh, okay.

- - - northern New South Wales and that during that dates of the assessments that are set out in Exhibit 21 which is the list before you that ute was in the custody of an employee of that business who was working on the Gold Coast?---Okay.

10 So on the assumption that what I've put to you is right does that assist you to - - -?---Yes it does. Yep.

So do you now remember that vehicle A-V-3-0-Q-D is a vehicle you never provided any training or assessment to anyone in?---Yep, that's right.

THE COMMISSIONER: Do we have a photograph of that vehicle?

MR McLURE: Yes.

20 THE COMMISSIONER: Yes. So I think you should put that in.

MR McLURE: Oh sorry, I think I may have mislead you, Commissioner. Excuse me one moment. No, I'm so sorry. There is no photograph for that one.

THE COMMISSIONER: And do we have a statement from the owner.

MR McLURE: Yes.

30 THE COMMISSIONER: Put the statement in.

MR McLURE: Yes. All right, can we have 393 and 398 please. While that's being obtained I tender Mr Florio's logbook please.

THE COMMISSIONER: Mr Florio's logbook issued on 26 October, 2012 is Exhibit 25.

40 **#EXHIBIT 25 - LOGBOOK OF SHANE FLORIO ISSUED 26 OCTOBER 2012**

MR McLURE: I might need - - -

THE COMMISSIONER: If there's trouble in finding in the statement we'll adjourn for five minutes while you obtain it.

MR McLURE: I can move on to another matter - - -

THE COMMISSIONER: All right.

MR McLURE: - - - if it's convenient. We might come back to that issue, Mr Binos, in a moment. Now, I asked you earlier on about the process of notifying the RTA, or RMS of final competency assessments. And I think you agreed didn't you that you knew that it was your obligation to notify the RTA 48 hours before conducting a final competency assessment?---Yes.

10 And you knew the reason for this was so that the RTA could determine whether to have an auditor attend the final competency assessment?---Yes.

Now did you decide that the way in which you would avoid detection of your practice of receiving money for making false certifications in people's logbooks was to not notify the RTA of the final competency assessments for those people?---Yes.

20 Can I have page 644 please. If I show you this document. Is that a letter or, or email or fax or a communication anyway that you sent to the RTA in, on the 18 May 2013 in response to a notice to show cause as to whether or not you should be suspended or terminated from providing final competency assessments?---Um, Murray wrote this, yeah, Murray.

Sorry, can you just say that again?---Murray wrote this Murray not from me.

You drafted this document didn't you?---Murray, yes, I did, yeah, sorry. I did too, yes, sorry.

30 You're agreeing with me you drafted this document - - -?---Yes, sorry, yes, I did, yeah, sorry.

And this was, this was a communication from you to RMS in response to a notice to show cause as to why it should not dispense with your services, correct?---Correct.

40 And in this document you can see that you assert that you had sent notifications of final competency assessments by faxing them from the Drummoyne Post Office or PJ Gallagher's in Drummoyne, do you see that? ---Yes.

And that that, those assertions were untrue weren't they?---Correct.

You never sent those faxes?---No.

And you knew it was untrue when you wrote this document didn't you? ---Yes.

Now speaking of - - -

THE COMMISSIONER: Are you tendering that?

MR McLURE: Yes, I do, I tender that document.

THE COMMISSIONER: Exhibit 26 is a letter from Mr Binos to, is it the RMS?

MR McLURE: Yes.

10

THE COMMISSIONER: Addressed to Murray. Yes.

#EXHIBIT 26 - LETTER FROM MR BINOS TO RMS ADDRESSED TO "MURRAY" DATED 18 MAY 2013

MR McLURE: Mr Binos, did you have a usual fee that you would charge people in return for making false entries in their logbooks to the effect that you had certified them as competent as heavy vehicle drivers?---Yeah.

20 What was the standard or usual fee?---Fifteen hundred.

Fifteen hundred dollars?---Sometimes more.

Or sometimes more?---Or less.

So what, what would be the factors - - -?---Average?

I beg your pardon?---Average.

30 Well what, what would be the factors that would determine how much you would ask the person to pay to make false entries in their logbooks?---There's no factor.

Have you been sitting in the hearing room here today when the other witnesses have given their evidence?---Yes, I was.

40 So you would have heard Mr Hay's evidence that you would charge him \$1200 to do a proper competency-based assessment or alternatively you'd charge him \$2000 to make false entries in his logbooks. Did you hear him give that evidence?---No, I was sitting in the room at the back there closed off.

Oh, I see. Well on the assumption that that's what he said do you consider what he said to be true?---If you say that's what he said, yeah, probably.

Well no, I - - -?---I can't remember, I can't, I wasn't - - -

THE COMMISSIONER: You, you can't dispute it?---I was in the room I couldn't hear anything.

But assume that he said it, is it true - - -?---I assume, yeah, probably true, yes.

MR McLURE: So there were occasions where there where the price that you asked of people to make false entries in their logbooks was \$2000?
---Sometimes, yes.

10

Now were you, were you in the hearing room and did you hear Mr Friend-Ngui's evidence?---No, I was sitting in the back room.

20

All right. Well, assume that Mr Friend-Ngui told the Commission that you tried to deter him or persuade him rather to - I withdraw that and I'll start again. Assume that Mr Friend-Ngui said that you tried to deter him from undertaking a proper competency-based assessment by pointing out to him that it could be very expensive and take a long period of time to that effect. Do you admit that you used that sort of practice on Mr Friend-Ngui?---No, they all pretty much knew what they were coming for.

Why do you say that?---Because they used to ring me, they used to call me up.

