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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 5 JUNE, 2019

AT 2.00PM

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

THE COMMISSIONER: Thanks, Mr Soliman. Ms Wright.

MS WRIGHT: Could we have volume 11, page 216, please. Mr Soliman, this page still forms part of the attachment sent to you by Mr Lee on 17 July, attaching the tender documents where he says, "As discussed this morning."  
---Okay.

10

And this is the schedule 2 to the RFT which sets out the scales specifications and you gave evidence that these were the all-important criteria for the tender. Do you agree that these are the specifications? If we could show page 217 as well. Do you see the size dimensions at the top of page 217?---Yes.

And these are the same as the specifications you sent to Mr Lee on 20 June, 2018. Do you recall your email in which you set out that the inspectors had provided updated - - -?---Yes.

20

Now, these requirements, including, and I'm not just referring to the size, but the material requirements, operating requirements, physical characteristics, interface, environmental operating requirements et cetera, it was you who determined that these requirements be included in the tender documentation. Do you agree with that?---I think this was all, we spoke about this during the meeting with Alex Lee and Nathan.

So you discussed them with Mr Chehoud and Mr Lee?---Yeah.

30

And ultimately do you agree that it was you who decided that these should be the requirements included in the tender documentation?---I don't think so. It was a collaboration during the meeting but I don't recall being the only one making a call on these things.

But you were the person who would ultimately make the call, wouldn't you - - -?---Not necessarily.

- - - as manager of the Heavy Vehicles Program Unit?---No. I mean at the end of the day it's what the actual users wanted and needed.

40

Okay.---I've never used a scale.

Well, let's just deal with the people you were conferring with who you've just referred to, Mr Lee and Mr Chehoud, they would have no say above yours in respect of what specifications would be included in the tender. Do you agree with that?---It's not about, you know, above or under, it was a collaboration to draft the RFQ specifications.

Do you agree that someone had to have ultimate responsibility for deciding, yes, these are the specifications to be included in the tender documentation? Do you agree with that?---I'm not sure. I'm not sure if you have to sign off on this kind of thing.

10 THE COMMISSIONER: You're not being asked whether you're signing off you're asked whether you agree with the proposition that somebody had to have the ultimate responsibility as to the specifications included in the tender. And the answer to that must be yes, surely.---I would, I would assume the person managing the tender would ultimately kind of give these things a tick or a cross.

MS WRIGHT: Is that Mr Lee who was managing the tender?---Yeah, he was managing RFT, yeah.

20 And so are you suggesting that Mr Lee would have ultimate responsibility for deciding the specifications set out in schedule 2 of the tender?---Hmm, probably, but I guess it was a collaboration between the users and Mr Lee and Nathan and I.

I understand a collaborative approach, I do understand that. I'm trying to determine who had ultimate responsibility for saying and deciding these are the specifications which will be included in this tender to be published. ---I don't think it was any one person.

Mr Chehoud would not have come up with these specifications, do you agree with that?---The ones I can see on this page, no.

30 Nor would Mr Lee?---Well, it came from the users. Everything I can see here came from the users.

So that means - - -

THE COMMISSIONER: So it wasn't Mr Lee?---Well, he would have working - - -

No, not he would have, what do you know?---Whether he wrote these ones?

40 MS WRIGHT: Mr Lee did not come up with these requirements, do you agree with that?---Yes.

And you keep referring to the end users, they're the inspectors who conduct enforcement operations on the road in the heavy vehicle safety stations. Is that who you're referring to?---Yes.

And the heavy vehicle inspectors would not have any ultimate say in what is included in a tender issued by RMS, do you agree with that?---I would think they have the largest say because they're, they're the users.

They're consulted, correct?---That's where the specifications come from.

THE COMMISSIONER: So they were consulted, you agree with that?  
---They should be, yeah.

MS WRIGHT: Were they?---For this part yeah, well, yeah.

10 Who consulted with them?---I recall that when I asked Jai to send Mr Lee  
the documents and everything, they went, went away and chatted.

Who went away and chatted?---Mr Lee and Mr, Mr Singh.

THE COMMISSIONER: Chatted with whom, each other?---Yeah, each  
other about the process. Mr Lee had done several tenders, he said,  
previously and Jai had obviously ran the last one and Jai, Jai came back  
after that, to his desk, and said, Mr Jones doesn't want to be part of the next  
tender so I assume they spoke to someone there. If not Mr, Mr Jones - - -

20 MS WRIGHT: Okay, so Mr Jones doesn't want to be part of the tender but  
we're talking about the specifications included in the tender at this stage.  
What has anything you've just said got to do with the setting of the  
specifications by inspectors?---I'm not sure I understand the question. So  
most of these specs came from the previous tender.

So you're saying these were taken from the previous tender, are you?  
---Most of them should have been, I guess, yeah.

30 Well is it most of them or all of them?---Well, I haven't seen all of them so I  
assume that's where most of them would come from. I can see a couple of  
minor things like the weight, the weight is new to this one, I think.

Which one are you referring to?---3.34.

And you had said previously that the weight should not exceed 18 kilos, had  
you not?---I, I said that, sorry?

40 You'd said that to Mr Chehoud, hadn't you?---I don't know if I would have  
said it to him but if would have come from, from the group - - -

He set that out - sorry, Mr Soliman.---Sorry.

I'm sorry, I interrupted you. What - - -?---That's okay. I was, I was going  
to say it, that, that would have come from the actual users, how much they  
can realistically lift with one person.

And that was not included in the previous tender?---I had actually thought, I thought it was actually but, yeah, when I looked over it during this hearing, it wasn't actually in there.

So that was a new requirement and one which Mr Chehoud set out in his letter which I took you to before the lunch adjournment as being a requirement that he understood applied to this tender? Do you recall the letter?---Yes.

- 10 And do you agree someone had communicated that to him as being an RMS requirement?---Yes.

And the someone is likely to be you, is it not?---It could have been me, it could have been Alex Lee, I mean - - -

And if it was Alex Lee, it's because you communicated that requirement to Mr Lee, didn't you?---Maybe but again I don't remember ever telling about weight specifically. He could have spoken to the users or Jai.

- 20 THE COMMISSIONER: Sorry, who could have spoken to the users?  
---Alex Lee could have spoken to any of the guys, David Jones or anyone. He could have spoken to Jai about it. I mean, it's, it's not a magical number.

MS WRIGHT: Let's go back to page 163. Sorry, volume 11, page 163. Can you see I've already taken you to this email of 20 June and you've said to Mr Lee, "I've spoken to the inspectors and here are the updated requirements for the RFT"?---Yes.

- 30 And you see that there is a scale total weight requirement of must be less than 18 kilograms or less?---Yes.

So you told Mr Lee of that requirement. Correct?---In this email, yes, but that obviously came from one of the users but which one exactly I don't know.

But your previous answer suggested that Mr Lee might have made his own inquiries and got that from somewhere.---He perhaps could have.

- 40 So you would agree that that's not the case?---Well, by this, by this - - -

You gave it to him?---By this, by this email it shows that, yeah, I told him that number, yeah.

Yes. So he didn't get it himself. You'd agree with that?---It would seem not.

THE COMMISSIONER: So it's an email as you've said?---Yeah, that's right.

MS WRIGHT: Yes. So you're agreeing with me, he did not get it himself? ---It seems that way, yes.

Well, it doesn't seem that way. Isn't it obvious that you have given him the specification that the scales must be 18 kilograms or less?---Yes, yes. Yes.