Well, you did advertise your services in, on the internet didn't you?---No, not on the internet. No, just on phone texts.

Were you in the Yellow Pages?---No.

30

So it was all word of mouth was it?---Yep.

So you assumed that anyone that anyone who came to you - - -?---Phone texting like phone texts, yeah.

I see. You - - -?---Group texting.

I'm sorry, I didn't mean to interrupt?---That's okay.

40

So you assumed that anyone who came to see you was interested in having their logbooks falsely certified?---No, not at all.

THE COMMISSIONER: Sorry, your answer was?---No, not at all. They all knew what they were coming for pretty much.

MR McLURE: Sorry, can I have that last answer again?---They all sort of knew what they were coming for.

Sorry, why do you think that?---Because they'll ask for it.

What do you mean?---Exactly what I just said. They'll ask, they'll pretty much say um, can you help me out the easy way and - - -

THE COMMISSIONER: Because they asked for it so - - -?---Pass the easy way. Yeah.

10 In other words you didn't offer it, they spoke, they asked you, they contacted you and asked you to do it - - -?---Well, most of the time.
- - - in the fraudulent way?---Most, most of the time, yes.

MR McLURE: So are you telling the Commission that you never offered the idea to any of these people, they always raised it with you first?---No, no. I offered sometimes, yeah.

20 All right. But is one of the ways that you sought to persuade people to pay you the higher amount in return for you making false entries in their logbooks was to point out that doing it the proper way could take longer and in the long run be more expensive?---Correct.

You were made bankrupt on 14 July, 2011?---Yes. Actually no, 2012.

THE COMMISSIONER: And that's last year?---Last year.

MR McLURE: Could 2631 be put on the screen please. Do you now admit that you were made bankrupt on 1 July, 2011?---I was aware that I was bankrupt last year in about March/April.

30 Are you referring to a criminal charge that was preferred against you last year for failing to lodge a tax return?---No.

Is that right?---No.

Did that happen?---Not, not last year, no.

Did, has that ever happened?---No. Not that I can recall, no.

40 Can I please have 2693 and 2694. Now, Mr Binos, you knew didn't you after you were made bankrupt that you were required to make an annual contribution to your trustee in bankruptcy, annual financial contribution to your trustee in bankruptcy?---No.

Can you just, can we just scroll down a little bit there please. Do you see that what you are being shown is an email sent by you to your trustee in bankruptcy?---By me?

By you?---Yes.

To your trustee in bankruptcy?---Yes. Yes. Yes.

Do you remember sending that email to your trustee in bankruptcy?---Yes I do.

Have you got a hardcopy of that document? I tender the email.

THE COMMISSIONER: What is that relevant to, Mr McLure?

10

MR McLURE: Well, perhaps I should ask a few more questions, I'm sorry.

So do you see that - - -

THE COMMISSIONER: Look, this email, I don't see where it takes us having regard to the scope.

MR McLURE: Yes. Well, perhaps I'll, perhaps I'll just ask this question.

20

Mr Binos, the money - no I withdraw it.

Commissioner, I tender a statement of Bruce James Williams dated 2 July, 2013 and a statement of Michael Jeffries dated 2 July - - -

THE COMMISSIONER: Sorry, I'm a bit slow. Bruce James Williams is it?

MR McLURE: Yes.

30

THE COMMISSIONER: And that's dated?

MR McLURE: 2 July, 2013.

THE COMMISSIONER: And the other one is?

MR McLURE: Michael Jeffries, J-e-f-f-r-i-e-s, dated 2 July, 2013. Both the - - -

40

THE COMMISSIONER: Yes.

MR McLURE: Both - - -

THE COMMISSIONER: They're both dated 2 July, '13?

MR McLURE: Yes.

THE COMMISSIONER: Yes.

MR McLURE: Both of these statements deal with the vehicle registration number A-V-3-0-Q-D.

THE COMMISSIONER: Now, which persons are involved with that?

MR McLURE: So in Exhibit 21, that people can be found on page 2 halfway down the page.

10 THE COMMISSIONER: Yes, but who was the person who was trained on that vehicle purportedly?

MR McLURE: No, that's a different vehicle. This is not one of those.

THE COMMISSIONER: Oh, I see. So what's the relevance of the statements.

MR McLURE: This is to do away with any uncertainty that Mr Binos may have had earlier in his examination as to whether he'd trained anyone in this vehicle.
20

THE COMMISSIONER: On A-V-3-0-Q-D?

MR McLURE: Yes.

THE COMMISSIONER: But that's what I'm asking, what is it, what are the - who's the person relevantly alleged to have been trained on that vehicle?

MR McLURE: There are several.
30

THE COMMISSIONER: Several, but for the purposes - well, do they involve Mr McDonagh and Mr Daubney and Mr - or Mr Florio?

MR McLURE: They do involve Mr Florio.

THE COMMISSIONER: That's what I was asking.

MR McLURE: I'm sorry.

40 THE COMMISSIONER: Yes. Well, has Mr Oates seen those statements?

MR McLURE: I don't believe has.

THE COMMISSIONER: Well, he should be given copies of them.

MR McLURE: I'll hand those up.

THE COMMISSIONER: Well, they - the statement of Mr Williams will be Exhibit 27 and the statement of Mr Jeffries will be Exhibit 28.

**#EXHIBIT 27 - STATEMENT OF BRUCE JAMES WILLIAMS 2
JULY 2013**

10 **#EXHIBIT 28 - STATEMENT MICHAEL JEFFRIES DATED 2
JULY 2013**

THE COMMISSIONER: They're just exhibits and has Mr Oates been given his - - -

MR OATES: I have them, Commissioner, thank you.

MR McLURE: Commissioner, would you excuse me one moment please?

20 THE COMMISSIONER: Yes.

MR McLURE: Thank you, that's the examination.

THE COMMISSIONER: Yes, thank you. Now, Ms McGlinchey, do you have any questions?

MS McGLINCHEY: I don't Commissioner.

30 THE COMMISSIONER: No. Mr Blake?

MR BLAKE: No.

THE COMMISSIONER: No. Mr Oates, how long do you need to look at - do you want - do you need to look at the statements?

MR OATES: Yes, I would appreciate it if you don't mind, Commissioner.

THE COMMISSIONER: Yes, how long?

40 MR OATES: Just a few minutes.

THE COMMISSIONER: Yes, certainly. How long, a few minutes, do you mean that literally?

MR OATES: Oh, five.

THE COMMISSIONER: Yes. You have 10.

MR OATES: Thank you.

MR BLAKE: Commissioner, before you retire I have an application in respect of the suppression order for Exhibit 21, that's the list of names.

THE COMMISSIONER: Yes.

10 MR BLAKE: In view of the evidence of Mr Binios RMS has a concern that licences, heavy vehicle licences have been issued inappropriately and they wish - - -

THE COMMISSIONER: Absolutely.

MR BLAKE: - - - and they wish to take action immediately to either void those licences or cancel them or suspend them and wish to have access to the names in order to fulfil their proper statutory responsibilities.

20 THE COMMISSIONER: Mr McLure, I see no reason why the suppression order should not be uplifted for the purposes for which Mr Blake seeks.

MR McLURE: I support the application.

THE COMMISSIONER: Yes. The suppression order will be uplifted to enable the RMS to take whatever steps it deems necessary to protect the public.

30 **THE SUPPRESSION ORDER WILL BE LIFTED OVER RELEVANT DETAILS IN EXHIBIT 21 TO ENABLE THE RMS TO TAKE WHATEVER STEPS IT DEEMS NECESSARY TO PROTECT THE PUBLIC**

MR BLAKE: Thank you, Commissioner.

THE COMMISSIONER: That's satisfactory?

MR BLAKE: It's completely satisfactory.

40 THE COMMISSIONER: Good. Thank you. The Commission will adjourn for ten minutes.

SHORT ADJOURNMENT

[2.46pm]

MR McLURE: Commissioner, there are few further matters I should put to Mr Binios before I hand him over.

THE COMMISSIONER: Yes, very well.

MR McLURE: Yes. Mr Binos, do you still have Exhibit 21 with you in the witness-box which is the list?---No, don't think so.

Could the witness be shown Exhibit 21. We'll have another copy available. Have you got 21 the list?---I've got it here.

10 You've got it. Thank you. Mr Binos, you admit don't you that the people that are named in this list are people that you received money from to make false entries in their logbooks to the effect that you had assessed them as competent to drive heavy vehicles in accordance with RMS's requirements?---Yes.

You admit don't you that at the time you received the money from these people you knew that what you were doing was dishonest?---Yes.

20 And you admit don't you that when you returned the logbooks to these people what they were going to do was take them to the RMS so that they could be issued with a heavy vehicle licence. You knew that?---Yes.

And that's what you expected them to do with the logbooks when you gave them to them?---Yes.

And you knew it would be dishonest for them to present these logbooks to the RMS because the RMS would assume that they had been certified in accordance with the entries you'd made in their logbooks?---Yes.

30 Thank you, Commissioner.

THE COMMISSIONER: Mr Oates.

MR OATES: Thank you, Commissioner.

Mr Binos, my name is Oates, I act for Mr Florio. You issued a lot of licences at the time about October 2012, I don't mean these fraudulent licences as such but you were authorised to issue many different types of licences by RMS, is that correct?---No, just one trucks.

40 You're also authorised to issue excavator and bobcat issues?---No.

Have you ever been authorised to issue bobcat or excavator licences?---No.

Any other licences?---No.

Any other certifications?---No. I'm not licensed for them.

I beg your pardon?---I'm not licensed for them I actually give them away. I give them to other training schools to do it for me.

Oh, I see. When people make inquiries of you - - -?---Mmm.

- - - you pass them onto driving schools?---Correct.

And do you receive a Commission from driving schools?---I do, yes, I do.

10 And what sort of commission do you receive, 10 percent, 20 percent?
---Depends on the job.

All right. Do you in the course of your discussions with people about licences for heavy rigid or medium rigid vehicles attempt to then persuade them to take up your service of excavator or bobcat licences irrespective of how you do them when you refer to them as somebody else or not?---To just sell, to just sell you're saying?

20 Yes?---Um, sometimes, yeah, depending on the job.

You sent out text messages don't you?---I do, yes, I do.

And they include invitations to - well, I should ask you this, do they include invitations to people with whom you've dealt to potentially take up offers to get excavator or bobcat licences?---No, I do um, advertise a lot of building trade courses, trade certificates and truck licences, yes.

30 You heard the evidence this morning of Mr Friend-Ngui didn't you, he said he talked to you about getting an excavator and bobcat licence?---I was sitting in the back room.

And you offered some sort of a special deal, no disrespect intended to you but - - -?---No, no.

- - - it was a commercial arrangement where you attempted to get business and you offered a cut price for two rather than one?---That's correct, yeah.

40 And was that on the basis that you wouldn't do the testing yourself - - -?---
No, I'm not licensed.

Or the certification yourself?---That's right, I'm not licensed.

But you'd pass it to somebody who could?---Correct.

And you'd receive a commission?---Correct.