10 Now, did you come up with that yourself or are you saying you got that from inspectors?---I would have no idea what that maximum weight should be. That's what the users would have said and - - -

So what consultation did you have with inspectors?---I remember prior to the first tender prior to me going on leave they were talking about that the scale was already too, too heavy which they have now and they must have picked, picked a number at some point.

20 Well, the previous tender didn't include a weight specification.---Yeah.

And so do you recall having consultation with inspectors yourself?---Yeah, I, I did meet with Mr Jones quite early on, before the first tender even, and we were talking about weight then and there because that was his main factor actually. He didn't like that one guy would lift the scale when technically it should be two but they never, they never done that. He wanted it, you know, quite a lot lighter than the current series, the 10A I and II.

30 Are you saying Mr Jones suggested they should be less than 18 kilos?---I don't know if he suggested a specific number at that meeting. That would have come from one of the users, probably him. I just don't recall an actual, where that came from exactly.

Do you recall speaking to inspectors other than Mr Jones?---When I was at the, at the sites whoever was there I would have a brief chat to them. Sometimes it was about scales, sometimes it was about anything.

40 All right. So your understanding that the scales should not exceed 18 kilograms you decided to include in these tender requirements, yes?---Yes.

Now, if we could then go to page 219. This is a draft tender evaluation plan also submitted to you by this email from Mr Lee of 17 July, 2018. You would have looked at that at the time?---I think I just saw the finished product from Mr Lee from memory.

All right. Well, he sent you, this is an attachment. Do you accept that? ---That he sent it to me?

Yes.---I don't doubt that he did.

And then at 221 you're named – I've got a different 221. No, sorry. You're named at this stage as one of the committee members.---Okay.

Do you see that?---Yeah.

10 So you were at this stage proposed to be included on the Tender Evaluation Committee?---Yeah, I think that was a mistake by Nathan. He had, I believe from memory he drafted this document and sent it to Alex Lee to make changes.

And did you see that mistake at the time?---I don't remember even going through this but I was never meant to be on this committee. I never asked anyone to be on, be on this committee.

20 So how do you know that you think he made a mistake?---Because the three people listed there are the people that we met so he would have guessed that these are the people in the committee.

So are you saying that this is the first time you've seen your name on this draft tender evaluation plan, today?---I think I saw it, I think I saw it during someone else's evidence.

I see. Now, if we could then go to page 229, please. Now, Mr Soliman, this is a long email chain between Mr Lee and Mr Bass and others, to which you are copied on the emails, discussing what the appropriate procedure would be for issuing the tender.---Yes.

30 And you agree that you were involved in that discussion?---I just got feedback from Alex generally about what they were talking about.

And so you don't agree that you were involved in the actual discussion about which procedure to adopt?---I ah, Mr Lee would talk to me about what they said. I don't know if I said anything in email in this, in this email trail, but - - -

40 But just putting aside the email trail, do you disagree with the proposition that you were involved in the discussion that was occurring internally at RMS about whether this tender should be issued, the way in which it should be issued?---In general, that's right, yeah. Me and, Mr Lee and I and Arnold and everyone was talking about it.

Okay. So you were involved in it. Now, it is correct that you sought through Mr Lee or with Mr Lee if you prefer, approval to proceed by way of a single RFQ through the Heavy Vehicle Maintenance Panel, do you agree with that?---If I sought? I mean are you saying that was my preference or that was an option, what do you mean by sought?

You, well, if you look at the first email, "Good morning, Albert," from Mr Lee. "Thanks for your email. I will coordinate with Frank, however I would like to confirm if we could procure all 425 scales using one single RFQ from the panel contract."---Yes.

"As long as we had an approved procurement strategy."---Yes.

10 And you consulted with Mr Lee about him seeking that approval, did you?  
---From memory when he was talking to the Procurement team I think Mark was one of them, I forgot who the other people were, they were looking at all the options and I think one of them asked is there a panel or some master contract? And there was one obviously, that's when this option came, came into play.

20 And this email here from Mr Lee is seeking approval to procure the scales using the Heavy Vehicle Maintenance Panel contract. Do you agree that's what he's doing in this email, seeking approval to do that?---Looks like that's what he's doing, yeah.

And did you consult with Mr Lee about him seeking that approval?  
---I, I don't recall. I don't know if I spoke to him before this email.

THE COMMISSIONER: But you didn't disagree with it?---No.

30 MS WRIGHT: If we could go to page 234. Now, do you see that Mr Lee has written to you on 26 July, 2018, the second email in the chain. "Hi, Samer. Three things we need to clarify pending the yes with single RFQ on existing panel from Albert. Should we get help from TSS Strategic Procurement team or just stick with RMS Procurement team? Nathan need to prepare new contract documents. Can I call you at 11.00am to discuss?" See that?---Yep.

And you responded, "Yes, mate, all me anytime."---Okay.

So you were consulting with Mr Lee about the issue about whether to proceed by way of the panel contract or otherwise, were you not?---Yes.

40 He was seeking guidance from you about how to proceed in determining the course that should be taken. Do you agree?---Ah, just on the second point, he might have been asking should we get help from which team. I think there was a couple of different teams that could manage it.

Yes, yeah.

Yes. So you did seek help outside the Heavy Vehicle Maintenance Unit from within RMS about the procurement strategy, that's what you're referring to there?---Yeah. I think it's, it's a mandatory process.

Mr Lee was seeking your guidance about how he should proceed in dealing with this matter, was he not?---In this email or - - -

Generally, Mr Soliman.---It depends on what question. I mean, sometimes he was asking me things - - -

10 THE COMMISSIONER: Let's start at, in that email you'd agree he's seeking your guidance?---Just for the second point, I would agree, yes.

MS WRIGHT: The first point is, "Things we need to clarify pending the yes with single RFQ on existing panel from Albert." Do you see that?---I do.

So he was wanting to discuss that matter with you, do you see that? And you've said, "Yep, call me any time."---Yeah. I think he was, he was actually waiting on the answer from the procurement team to see if that's their recommended process.

20 And so the email I took you to prior to this one at 229, where he sought confirmation from Mr Bass whether you could proceed by the panel contract, that was a matter which you endorsed, do you agree with that? ---The panel contract?

Mr Lee seeking approval from Mr Bass to proceed by way of the panel contract for this tender, you endorsed the fact that he sought that approval, do you agree?---Yeah, of course, it's mandatory.

30 THE COMMISSIONER: Oh, did you endorse it or not?---That he should get the mandatory approvals from the procurement officer?

MS WRIGHT: Seek approval, yes.---Of course, yeah.

And you endorsed the proposal that you would proceed by way of the Heavy Vehicle Maintenance Panel for this tender?---If that's what the procurement officer said then I, I didn't personally see any issue with it. It's already gone to open tender.

40 And Mr Lee was - - -

THE COMMISSIONER: When did it go to open tender?---The panel - - -

The 125?---No, no, no. The, the panel, the panel was created by - - -

The Heavy Vehicle Panel, that's what you're talking about that went to open tender?---Yeah. That went to open tender when I didn't manage, I think it was 2016 or - - -

That was the one that sought the procurement of the HAENNI and PAT scales in, was that panel B?

MS WRIGHT: Category B, yes, Commissioner.

THE COMMISSIONER: Category B?---Yes.

That was the open tender you're talking about?---Yes, yeah.

10 MS WRIGHT: Do you agree that that was not a market scan for the procurement of scales?---I'm pretty sure it was listed in that category that the procurement and maintenance is part of it, isn't it?