It was part of your broader business plan?---That's part of the service, yeah. We try to provide them with a bit of extra stuff, yeah.

Yes. You've had lots of conversations over the years with people about heavy rigid and medium rigid vehicles?---Yep.

And you have issued lots of false entries in logbooks enabling people to get licences as evidenced by Exhibit 21 which is a list of people you provided to the Commission?---Yep.

10 That's from your logbook isn't it?---Correct. Yes.

Right. And there - - -

THE COMMISSIONER: It's not a list that he provided to the Commission.

MR OATES: (not transcribable)

THE COMMISSIONER: It's not a list that he provided to the Commission. It's a list the Commission through it's investigations drew up.

20 MR OATES: I apologise, Commissioner. You've seen Exhibit 21, the list the Commissioner's referring to you that's been drawn up from your logbook?---Yep.

That's a list that you understand and you accept as being people who have been provided with licences without the appropriate certification?---Correct.

There are over 100 on the list aren't there?---No.

30 There are dozens, perhaps scores on the list are there not?---I think there's 91.

Oh, I shouldn't do arithmetic in public, Commissioner. I thought there were more than that. But I take it what you say, about 91 were there?

THE COMMISSIONER: Well, the number that has been mentioned is 91.

40 MR OATES: Thank you, Commissioner. I assume when you spoke to the people to whom you were going to issue licences that you didn't keep notes of those conversations, would that be correct?---Correct.

And the conversations necessarily took a very short time, true?---What do you mean by short time?

A few minutes to outline what you were proposing, that is provide a licence without certification for cash and come back and get the logbooks later on?--To who are you referring to?

To whomever you were speaking. To the - - -?---Not to everybody.

To the people on this list?---Um, yeah, most of them, yes.

And it would be fair to say also wouldn't it that you don't have a recall as you sit there of a each conversation with each person?---No I don't.

Nothing further, Commissioner.

10 THE COMMISSIONER: Yes, thank you. No other questions for Mr Binos. Do you have any questions, Mr Alexander?

MR ALEXANDER: No I don't.

MR McLURE: Commissioner, rather than Mr Binos being discharged from the summons could I ask that he just be stood down for the moment and, because there may be a need to recall him after the next three witnesses give their evidence.

20 THE COMMISSIONER: Yes. You're probably finished with your evidence, Mr Binos, but we may have to recall you. So if you wouldn't mind waiting and I don't know if we'll finish today but if you wouldn't mind coming back tomorrow. It doesn't mean, necessarily mean that you'll give evidence but it would be helpful if you came back so - - -?---No problem.

Yes. That's in order, Mr Alexander? Yes. You're free to leave the witness box now?---Shall I leave the paperwork here?

30 I beg your pardon?---Leave the paperwork?

Yes.

THE WITNESS WITHDREW

[3.03pm]

MR OATES: Commissioner, Mr Florio would prefer to take the oath if you please and he seeks a declaration under section 38.

40 THE COMMISSIONER: Yes, if you come forward please. Take a seat Mr Florio. I declare that all answers given by Mr Florio and all documents produced by him during the course of this evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document produced.

I DECLARE THAT ALL ANSWERS GIVEN BY MR FLORIO AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF THIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

10 THE COMMISSIONER: Could you swear him in.

THE COMMISSIONER: Yes, Mr McLure.

MR McLURE: Could you state your full name please?---Shane Thomas Florio.

10 And your address?---Ah, 23 Tamar Street, Tallong, 2579.
2579.

THE COMMISSIONER: Mr Florio, do you mind speaking close to the microphone because otherwise it's too difficult to hear?---Do you get that or we go again.

MR McLURE: I might just to do it again?---Yeah, Shane Thomas Florio ah, 23 Tamar Street, Tallong, 2579, New South Wales.

20 How long have you lived there for?---Ah, about five years.

MR McLURE: I show you Exhibit 25. Now, Mr Florio, this is an extract of a copy of your heavy vehicle learner's logbook that was issued to you on 26 October, 2012 isn't it?---It is, yeah, it is.

So looking at page 403, is that your signature that appears on the right-hand side?---It is.

30 Now when you received this logbook from the RTA did you read through it?---I did not read, no, I didn't read through it thoroughly.

But you did have a, have a flick through it did you?---Yeah.

And what you basically understood is that before you could receive a heavy rigid licence from the RTA there were a number of driving competencies you needed to be assessed on, correct?---I was, I flicked through the book but I asked the - Chris, Chris told me what the book was more about.

40 THE COMMISSIONER: Just answer the - you were asked whether you understood that you had to be assessed on a number of competencies before you could get a licence?---I, I, I understand, yeah.

You did understand that?---I understand that, yes.

You understood then?---I, I do, I did understand then.

MR McLURE: We might go just back a few steps. When was it that you first decided to get a heavy rigid licence?---Do you want the date or an explanation of - - -

The date if you can?---It was probably a fortnight prior to the 26th.

Right?---Yeah.

10 And what was it that made you decide you wanted to get it?---Well, I, I own trucks and I have drivers that work for me and I had a couple of occasions where they, they were sick and I could have filled in for them.

Right?---Yeah.

And the trucks that you own require a heavy rigid licence to drive do they? ---Yeah, they do.

20 All right. So you decided you would go to the RTA and start the process of applying for one of these?---Yeah.

Had anyone told you about the process that you need to follow in order to get one of these licences?---Chris.

Did - no one told you about that before Mr Binos is that what you're saying? ---Ah, no, I seeked his information, he told me how to go about it.

30 But before you even went to the RTA did one of your employees for example tell you about the process you have to follow?---Well, yeah, generally.