It was limited to two brands, HAENNI and PAT, do you agree with that? ---Just my memory of the wording, I think the guy that ran it, Alex Dubois, put in, there's other, if you show us another option, we may look at it or something like that.

20 Do you agree that it would have limited the options for procuring scales because of the way that was set out, referring to specific brands and then having a note saying we may look at other options, do you agree with that? ---To me that's not - - -

THE COMMISSIONER: So you don't agree with unit?---No, I don't, no.

30 MS WRIGHT: So you think that was a full market scan for all options of scale that might be available in the entire open market, do you?---Well, anyone could apply to go on the panel. I didn't work on the panel or even create these documents but to me the part I read was quite logical. I mean, you could apply if you had a scale.

You could apply if you had scale, no one's stopping anyone applying, but the, the requirements specify two specific brands, do they not?---I think it did, yeah, from memory.

And does that not dissuade other potential bidders who might be able to supply a brand from applying?---Not in my mind. Not, not the way it read.

40 Well, when you say the way it read, it said the procurement, "RMS is looking to procure - - -"

MR YOUNG: I, I object to that. I mean is he supposed to recollect this document - - -

THE COMMISSIONER: If you want him shown the document, just ask it, Mr Young.

MS WRIGHT: I'll take him to every single document, Commissioner, in due course.

THE COMMISSIONER: I think I distracted your course of questioning, Ms Wright, so I apologise for that.

MS WRIGHT: No, no, I was coming to that any way with the next document. If we could go to page 238. You're familiar with this email from Mr Lee to Ms Willis dated 30 July, 2008, are you, Mr Soliman?  
10 ---Just reading it now, sorry. Okay, I skimmed through it.

And you're familiar with this email?---Yeah, I must, I must have seen it, yeah.

Well, you drafted it partly, didn't you?---I drafted it?

Yes.---I don't recall drafting this email.

Didn't you sit with Mr Lee and draft this email with him?---So are, are you  
20 saying that if I wrote for him or - - -

Yes.---I don't recall writing for him, no, I don't see why I would do that.

THE COMMISSIONER: Did you sit with him?---Hmm, for this, I mean I sat with everyone but I don't think I sat with him and told him specifically what to write.

Right. Did you sit with him and tell him generally what to write?---Hmm, I  
30 don't recall I did that for this email, no.

MS WRIGHT: Is it possible that you did?---I mean I'm looking at the wording here, there's nothing kind of special about it, I mean I don't see what, why I would need to write this for him.

Well, you see how it says under Tender Evaluation, "Portable weigh scale suppliers on page 1 of this document, you can see that the panel is separated into two categories. Category B includes all suppliers for portable weigh scales. Note the all submissions for scales were successful in being added to the panel so we are confident with the market scan and that there is no  
40 real benefit from going to open tender again unless you advise us." Do you see that?---I do.

Did you draft that content?---I don't recall that, no.

And if Mr Lee were to say that you did, would you deny it?---I probably would because it's not in my nature to type emails for someone else.

THE COMMISSIONER: No, not, it wasn't put to you type it, that you sat there with him, discussed the email and suggested or told him what to type. ---I don't believe I did that.

MS WRIGHT: Mr Lee hadn't been involved in the previous procurement, had he?---No.

And he hadn't been involved in the Heavy Vehicle Maintenance Panel at all, had he?---No, no, but he got all of the documents for it.

10

Well, he wasn't aware of the history as well as you, was he?---No, but that's why Mr Singh was talking to him about it, to give him the background and everything about what happened in the first tender.

Mr Lee didn't come up with this content himself, did he?---I assume he did. It's coming from him and I don't remember the content and I don't see why I would need to sit there and tell him exactly what to write.

20 Do you agree with the content I just read you?---Agree in which way, sorry, part A?

"All submissions for the scales," this is for category B, "were successful in being added to the panel so we are confident with the market scan and that there is no real benefit from going to open tender again unless you advise us."---Well, I know that the person that ran that panel tender, Alex Dubois, told me that they accepted all the submission, so to me if you accept 100 per cent of the submission you've done a market scan.

30 And sorry, if you've tendered for something very restrictive and you accept all the submissions - - -

THE COMMISSIONER: That's a market scan, is it, in your mind?---Yeah, well, it was an, it was an open tender.

That's what, that's your evidence?---It was an open, open tender and they said that they accepted - - -

40 No, no, no. That's your evidence. As Ms Wright said, you accept all the submission on the particular specifications, that equates with a market scan in your mind?---Well, can I at least see the document that the panel, the panel document?

No. Do you agree that was really the substance of your answer that you just gave. I'm just confirming it.---Well, I mean, you're putting words, words in my mouth. I mean, I've just said - - -

No, I'm not. I'm just going back to the question that you were asked and your answer.---My answer was that if there's an open tender and - - -

No, it wasn't.---Sorry?

Sorry, give your answer.---If there's an open tender and party A, B, C apply and party A, B, C go on to that panel following an open, open tender logically there's a market scan and/or they've all been put on that panel. I don't see what other way you can look at it.

10 MS WRIGHT: You can have a limited market scan or a full market scan, can't you?---(No Audible Reply)

THE COMMISSIONER: Do you agree with that or not?---What do you mean by limited? Limited market scan. How, how do you do a limited market scan?

MS WRIGHT: Is that a serious answer, Mr Soliman?---Well, it is because I don't know what the difference is between limited market scan and a comprehensive market scan.

20 How did this particular tender proceed, was it a full market scan or a limited market scan?---I didn't run the tender but from the wording which I remember was in it, it was a full market scan because it said we will look at basically any scale, any scale.

How many companies were invited to tender?---I don't know. I wasn't part of it. I didn't even prep any of this. I only found out that the panel was even being made after all the specs were there.

30 I see. Could we have an extraction report, please, for a Samsung phone. Could we turn to message 9. On 11 July, 2018 did you wish Mr Thammiah a good trip for his overseas trip?---Okay, yeah, I see that.

Go to message 12, please. And you were also away or going away at this time, were you?---July I don't think so. I don't recall where I went.

“We just landed at GC.” Do you see that halfway down message number 12?---Yes, yes.

40 That's you who sent that message?---Yes.

And, “Have a good one, bro’.” You're wishing Mr Thammiah a good trip. Do you see that?---Yes.

Message 13 you inform Mr Thammiah that you have had your funding increased from 4.7 million to 7 million for the tender. Do you see that? ---Okay.

Do you see that?---Oh, yes, yes.

And you agree you sent that to Mr Thammiah?---Yes.

And you ask him to talk to Rish or Fernando asap. Do you see that?---Yes.

They're the IRD staff that you've been dealing with?---Yes.

To see how long they need to manufacture about 450 scales. Do you see that?---Yes.

10

You hadn't decided yet how many scales to procure. Do you agree with that?---I'm not sure when that number came up.

Well, I'm just about to tell you. 17 July, 2018. Do you see that date?---Yes.

And you tell Mr Thammiah, "I need to put a number in for delivery." Do you see that?---Yes.

20

And you ask him, "200 days sound reasonable for 450 scales? FYI I just put delivery by end of financial year 30 June."---Sorry, I don't, I don't think I see that part.

I'm sorry. Needs to go down. See that?---Yes.

And Mr Thammiah says, "Yeah, that should be plenty." So you're discussing the tender, Mr Soliman, with Mr Thammiah?---Yes.