How, how did you come into contact with Mr Binos, who told you about him?---Ah, I've got a cousin who used to work for me and does now but at the time didn't and he'd done a assessment with Chris and he basically gave me the name of his driving school.

What's your cousin's name?---It's [suppressed]

Right?---Yeah.

40 So your cousin [suppressed] gave you Mr Binos' number did he?---No, he gave me the, he didn't have the number in his phone so he gave me the, the name of the driving school, then I went on the internet and - - -

And did your cousin [suppressed] tell you about the process that he followed with Mr Binos when he got his licence?---He did and it was very brief, I think it was at work, it was just, you know, ACE, ACE Driving Training Group.

Well, did he tell you for example that when he got his licence he wasn't required to actually drive a truck and be assessed by Mr Binos?---We weren't - due to him not working for me we weren't on the best talking terms so no.

All right?---Yeah.

So you called Mr Binos on the telephone did you?

10 THE COMMISSIONER: Sorry, Mr - do you know whether your cousin was assessed by Mr Binos? Was he assessed by Mr Binos for his licence? ---Yeah.

And do you know whether he was genuinely assessed?---I'd know now but at - - -

What do you know now?---Um, sorry, I'll rephrase that. I, by, by just watching what's gone on in the room today I can um, I think it wasn't assessed properly.

20

Are you saying that your cousin recommended Mr Binos without telling you that Mr Binos sells licences even though the probabilities are that your cousin got a licence without being properly assessed?---That, that phone call he's basically just told me who he went through to get assessed and that was a very brief conversation.

It's quite a remarkable thing don't you think to be able to get a licence from an assessor without, a heavy duty licence without being assessed properly, it's quite remarkable isn't it?---Disgusting.

30

But your cousin, well I don't know whether your cousin was assessed or not I'm just taking it from what you said that the probabilities are that your cousin wasn't assessed, don't you think it's remarkable that he would recommend to you a man who allowed him to obtain a licence without being properly assessed without telling you that?---My cousin works for me um, for years - - -

So what --- - - - and he quit so we weren't on the best talking terms so when I called him he's just given me his - - -

40

All right. Yes, Mr McLure --- - - - information.

MR McLURE: All right. So you telephoned Mr Binos did you?---Yeah, I called him.

And what happened during that conversation?---I, um, basically said I need to get a heavy vehicle licence and um, how do I go about it.

And what did he say?---Oh, he said you have to do the, the written test at the RTA and once you pass that they give you a, a logbook and you come and see Chris um, he told me the fee was fifteen hundred dollars and basically that was the end of that conversation, um, to give him a call once I'd completed basically all those things.

So on 26 October 2012 you went to an RTA registry at Marrickville, is that right?---Marrickville, yeah.

10 And you undertook the knowledge test?---Yeah.

And you passed it?---No, I failed twice I think.

All right. Well at some time or rather on 26 October you'd passed it did you?---I think I went back the next day and did the course and passed.
All right. So just looking at Exhibit 25 that's in front of you?---Yeah.

You can see the logbook was issued to you on 26 October 2012?---Ah hmm.

20 So it follows from this doesn't it that the knowledge test you did where you ultimately passed a knowledge test either on that day or before?---Yeah.

All right. So you were issued with a logbook?---Correct.

Could the witness please be shown exhibits 1 and 2.

THE COMMISSIONER: While that's been done, Mr McLure, I draw your attention to Exhibit 21.

30 MR McLURE: Yes.

THE COMMISSIONER: And A53 and 54.

MR McLURE: Yes. I think 54 and 55 are the, yes.

THE COMMISSIONER: Which, what exhibits are you referring?

MR McLURE: One and two. So what I've shown you is the logbook and the guide to heavy vehicle competency-based assessment, do you see that?
40 They're the two documents that you were given by the RTA on 26 October 2012, correct?---Correct.

And if you just look at page 1769 of Exhibit 1 which is the logbook?
---1769.

1769, the numbers are in the top right-hand corner. So from reading this logbook what you understood was that you needed to satisfy an assessor that

you were competent at some or all of these tasks that are set out on page 1769, correct?---Correct.

And this was something that you knew before you went to see Mr Binos, correct?---I've read the book and word for word, you know, I understand, yeah.

So what you generally understood before you went to see Mr Binos - - -?
---Ah hmm.

10

- - - is that in order to qualify for a heavy rigid licence and meet the RMS's requirements you were going to need to be assessed over a number of hours driving, carrying out these tasks and be shown to be competent, correct?
---Yes, correct.

Now once you obtained the logbook from RMS did you make further contact with Mr Binos?---Yeah, I called Chris pretty much straightaway, I was very eager to get a licence.

20

All right. So given that it appears to have been issued to you on 26 October when did you ring him? Was it the same day, the next day or what?---I can't remember exactly but I called him, it could have been the same day, it could have been the day after but it was soon after.

And what did you talk about?---Well, I said, I passed the test, you know, can I organise to book in to come and see you.

Right?---Yeah.

30

And what did he say?---Oh, he said whereabouts are you, I'm in Ryde, I was heading back from Marrickville to Ryde when I called him and - oh, sorry, it could have Marrickville to Ryde or it could have been from somewhere else but if it was the same day I presume I was heading back from that way and he said oh, come and meet me at this address, he text messaged me a address to Drummoyne and he said bring your logbooks, obviously bring the money for the driving test and meet me at, you know, in Drummoyne.

All right. So when you said bring the money - - -?---Yeah.

40

- - - you, you understood him to be referring to what?---To the money to pay for the test.

Yeah, but how much?---He charged me \$1,500.