30

And if we go over the page, you tell him 7.1 million excluding GST at 15,800 each. Do you see that?---Sorry, I can't see that last part, sorry.

Do you see at the top of the page which is currently on the screen?---Oh, sorry, at the top, okay.

Did you calculate the \$15,800 based on the RMS funding that was available?---I'm not sure where that number came from. I don't know.

Well, you've just been told you'd got \$7 million for this tender, had you not?---I think so, recently, yes.

40

And you're trying to work out the price for each scale based on that funding, aren't you?---I'm not sure. It looks like it there, yeah. How many we can purchase maybe.

So normally wouldn't it be the approach that you receive the tenderer's quote and then you assess whether it suits RMS's needs, that would be the normal acceptable way to proceed?---I think I was looking for maybe what number we need to tender for, yeah, but that's obviously not, not, not right.

And then you ask him whether he gave a fixed price per scale and asked to include the chargers and delivery, do you see that?---Yes.

And he says, “Yeah, that should be fine considering we got that for the first batch. We should do a lot better this time.” Do you see that?---Yes.

And you recall receiving this message?---I can see it now, yeah.

10 So you and Mr Thammiah were profiting from this tender, weren't you?---I, I wasn't personally profiting from the tender but I did accept money from him, not on the basis of the tenders.

And you had profited from the previous tender, hadn't you?---Again, no, the, that wasn't the, what we said, no.

“We should do a lot better this time.” This time meaning because last time we got something but this time it'll be better?---It sounds like it's - - -

20 THE COMMISSIONER: Getting more money?---It sounds like it's referring to the time, the time - - -

The what?---- - - to, to manufacture the parts, oh sorry, the scales.

“We should do a lot better this time,” is a reference to the time anticipated to manufacture the scales, is that what you're honestly saying?---It sounds like what it means but I didn't write it, I don't know.

30 MS WRIGHT: Not sure about that one. Then you say, “For the last tender, was the price 15K including chargers and delivery?” Do you see that? ---Yep.

And he says something which I won't repeat in the next message. And then you ask him did he split the cost and he confirms, “We split it,” and you say, “Oh, damn. I've got to rejig the tender requirements then.” You set the tender requirements to tailor it perfectly to Novation's bid, didn't you, Mr Soliman?---I think I was just looking for the specifications that we could go out to tender for, how many scales basically.

40 And then you say, “Ask for less scales, 450 is based on \$15,800 including chargers and delivery. How much is each charger and delivery?” So the question is, with a \$7 million budget at approximately \$15,800 per scale excluding chargers and delivery, how many should I tender for?---Yep.

And he asks, “Do we have a choice?” And you say, “Yeah.” So you were setting the figure in terms of how many scales to procure based on the price which you wanted to get for each scale.---It's not necessarily about the price, it's about how, how many scales we could get for that, for the actual cost of it.

To maximise your profit?---Not necessarily. That wasn't my point of view. I guess I would just, wanted to know how many, what number we should go into the actual tender with.

Why are you consulting with Mr Thammiah at all about this?---Well, unfortunately, you know, he is my best friend and as you can see lines got blurred and crossed and - - -

10 THE COMMISSIONER: There are no lines, Mr Soliman.---Exactly, lines got crossed.

This evidence is that you're colluding with Mr Thammiah.---From my point of view, I just wanted to know how many we could potentially go to tender for because you need a number, but of course when you're best friends these things happen and that's why these rules exist, so these things don't happen.

You need a number based on the needs of your inspectors.---Yeah, yeah.

20 If there was any legitimacy to this process you would be going to your inspectors and working out how many scales were actually needed, not working out we've got a bucket of money of \$7 million, what did you charge last time, how can, how many should be included in the tender, as Ms Wright has put to you, to work out some kind of profit for the two of you. That's what's going on, isn't it?---Well, it wasn't a profitability for me anyway but I just wanted to know how many we could go to the tender with and the guys needed spares also, but of course the lines got crossed, the lines got crossed.

30 So you're asking one of the people who's going to tender, based on his costing, how many scales should be included in the tender. That's what you're - - -?---Yep.

- - - honestly telling me?---Yep.

MS WRIGHT: And you suggested before lunch that it might have been Mr Lee who'd come up with the number 425. When I asked you, you said, "Well, he knew it was 550 less 125," therefore Mr Lee might have come up with the 425.---He may have, but again I mean I didn't recall that this, this, this even happened, yeah.

40 Well, he clearly didn't. You came up with the 425 based on your calculation of how much funding you had and how much you could profit by maximising the price of each scale.---It wasn't about the profitability for, for me, I didn't, I didn't see, see this money here.

Is it your evidence that the only reason you were discussing this with Mr Thammiah was to find out how many scales to order?---Well, that was my

point of view, what we should go to the tender, what number I should put in the tender.

That's it?---Of course we can, of course we can see that the lines are crossed, there's no, there's no getting around that, you know.

I'm asking you a simple question. In discussing this with Mr Thammiah was your only purpose to find out how many scales to tender for?

---That was in my mind what the purpose was I think, yeah, but - - -

10

All right. Well, we'll go on. Message number 16. Mr Thammiah says, "Should this be the last?" Answer from you. "It's all up to me. Yep, definitely the last." So in other words, the last transaction where you had defrauded RMS. Correct?---I don't know what last means, "Should be this, should this be the last?"

THE COMMISSIONER: Well, you're agreeing, you say, "Yep, definitely the last."

20

MS WRIGHT: "Then we just run with it," he says. And you say, "I can still change it, price of each charger?" Mr Thammiah, "I think it was 200." And you ask, "How much did you charge last tender per charger and leads?" He says, "I'll take a quick look." And you say, "425 scales times \$15,800 each equals \$6.7 million. Leaves at least 300K for chargers and delivery fees. 425 scales would need 70 chargers."---Yep.

And he says, "Yeah, done. And that replaces the whole fleet?" And you answer, "Yeah." He says, "Sweet." You say, "But what was our price per chargers and leads?" "Our" price. You see that?---Okay.

30

Because you're the bidder here, Mr Soliman, aren't you?---Sorry, the bidder?

You aligned yourself entirely with Novation, did you not?---Obviously the lines got very, very crossed, you know.

And you considered yourself, with Mr Thammiah, to be Novation, to be the operating mind of Novation, didn't you?---I don't know about that, we were just close friends and when you're close friends, you know.

40

It's "Our" price.---Yeah, it's wrong obviously but - - -

What "we" charged RMS. Do you have, do you see how the Commission might form that view, "Our" price?---Of course, I mean like I said, I'm not saying it was right, I know it was wrong, but when you're close friends, you know, you just talk in different, different terms.

And you were not acting at all in the public interest in terms of your involvement with this procurement process. Do you agree?---Well, my main, my main interest was to make sure the guys have scales so they can actually weigh vehicles.

So they'd get some scales but at the same time you would favour your own private interests?---Well, I was favouring Mr Thammiah obviously. I've already said that, yeah.

10 Now, in coming up with the figure 425 you didn't consult with anyone about how many were needed, did you?---I'm not sure. I thought it was just 550 minus 125 but it depended on the funding obviously because they wanted spares so when the actual scales go out for the certification process that means normally that vehicle won't have scales and can't weigh vehicles for one week to four weeks. It depends how long it takes, if there's issues, so they wanted a kind of a, a plug and play. So when the courier comes and picks up the scales that need to be certified they bring with them the spares which are already certified and they go into the, the vehicle.