Is that the amount that he told you in the first conversation?---Yeah.

So how did you pay him that money or what money did you take with you I should ask?---I took, I went to the bank, I took \$1,500 out and paid Chris \$1,500.

THE COMMISSIONER: Do you have a chequebook?---A chequebook?

Yeah?---I do, yeah.

10 Why did you take cash?---Oh, I was, I didn't have my chequebook on me.

Are you serious? You didn't have your chequebook on you but you go to the bank to draw \$1,500?---I know, it's - - -

How did you draw the \$1,500 without a chequebook?---It's a card so - - -

MR McLURE: You're not telling the Commissioner are you that you put your card in an ATM and got \$1,500 out?---Well, look, I had - I went and got \$1,500 (not transcribable)

20 THE COMMISSIONER: How did you get it?---I beg your pardon?

How did you get it?---I can't remember, I don't know how I got it.

But you got cash?---Yeah.

Well, \$1,500 is a lot of cash to get?---It is, if I was to tell you I went and drew it out or - a particular area I, I can't tell you that truthfully, I don't know on the day where I got it.

30 Why didn't you get your chequebook?---I don't know what I was thinking on that day but I paid Chris \$1,500 cash.

MR McLURE: Who do you bank with?---CBA.

Did you bank with CBA at the time?---Yeah.

So you went to a branch of the CBA to get this money out did you?---I don't know, I can't remember.

40 How many bank accounts do you have?---Several.

Right. Are they all in your name?---They're all in, yeah, they are.

And are they all with the Commonwealth Bank of Australia?---They're - all my accounts are with Commonwealth, correct.

Including your business accounts?---All of them, mmm.

And do you say that you went inside a branch to get this money out or did you get it out of an automatic teller machine?---I didn't say any of that, I just said I obtained the money and when Chris called me and told me where to meet him I organised the money and I had my logbooks. I can't remember the day and what I done, whether I got the money out on the day, I don't want to dig myself a hole, I just - - -

THE COMMISSIONER: Where do you keep your chequebook?---Ah, in the office.

10

It would have been such an easy thing to get your cheque book wouldn't it? --- (No audible reply)

You shrug your shoulders. What, what does that mean?---Yeah, I, it - yeah, I guess it could have been but it was a lot easier just to pay for it in, in full with cash money.

Why is it easier?---I don't, oh, okay. I can't answer that 'cause I don't know.

20

Do you walk around with fifteen hundred dollars in your pocket often?---I, I've got money in my wallet, yeah.

Fifteen hundred dollars?---Sometimes. Running, running a business you need money in your pocket, yes.

What for?---I've got quite a few men that work for me and sometimes they ask for money for the strangest things and it's just the way it is.

30

MR McLURE: Is the reason why you went with cash to see Mr Binos is because you knew that what was going to happen when you got there is you were going to give him cash in return for him making false entries in your logbook?---Sorry, can you repeat the question?

Sure?---Yeah.

40

Is the reason why you went with cash when you went to see Mr Binos is because you knew that what you were going to do is you were going to give him that cash in return for him making false entries in your logbook?---I went to Mr Binos to pay for my licence but not prior talking to Mr Binos and saying bring fifteen hundred dollar cash to pay for it and I'll do false entries in your book.

Are you telling the Commission that the first time that you discovered that Mr Binos would make false entries in your logbook is when you met with him at Drummoyne?---Correct.

Now you're sure are you that your cousin didn't tell you before you went to see Mr Binos that this was an arrangement that you could make with him?
---I'm, I'm sure that [suppressed] didn't tell me.

And you're sure are you that Mr Binos didn't tell you that this was an arrangement you could make with him before you arrived at his place at Drummoyne?---Um, I'm unsure, year, unsure. 'Cause I, I can't totally remember the conversation but I definitely - whether Mr Binos said on the phone that you know I, I'll give you false entries or whether he told me
10 when I got there.

THE COMMISSIONER: How, how long before you've got your licence did you speak to your cousin about get Mr Binos's name?---I spoke to [suppressed], [suppressed] would have been on the 23rd, about the 23rd it's a couple of days beforehand. 'Cause I, I did it all very quickly.

Sorry you did - - -?---Sorry.

The 23rd of?---The 23 October around about.
20

You, you spoke to [suppressed] on 23 October?---I called [suppressed] - - -

Yes. On --- - - - I decided to get my licence so I called [suppressed] 'cause I knew he'd got his truck licence for the, the new job he was at, [suppressed] gave me um, the name of the company, I researched it, I got the, I called Chris and I, within a couple of days I went and got my, did my test and then booked it in quickly 'cause within that week I had one of my drivers who was ill.

30 Can I ask you - - -?---Ah hmm.

- - - did - in the - before you gave evidence, before you came to the witness-box today were you given a copy of this exhibit which has got all the names of the people in it who Mr Binos dealt with?---Was, was that in the summons?

No?---No. Was I given a copy of all the names of people?

Yes. Were you shown it, shown the document with all the names in it?---I
40 can't remember if I was, no.

Today?---Oh, today?

Mmm?---I just, I didn't look at the list, no, just, but I was told about the list.

Do you know who was on the list?---I don't know who's on the list. I know that you said there's 91 people.

Do you know if your cousin's on the list?---I don't know if he's on the list. I presume he'd be on the list.

Why do you presume that?---Well because just of looking at how everything's gone today.

MR McLURE: When you spoke to your cousin about this did he tell you that he had already obtained his heavy rigid licence?---Yes.

10 And do you say that this conversation with your cousin occurred a few days before you were issued with your logbook by the RTA?---Yeah.