20 Who told you you needed spares?---Lots of the, I think Ray - - -

No, name them.---Ray Jenkins said it was a good idea I believe and I also said it was a good idea obviously because with the issues with the maintenance methods that - - -

No, no, no. So you've nominated yourself and Mr Jenkins.---Yeah. I believe it was Mr Jenkins. I'm not sure who else agreed with that but it seemed like a good idea.

30 Did you ask Mr Jones?---I'm not sure. I'm not sure if I asked him. Yeah, it actually came up during the poor, the poor performance of the maintenance vendors when sometimes some of these vehicles didn't have scales for long periods, long periods like.

You didn't consult with any end users I suggest about this particular number, 425 scales.---I'm not sure.

40 Well, you started your message at message 15 to Mr Thammiah saying, "450 is based on 15,800," and then you worked out by message 16, if we could just go up slightly, that 425 scales would be 6.7 million. So this is the time when you determined that it should be 425 scales.---Maybe that time, yeah.

Well, it's obvious, isn't it, Mr Soliman that this is when you determined it would be 425 scales to be included in the tender documentation?---It's, it's probable. I don't know if that number came up previously and then we changed the number again, but it's probable.

This is the date that you wrote to Mr Lee, sorry, I withdraw that. This is the date where Mr Lee wrote to you saying, "As per discussed this morning, here are the RFT documents," which included the 425 figure.---Okay.

And you had discussed with him that morning, I suggest, after this exchange with Mr Thammiah, that it be 425 and then you conveyed that to Mr Lee for him to include in the tender documentation.---Look, I may have, it looks, looks that way.

10 Yes. It is that way, isn't it?---I don't recall having a conversation.

It doesn't just look that way, it is that way.---I don't recall having a conversation with him but it looks that's what happened.

THE COMMISSIONER: With whom?---With Mr Lee.

MS WRIGHT: Then message 17 goes on after you've asked, "What was our price per chargers?" And Mr Thammiah says, "I'll dig it up." And you say, "O.K." And he says, "2,400 per charger and delivery was included."  
20 And you say, "So that's 170,000 for chargers, take us to 6.9 million, add \$100,000 for delivery takes us to \$7 million excluding delivery." And Mr Thammiah says, "Perfect." And you say, "Yep. Okay. I'll tender for 425 scales." And you had positioned Novation to be the exclusive distributor of PAT scales in New South Wales. Do you agree with that?---They, that's not what actually happened, that's not what happened at all, no.

So you don't agree that you intentionally sought, set out to position Novation as the exclusive distributor in New South Wales of PAT scales?  
---No. The, the manufacturer asked for local, local vendors. At the  
30 beginning I said, "I can't really help you." Paul Hayes was there with me when I went to Holland to the conference and basically I think it was maybe a year after that where still they hadn't actually done anything about it and the current vendor who had had the licence was making critical errors, critical errors not just in the maintenance but he was saying that he was purchasing the parts from the manufacturer and it turned out he was never doing that, he was making his own parts here locally, charging us for it and they were failing regularly. That happened for about a year.

You raised that with IRD.---Many times.  
40

IRD did not ask you about potential suppliers in New South Wales.---Yes, they did.

You raised it with IRD.---No.

April - - -?---They asked me, after, after one year of, of doing nothing, I then had to make a contact with my manager again and IRD again to say, "Hey, we have to stop this program now. This vendor can't give us the

parts, can't maintain, we have to stop the program." It's at that point where Paul basically, and when I say this I'm not saying anything bad about Paul, Paul Hayes, he's, he's a, he's a, he's a great man, he basically said, "Look, your job is on the line, you need to fix this." Then we had a chat with IRD about it, that's when they started to ask me, well, what, what can I do here, you know. I said the only other options that I can think of were the other mass management vendors. I gave the names of AccuWeigh and I think NEPEAN or something like that, I don't remember who, who else, and it was some time after that, months after, that they, they called me and said, 10 "That's not going to work for us because they sell the competitor product." Then they asked me, "Is there anyone else?" I said, "I'm not, not really sure." And it would have been another phone call after that when again nothing actually happened and I gave some more names for vendors that worked with us, they - - -

THE COMMISSIONER: Who were they?---They were mainly software vendors.

Who were they?---I'm going to say. Itree and CGI I think and again he said, 20 no, they can't use them because they are also a software company. That's when he asked me, "Is there any other vendor that doesn't sell hardware like we do, doesn't sell software like we do?" That's when I gave the names of CIC and Novation and they obviously spoke to them all, all, all those companies.

When you said obviously, do you know that?---Yeah, because he said he checked all these things and - - -

Who's he?---Rish, Rish Malhotra. And he didn't want to sell his product to 30 the competitor and at the end of the day I gave the names of CIC and Novation and CIC got the licence for the WIMs I think and Novation obviously got the licence for the scales after that.

MS WRIGHT: Now, if we could go to, so we've seen here, Mr Soliman, you say to Mr Thammiah, "Okay, I'll tender for 425 scales." And over the page you say, message 18, "Done." And Mr Thammiah says, "Missing a brother." And then if you go down, you ask him on 1 August, "When, what's doing, bro, when are you back?" And then he says, "I'll come round Friday night." And over the weekend, sorry, go over the page, message 20 40 you say, "We'll catch up over the weekend." And then he informs you, "Spoke to Fernando today." And you say, "Need updates for the scales order when you get a change, GM is asking." So here you were asking for an update on the delivery of the first scale tender of 125 scales, do you agree with that?---I think that's when I was back from the trip, I'm not sure. What, what date is this?

1 August.---2018?

Yes.---I thought the first tender happened around - - -

Yes, you're asking here, "Need updates for the scales order when you get a chance." Were you asking for an update on the delivery of the first scale tender?---It doesn't seem like it because I thought all the first scales were received before August.

You see, "GM is asking," you're referring to the general manager?---Yep.

10 And Mr Thammiah says, "Will send Jai an update. The scales are in Sydney. Can deliver them next week." So that's referring to scales which have been delivered.---Okay, yep.

So it must be a reference to the previous tender, mustn't it?---Yep.

20 And then if we could go – well, before we go down, do you agree you had an agreement with Mr Thammiah to get money from RMS for your and Mr Thammiah's own profit or benefit?---That wasn't the agreement that we, we had. He was giving me a loan out of, out of a settlement that he had and he also had money from his wife. I don't recall even saying anything about a contract, I was never going to see, I don't remember ever saying anything about a contract money.

Well, you were going to get money from the moneys which would be paid to Novation my RMS for this procurement, would you not? Were you not expecting money from this procurement?---I don't – no, I don't think we ever spoke about that but he was giving me a loan to, from his settlement, he said.

30 And he had been earning money from RMS, hadn't he?---Yes, yeah.

For multiple scoping studies and trials?---Yes.

And from the previous procurement of portable weigh scales, which numbered 125, you agree?---Yes.

Novation was paid over \$2 million including GST by RMS for that procurement.---Okay, yes.

40 And you were receiving money throughout this period from Mr Thammiah, weren't you?---Yes but he said it was from his, personal money from his settlement and he was quite well off during his marriage.

You were receiving RMS money from Mr Thammiah, were you aware of that?---No. It was, well, as far I was aware it was his personal money and he, he got a large amount of money from his settlement.

Are you really suggesting that you, in your mind, thought it was not RMS money that you were receiving from Mr Thammiah?---It was money, I didn't really question exactly which bank account it was coming from. I mean - - -

10 Well, does it matter if he's got his own private source of funds plus he's getting \$2 million plus from RMS and you're receiving cash payments from him, did you really make that distinction?---Maybe that's the way I rationalised it in my mind but, you know, the way you put it now, it doesn't really make a difference, no.