I think you might have said to the Commissioner a moment ago that you think that conversation with your cousin might have been on 23 October, 2012?---It could have been. I'm not sure of the dates.

And do you know how long before then your cousin received his heavy rigid licence?---I don't know, no.

20 Well, do you know whether it was days, weeks or months?---Weeks, possibly.

Weeks?---Yeah.

Well, if I was to tell you that the Commission has evidence that the date upon which your cousin was certified by Mr Binos, albeit falsely as having demonstrated the competencies to receive a heavy rigid licence was 26 October would that make you realise that your evidence that you've given about this conversation with your cousin is wrong?---Well, it would have to be but I, that's definitely who I spoke to about this.

30

See that, if you assume that the date in your cousin's logbook is 26 October, 2012 and you can see that the date in your logbook is 29 October, 2012 you can obviously see that there's only three days apart, correct?---Ah hmm.

Well, don't you think it's remarkable that both you and your cousin have both obtained false certifications in your respective logbooks from Mr Binos only three days apart but yet you claim to have never discussed that with your cousin?---Yeah, I guess.

40

Do you stand by your evidence that you never discussed with your cousin that Mr Binos offered to provide people with false certifications in their logbook?---Sorry, repeat the question again.

I'm asking you whether you stand by your evidence that you never had a conversation with your cousin before you went to see Mr Binos about Mr Binos being prepared to make false entries in peoples' logbooks?---I asked my cousin who he got his licence from. That's how originally I got in

contact with Chris. Irrespective of the dates or, I can't give you exact dates, times but I asked him for the number, he gave me the name.

THE COMMISSIONER: Mr McLure, it's not clear to me that Mr Florio has admitted that he got a licence without being assessed.

MR McLURE: That's true. I should ask him do you admit that you, I'll start again. You've got Exhibit 25 in front of you don't you? That's the extract of your logbook?---Yeah.

10

And if you look at page, pages 404 and 405 you can see that what they show, or what they represent is that you were assessed by Mr Binos driving a heavy vehicle on 29 October, 2012, correct?---Correct.

And that's untrue isn't it?---Untrue that I drove the heavy vehicle?

Yes?---Yeah, correct.

20 So the truth is you gave your logbook to Mr Binos. He made the entries for you. And then you took the logbooks away. Is that right?---I gave the logbooks to Mr Binos and he said he needed a few days and then I came back and I got the logbooks.

But he never assessed you?---He never assessed me, no.

30 THE COMMISSIONER: There's something I don't understand, Mr Florio. When I asked you about, I'm not exactly sure if I can remember exactly what I asked you on this but your response was "disgusting." And what you said was disgusting as I understand it is the certification of a driver's certificate for a heavy vehicle without being properly assessed. Am I right in that? Is that what you meant?---Very right, yes.

But you did that yourself?---Yeah. And I'm not proud of what I've done.

MR McLURE: So when you met with Mr Binos you gave him fifteen hundred dollars, correct?---Correct.

And you left your logbooks there with him?---I did.

40 And you left them with him on the basis that he was going to make false entries in the logbooks for you?---I did.

And those false entries were going to certify that you were competent to drive a heavy rigid vehicle?---Correct.

And your intention was then to take the logbooks to the RMS and present them in order to obtain your heavy rigid licence?---Yes.

Is that what you did?---That's what I did, yes.

A few days later?---Yes.

So when you paid Mr Binos the fifteen hundred dollars you knew that it would be dishonest for him to make the entries in the logbook, correct?
---Correct.

10 And when you presented the RMS with the completed logbooks you knew that you were falsely representing to the RMS that you'd been properly assessed, correct?---Correct.

And you knew that was dishonest when you did it?---I did.

THE COMMISSIONER: There can't be much left for Mr Florio is there?

MR McLURE: There's one issue.

20 Commissioner, I hand this document to you.

THE COMMISSIONER: Yes.

MR McLURE: Commissioner, could I ask you please to turn to page 863. I'll use the numbers in the bottom right-hand corner 51.

THE COMMISSIONER: Yes.

30 MR McLURE: Bottom of the page at line 40 to the end I seek a lifting of the suppression order concerning that part.

THE COMMISSIONER: I haven't got, did you say page 40?

MR McLURE: Page 51.

THE COMMISSIONER: Sorry. Page 51 from line 40.

MR McLURE: To the end of the page.

40 THE COMMISSIONER: And how does that, where does that stop? What is, what are the words on the first sentence?

MR McLURE: I'll ask you this now.

THE COMMISSIONER: The opening words. Yes. The suppression order is varied as McLure seeks.

SUPPRESSION ORDER VARIED AS SOUGHT BY MR McLURE

MR McLURE: Mr Florio, on 12 September 2013 you attended a compulsory examination with this Commission, correct?---Correct.

And you were asked a number of questions about matters pertaining to your heavy rigid licence and the process you went through with Mr Binos?
---Correct.

10 Do you remember being asked this question, "I'll ask you this now, did you complete any of those assessments with Chris Binos?" and you answered, "I did, I did"? Do you remember that?---I don't remember that actual statement but I know I came in here and falsely said some information yes, so.

But do you accept that you told the Commission on that occasion that you were in fact assessed by Mr Binos?---I did.

20 And you admit that, that was untrue?---I do.

Now at the beginning of the - I withdraw that. You knew didn't you that during the examination you were under an obligation to tell the truth?
---Yeah, I did.

And you knew it would be a serious offence to give false or misleading evidence to the Commission?---I was told.

You knew that didn't you?---How, yeah.