And I suggest you were fully aware of that at the time.

THE COMMISSIONER: Do you agree?---I don't recall ever having a chat to him about that, no.

20 MS WRIGHT: You didn't feel or think that you were in a conspiracy with him?---At this point, I definitely knew I was doing the wrong thing but I mean - - -

THE COMMISSIONER: You knew you were doing the wrong thing?---By this point, yeah, yeah.

MS WRIGHT: And it was a scheme, wasn't it, a scheme to get money from RMS?---I wouldn't say it was a scheme. I mean, he was, he was in a position and he got, got the licence for the, for the scales.

30 Can we scroll down to 21, you said to him, "There's other good news I've been scheming. Laugh out loud." You knew this was a scheme Mr Soliman.---May be it was just a joke or I don't know what that's referring to.

Well, you had a scheme, didn't you, with Mr Thammiah to get money from RMS using your position as Manager of the Heavy Vehicles Program? ---Not necessarily but I don't know what the scheme is he's referring to, I mean, the LOL at the end means it's a bit of joke but I don't know what that's referring to.

40 And you said, "Update you on Friday," and he says, "Debrief on Friday," and then over the page he says, "I'm back," and you say, "LOLL, I'll tell him to come Friday too, he'll want his cabbage." Who is coming on Friday to discuss matters with you and Mr Thammiah?---No idea.

Then you inform him you're meeting the CEO soon about our tender. ---Sorry I can't see that up there.

Meeting the CEO soon about our tender, do you see that?---Yes.

THE COMMISSIONER: Not your tender, our tender.---Yes again, words got crossed, lines got crossed we were way too close, we were best friends.

MS WRIGHT: So his tender was your tender?---That's not what I meant but, you know, when you're best friends you talk in very different terms.

You did mean that his tender was your tender, that's what you've said?  
---Not necessarily, I mean, when you're best friends and you see each other very regularly, just like you're brothers, you know.

10

You forwarded to Mr Thammiah a message from someone else saying, "Hey man, are you able to call Steve (Novation)? Tried calling him a few times and he hasn't been picking up."---Yep.

Was that Mr Singh contacting you?---I'm not sure.

Then if we go over to page 24 message 24, you see you say to him - - -?  
---Oh yes.

20

- - - "Call Jai back when you land."---Yes.

I told him that you just answered my call and you just landed. What was that all about?---Um, not sure he must have, Jai must have been trying to get in contact with him for something.

Now just going back to message 22, you see this is the 3 August, 2018 where you say, "Meeting the CEO soon about our tender."---Yes, but that's weird because I didn't meet the CEO that day, I'm not sure what that is or why I said that.

30

Okay. Well, could we have volume 11 page 288 on the screen. You see on this day you emailed Mr Weeks and said the chief procurement officer has recommended the best path is to issue an RFQ using the panel, do you see that?---Yes.

You said, "Which already performed a market scan for all portable weigh vendors and had successfully procured 125 scales last financial year using this panel."---Yep.

40

I suggest your summary of Mr Bass's recommendation is disingenuous in that you knew that it was based on misleading information about the nature of the Heavy Vehicle Maintenance Panel.---Don't agree it was misleading based on the panel.

You made strong representations that that panel was an open-market scam, didn't you?---Well, I still believe it was.

You wanted to narrow the selection process in order to favour Novation.  
---No. I mean, obviously I did favour him in general, but not about this specific part. I mean - - -

Mr Bass's advice had been that if there had been a recent market evaluation, you could use a pre-qualification panel.---I think that he said something like that, yeah.

10 But he hadn't been told, had he, about the nature of the Heavy Vehicle Maintenance Panel tender.---What do you mean, the nature?

Well, you hadn't given him full information about what that tender involved, had you?---I believe Mr Lee sent him, or the people on the Procurement team, the panel, the panel documentation, tender documentation.

20 And you said here to Mr Weeks that "The only risk here is that we're running out of time and the funding provided for this is only available this financial year, and if we don't get the procurement over the line within a few weeks, we may run out of time to spend the funding and hence lose the funding." So you were inserting yourself very strongly in the process of getting this procurement over the line using the Heavy Vehicle Maintenance Panel, weren't you?---I think the choice had already been made here, basically, and I was telling them obviously because we've got the budget there, but as, as he knew, the budget is only there till the end of the financial year. So I'm saying we need to get moving now.

30 And if we could go to page 295. On the same day as you're WhatsApping Mr Thammiah about the tender, you inform Mr Lee that "Donna has mentioned we don't need an external consultant on the committee for this low-risk tender." Do you see that?---Yes.

It was not a low-risk tender, was it?---I believe it was.

It's a high-risk tender, Mr Soliman, for RMS because of your involvement.  
---Depends if you look at it that, that way, but, I mean, I think she was asking about a different thing for the risk.

40 Risk refers to the extent of the scan of the market, doesn't it?---I think it's a bit more than that and - - -

What else could it be?---I'm not sure exactly. We would have spoken about it on the actual day with Donna.

What else could it be apart from the risk deriving from the extent of the evaluation of the market, or the market scan as you put it? Other than that, what else could the risk to RMS be?---I'm not sure exactly.

Well, this was in a context where you were discussing whether it should be a tender via the panel or an open tender, correct?---I think this, no, this email is about whether we need Nathan or not, I think.

Need, sorry?---Nathan. Nathan Chehoud was - - -

Yes. And you're telling Mr Lee that "We don't need an external consultant for this low-risk tender."---Yeah. That's what Donna Willis – I think her name – told us.

10

Do you think your email here is to an extent dishonest, in that what's going on in the background is that you're colluding with Mr Thammiah?---I don't think that's what the context of the email was, you know. I think Donna said something around the words if you've already gone to open tender and you've got a panel there, the risks are different whether you haven't gone to open tender at all.

20

So you think this is a perfectly honest position to be proceeding without an external consultant because it's a low risk tender from your perspective?---I don't know but I mean that's just what she told us, if you've already gone to tender you don't necessarily need to have the third party there.

She didn't know that you were colluding with Mr Thammiah, did she?---No.

And so she didn't have the information she required to make a determination whether it was a low risk tender, did she?---Well, again, that's not what the context of it was. You know, obviously you can term it that way but that's not what the context of what she was telling me was.

30

You were hiding from everyone, except Mr Thammiah, your scheme, weren't you?---Well, if you want to call it a scheme it's fine but, yeah, I, I didn't tell anybody else.

You called it a scheme.---I don't think that's what I was referring to, I don't know.

So you were referring to a future scheme where you said, "I've been scheming, LOL"?---I don't know what that's, that's talking about even.

40

"There's other good news. I have been scheming, LOL."---Yeah, I don't know what that's referring exactly.

So it's not the past scheme but it's something in the future/?---I, I don't know, I don't know what that's referring to.

Then page, or message 23. Sorry, I've been to that one. If we could just turn then to message 30 here. This is 5 August and you say to Mr Thammiah, "Our job's done." Then you sent him a screenshot of the tender

criteria and if we could just scroll down, this is on 6 August, you say, "Here's the tender criterias. Any issues?" And so you drafted the tender criteria here and you sent them to Mr Thammiah?---Yes.

And he says, "The first one, just to be clear, no one can prove the best anyone can say is it's been used in 10 countries." Now, the first one is the one I took you to at volume 11 earlier which relates to the use by 10 highway agencies around the world. Do you agree with that?---Yes.

10 And Mr Thammiah's suggesting, well no one can actually prove they've done that and the best anyone can say it's been used in 10 countries. Do you understand that that's what he was saying to you? Do you agree that's what he meant?---Yeah, I think so, yeah.

And you said, "All I need's a letter from you or IRD stating that the scales have been sold for at least 10 years. Yeah, that's all I need. The idea is to make sure AccuWeigh are excluded."---Okay.

20 See, haven't you denied until now seeking to exclude other tenderers?  
---That's not what the purpose of what went into the RFT was but - - -

Are you serious, Mr Soliman?---Yeah, I mean there was other scales and the AccuWeigh one fit anyway and it met all of the specifications. I didn't recall this message but again once you get too close to a friend this is what, what happens.

How many tenders were submitted?---I'm not sure for the second one. Two or three maybe.

30 Two or three?---Yeah, I'm not sure.

Did Novation make a submission?---He told me he did, yeah.

He told you he did?---Yeah.

Didn't you draft the submission?---Draft the submission?

Yes.---I don't recall drafting a submission.

40 You didn't have any input on Novation's submission?---I don't recall that.

And who were the other two or three tenderers?---Would have been AccuWeigh and someone else maybe.

So you sought to exclude AccuWeigh, correct?---Well, that's what it seems like in my message, but the RFT wasn't like that. It was quite, quite open and I knew that the AccuWeigh scale would fit in those racks and would fit the specifications.

The idea is to make sure AccuWeigh are excluded. It couldn't be any clearer, could it, that you intended to exclude AccuWeigh with the requirements that you set in the tender documentation.---That's what it says there, but the outcome in the RFT was different.

I'm not talking about the outcome. I'm talking about your intention.---Well, it says that there.

10 THE COMMISSIONER: That you put in black and white there.---Yeah, it says that there. But, again, maybe I told Steve that just to make him feel good. I don't know exactly. But obviously the intentions weren't good, you know. I became way too close - - -

Why did we want to make Steve feel good? It's a tender process.---We were close friends. We were close, close friends and, you know - - -

MS WRIGHT: Then you go on – message 32 – to say, “I know they haven't sold their,” then you use a word, “scales in 10 countries. You have  
20 access to eTender website, right? The RFP will be issued to you on eTender, not Ariba.” And Mr Thammiah says, “Driving, one sec. eTender, no problem. Why not change the requirement to,” and then you say, “Cool. Check you can log in ASAP. FYI, the tender should go live by next Monday at the latest.” And Mr Thammiah proceeds with suggesting, “You change the requirement to used in 10 countries but prove that at least one country has used it for 10 years plus.” So you and Mr Thammiah were agreeing on the requirements to be set for the tender so that Novation's selected. You agree with that?---Looks like that's what he suggested, but I  
30 don't think that's what actually happened at the end.

Well, you did have a requirement, that the examples of use by 10 highway agencies in 10 countries around the world be provided by a tenderer.---I think that was already in there. It wasn't countries. It was states or - - -

It said countries.--- - - - highway agencies.

THE COMMISSIONER: In the tender - - -?---Yeah, I don't know if this one said - - -

40 MS WRIGHT: 10 highway agencies - - -?---Yeah.

- - - from 10 countries around - - -?---Yeah, okay.

- - - around the world.---Yeah.

THE COMMISSIONER: So it reflects what Mr Thammiah suggested.---If that was done before, then, yes, yeah.

MS WRIGHT: No one had put that in there before. You solely are responsible for that requirement being included in the tender.---I don't know. I mean, the, the chat came up between the three of us – Nathan, Alex and I – about how we can put a specification in there, and maybe that's, I actually got it from Steve then, perhaps, but I don't recall exactly where it came from, but reading this now and jogging my memory, it's very likely that it did come from, from Steve.

That it did or didn't?---Did.

10

No, no. Mr Thammiah has actually suggested to you that “No one can prove it. Why don't you change it to ‘Used in 10 countries. At least one country has used for 10 years’?” That's what he suggested to you, and then you kept it as used in 10 countries and used for more than 10 years.---Pretty sure - - -

For more than 10 years in 10 countries.---Pretty sure they are the specifications Alex, for states and countries. Don't know if this email is, this message was before or after that.

20

I'll take you to the requirement. 10 highway agencies around the world for more than 10 years, I suggest, and the requirement is at page 216 I think, yes. Sorry, it's not 216, 201, and then going back one page. “Evidence could include demonstration that no fewer than 10 highway agencies from around the world would have used the tendered scales for 10 plus years.” That's a draft, to be fair, but the actual criteria which is in volume 12 is the same, it's at volume 12, page 32, and just perhaps in fairness I should show that to Mr Soliman. Volume 12, page 32. Do you see this is the, this is part of the tender documentation which was actually issued, Mr Soliman, and section 3.1.1 says, “Please demonstrate your ability to provide goods with a minimum use of a lifespan of 10 years by listing no fewer than 10 highway agencies from around the world that have used the tendered scales or equivalent previous models for 10 plus years.” And Mr Thammiah has suggested a requirement to the effect, “Used in 10 countries but proved that at least one country has used it for 10 years.”

30

---Okay.

And if we go back to the WhatsApp message 32 do you see that's what he's said, “Why not change the requirement to,” et cetera?---Yep.

40

And you say, “Better book your flights. LOL.” That's because of the money that's going to be derived from this tender?---Sorry?

“Better book your flights. LOL.” Is that because you're telling him we're going to clean up big time on this, better book your flights? Is that what you mean by that?---Pretty sure he was going to meet IRD in Canada for training and something else.

Then if we go to message 33, he says, "eTender is fine. I get updates all the time." You say, "Sweet. Yeah, don't worry about that criteria. I've purposely made it hard to get." So aren't you telling him there, well, I'm not going to change it, I'm going to leave it the way it is, 10 highway agencies, used for more than 10 years, isn't that what you're saying?---I'm not sure that I'm referring to that.

Well, he said to you, "Why not change the requirement," and you said, "Don't worry about it. I have purposely made it hard to get."---Yeah.  
10 Maybe I didn't agree with him.

You didn't agree with him and you said, oh well, leave it, don't you worry, I've put it that way so that it's hard to satisfy?---Maybe, yeah, but I mean if it was that, if I didn't like what he said, it would have been in there for a reason also.

You said, "I have purposely made it hard to get," by others except for Novation, that's what you meant?---Could have been but I don't know that message but it could have been. It sounds like it was something about that.  
20

Do you have an difficulty accepting that that's exactly what you meant? Why are you resisting what is plainly obviously, I suggest, from your messages?---I mean it's plainly obviously in text but I don't know what I was thinking and why I was typing that but it seems that's what it was about, yeah.

Is that as good as it gets with you, Mr Soliman, in terms of accepting what's being put to you?---Well, I mean, to be honest my memory of the past year has, my life for the year has not been good so I can only go off what's read and I'm trying to think about what has happened with the stuff you're showing me and it's hard to recall these, these things.  
30

And you're finding it difficult to accept responsibility for what you did?---No, I accept what I, what I've done. I accept what I, what I have done. I accept it was wrong, accept that I favoured him but I'm trying to think back to the time that I wrote these messages, what I meant, what I thought. I can't recall most things.