30 Yes. So you admit that you gave false evidence to the Commission?---I, I, yeah, I did.

And you admit that you did so knowingly?---Yes.

There's nothing further, thank you.

THE COMMISSIONER: Yes. Does anybody wish to question Mr Florio?

40 MR ALEXANDER: No.

THE COMMISSIONER: No. Mr Oates?

MR OATES: Thank you, Commissioner. Mr Florio, before you came here for the compulsory examination you were issued with a summons were you not?---I was.

Is it the case that you didn't seek any legal advice in respect of that summons?---On the first instance, yes.

You came here without any legal advice?---I was on my own, yep.

And you were outside this room or the room on level 21?---It was a different room to this one.

And you were outside that room and you were asked to wait?---Yeah, in a room.

10 And then you were brought into the room and you realised it was like a courtroom?---Correct.

Was that a foreign environment to you?---Very foreign, yep.

How did you feel?---Overwhelmed, scared.

And is it the case that when you received the summons to appear at this hearing you did contact a legal representation office?---I did.

20 And yesterday was the first time you had legal advice about the matter and that's when you saw me in conference in my chambers?---Correct.

Nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you.

MR McLURE: May Mr Florio be excused?

30 THE COMMISSIONER: Yes. Thank you, Mr Florio. You're excused and the summons is discharged.

THE WITNESS EXCUSED

[3.36pm]

40 MR McLURE: Commissioner, I understand that Mr McDonagh, you can go, that Mr McDonagh and Mr Daubney are not present. They were given an indication that we wouldn't get to them until tomorrow. Could I raise one matter concerning RMS. I've had the opportunity to speak with Mr Blake about this. What I've indicated to him is that there may be some criticism offered of RMS in my closing submissions concerning the adequacy of the systems that RMS had for the detection of behaviour of the kind that has so far been demonstrated and whether or not the execution of those systems was done effectively. I've raised with Mr Blake the question of whether it would be necessary to have any RMS witness come into the witness box and answer those criticisms. I've suggested to him that I don't see that it is so long as no concern is raised by RMS about the procedural

fairness of that. I might let Mr Blake indicate what his view is in on that matter.

MR BLAKE: Commissioner, RMS does accept the previous system whilst
- - -

THE COMMISSIONER: I beg your pardon? Sorry?

MR BLAKE: RMS does accept that the previous system wasn't adequate.
10 We've heard one that arised of the absence of any mechanism to check
whether SCA's final competency assessments were actually being
conducted or not. It all depended on the assessor. That system has now
been changed since 1 January and we accept that criticisms will be made of
the past system. It may criticisms will be made of the present system and
we're anxious to improve them. But the two officers who provided
statements did not devise the original system, they implemented or were
responsible for it's implementation in recent times. We don't ah, require
those officers to be questioned about the past system in order for Mr
McLure to make such criticisms as he thinks is appropriate.

20

THE COMMISSIONER: Is that satisfactory, Mr McLure?

MR McLURE: Yes it is. So in my opening I indicated that Mr Wells and
Mr Tessa might be called. In view of what Mr Blake has said can I now
indicate formally they will not be called. Well, I think oh, can I deal with
that as an issue. I think I caused some confusion, I'm sorry with some of
the exhibits. Exhibits 4 and 5, what I'm told is Exhibit 4 was admitted on
the basis that it consisted only of the page marked 425. And Exhibit 5 was
admitted on the basis that it consisted only of the page marked 428. One
30 way or another what I wish to have received into evidence is pages 425,
426, 427, and 428.

THE COMMISSIONER: And can I just see Exhibits 4 and 5. Yes. So
pages 426 and 427 are presently not exhibits.

MR McLURE: So I'm told.

THE COMMISSIONER: And what do they form part of?

40 MR McLURE: They form part of the logbook of Ms - - -

THE COMMISSIONER: Which is Exhibit 5, 428.

MR McLURE: It's either 4 or 5 so they could be added to - 4 and 5 could
be consolidated with 426 and 427 and the document would be complete.

THE COMMISSIONER: Yes. Exhibit 4 will then comprise pages 425, 426
and 427.

#EXHIBIT 4 - PAGES 425, 426 AND 427 OF JACQUELINE RILEY'S LOGBOOK

MR McLURE: Thank you. The next matter is - I'm told that Exhibit 24 had some documents attached to the end of it that should not have been.

10 THE COMMISSIONER: They can simply be removed.

MR McLURE: Thank you. And finally out of more abundant caution, Exhibit 22 may contain the names of applicants for licences who are not listed in Exhibit 21.

THE COMMISSIONER: All right.

MR McLURE: Could I ask for a non-publication order concerning them.

20 THE COMMISSIONER: Yes, there will be a suppression order in relation to all names mentioned in Exhibit 22 other than those which have been expressly excluded from such suppression orders.

MR McLURE: Yes, and for completeness should the order extend to their names, addresses, phone numbers and emails.

THE COMMISSIONER: Yes, the order, a suppression order will extend to the matters Mr McLure has mentioned.

30

THERE IS A SUPPRESSION ORDER IN RELATION TO ALL NAMES, ADDRESSES, PHONE NUMBERS AND EMAIL ADDRESSES TO ALL NAMES MENTIONED IN EXHIBIT 22 OTHER THAN THOSE EXPRESSLY EXCLUDED FROM SUCH SUPPRESSION ORDERS

MR McLURE: Thank you. Commissioner, I think that's all we can do for today.

40

THE COMMISSIONER: Yes. So tomorrow remains two witnesses?

MR McLURE: Yes.

THE COMMISSIONER: We'll adjourn till 10.00am tomorrow.

**AT 3.42PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.42PM]**