Unless things are laid out in black and white, I suggest to seek to blame others or to explain things by attributing decisions to other people, not yourself to avoid your own responsibility.---I don't agree with that. I mean, I don't know who I am pushing blame on to. I've said from the beginning I've done the wrong thing.  
40

Then Mr Thammiah says, "Then all good. Got to hit the bank this arvo. I'll come see you tonight, drop off the phone." So he is going to hit the bank and come and see you and give you some cash?---I think so, yeah.

And you say, "Yeah, drop off cash tonight." And why was he dropping off a phone?---I think that was my gift for my birthday, for, for my birthday.

Then the next page, page 34, and you say, "Don't worry about the phone of it's a mission. I can just buy it with cash. Safer that way anyway. No possible tracking back to me." So are you wanting to use a phone to avoid detection?---No. I think I just meant it's better if I, if I but it myself.

10 THE COMMISSIONER: But you say, "No possible tracking back to me."  
---Yeah, I think that, I mean, obviously if he buys me a phone, there may be a record there, you know?

MS WRIGHT: Then going down on 7 August you send to Mr Thammiah a screenshot of an article about the acquisition of IRD and he says, "Yeah, cool. Good time to negotiate. I'll ask Fernando when I speak to him." And around this time, you have reviewed and completed the procurement strategy at RMS?---I'm not sure when it was, it probably was.

20 If I could just take you to that. If we could go to volume 11, page 296, you have sent a draft back to Mr Lee completed and polished, you say in your covering email.---Yes.

And if you turn to page 297, this is a memo which you reviewed and completed to the executive director of the CaRS Division and Mr Weeks and Mr Bass, correct?---Yes, this went to them, yes.

And you completed and reviewed this memo, didn't you?---I think I reviewed it, yes, I would have definitely.

30 And it recommends that they approve the procurement strategy which is attached to procure 425 portable weigh scales at the estimated total contract value of \$7 million?---Yes.

And it sets out that it will be way of select tender with request for proposal, correct?---Yes.

40 And then the procurement strategy is attached. If we could go to page 298 and then 299. Do you recall this document?---Yes, this is the document that Alex made, Alex Lee.

You've reviewed it and completed it and I think you said polished it. Do you agree that you had a hand in its drafting?---Would have, definitely, yes.

The final two paragraphs on the page you can now see, page 299, which referred to the previous procurement of 125 scales. You drafted that paragraph?---I'm not sure but it's possible.

And the next paragraph, "This open tendered panel successfully scanned the market for scale suppliers."---Yes.

You see that?---I see.

And you go on, "There is a very high confidence level that all relevant suppliers in this niche market are available on this panel." Do you see that? ---I see it.

10 I suggest that that panel process would not have given a very high confidence level that all relevant suppliers in the niche market are available, you disagree with that?---You can, I mean, all I can say is that it was an opened tender panel and the specifications were clear that if you had a scale we can look at it. So, I don't know really know what else you can do, to be honest.

Well, you included that there in order to mislead the recipients of this memo into thinking that their market had been fully scanned as to all relevant suppliers in the portable weigh scale market, didn't you?---That's not my  
20 intention. My intention was what's actually written there, that a panel is there and anyone could apply who had scales and lots of people applied, I mean - - -

At the same time you're telling Mr Thammiah that you purposely made it hard to get and the whole purpose is to exclude AccuWeigh with one of the criteria?---I don't think that's what I'm referring to and AccuWeigh were on that panel.

Well, indeed. AccuWeigh is on this restricted panel and you're still trying  
30 to exclude them.---Well, they weren't actually, at the end of the day, and I don't know exactly why I said that, maybe I was trying to, I don't know, impress him or something.

But you didn't want other suppliers to come along and put in a tender for scales, did you?---Well, as far as we knew, they're all there, I mean there was five vendors and they can all purchase their own type of scale.

HAENNI wasn't there, were they?---I don't know if they applied to the  
40 panel.

So you couldn't be confident that that was a panel including all relevant suppliers, could you?---Well, I don't see any reason why any of the other vendors couldn't procure the HAENNI hardware.

They weren't suppliers of the HAENNI scale, were they?---I don't know. Maybe NEPEAN could procure them, NEPEAN or CIC, I don't know, or WeighPack.

What about the WL10 scale that you referred to earlier?---That's a HAENNI, one of the HAENNI type, isn't it? I think WL.

You were seeking to restrict this tender as much as possible in order to get Novation over the line. Do you agree?---I don't completely agree with that. I mean maybe that's what I said to him in the, in the message, maybe to make him feel good or something, but at the end of the day AccuWeigh weren't excluded.

10 THE COMMISSIONER: Why on earth do you need to make him feel good?---I don't know, I don't know, it's just, you know, best, best friends.

He's a grown-up.---Yeah, I know, I know, but - - -

MS WRIGHT: Now, just going back to – if we could stay on that document, do you see under Background at 2 in the document it says,  
20 “There is a fleet of 550 portable weigh scales used by Enforcement Operations inspectors in New South Wales which are stored in highly-customised and hence high-cost housings located in each inspector's vehicle.”---Yes.

That was not true. Correct?---To the best of my knowledge that is, that is true.

Well, what was that based on?---Based on looking at how much it might cost to run a program to fit new housings in there, to take everything out and refit everything else which is in there and the costs for the testing for the ADR, ADR tests. And it just triggered my memory, the previous vendor that done the monitor testing was called CGI.

30 And Mr Singh had made a submission in relation to that previous tender where he estimated that the cost would be a maximum of \$300,000 to replace the storage racks.---That's, that's not part of the ADR testing and the project management, that's probably just the fabrication of the actual metal. I don't see how - - -

40 But you really didn't know, did you?---I hadn't done, got any real quotes for it but I know the cost of these things, to manage a whole program like this, to have the vehicles out, but at the same time that wasn't a major thing, if there was, if there was a better scale that was larger we would, we would look into housings for it basically.

And the housings issue, this was just a spurious basis on which you sought to restrict the type of scale which would be selected, and by spurious I mean false. You made it up yourself to include it and tell people that you needed to use the existing racks in order to favour the status quo, which was to use the PAT brand scales.---No, I don't agree with that. I mean at the, at the

end of the day if I was, if I wasn't here the PAT brand would have won anyway, I mean - - -

You can't say that, Mr Soliman.---Well, from what I've learnt over the past couple of years and what I've seen of the other scales so far, I don't really see any other outcome.

10 And RMS would not have paid \$15,800 per scale plus been charged for chargers which the manufacturer in Canada didn't even charge RMS for, would it?---I don't know. I don't know how much they charge for the chargers or how much the, the modified scales would have been.

You don't know how much they charged?

THE COMMISSIONER: For the chargers.

MS WRIGHT: For the chargers but you know how much they charged for the scales, don't you?---This IRD, no, I don't know.

20 Didn't you discuss it with Mr Thammiah a bit later what the price would be?---I'm sure he would have said something but I don't recall what the price was.

And you asked him to negotiate the price down with IRD didn't you?---Did I? If you say I did, yes.

30 You were both concerned about the exchange rate and what it would mean to your cut off the profit.---Well, yeah, I don't know what the chat was but we did speak a lot at that price.

Yes, and so you were well aware of the profit that you were going to derived from this transaction and the evidence that you've just given to the Commission was completely false.---In which way, sorry?

Well, you gave an answer that you didn't know what IRD was charging. ---No, I said I didn't recall knowing what they are charging but I also said he probably did mention it to me but I just don't recall what exactly they charge.

40 I see. Now, you directed, perhaps if we go to the document given the memory issues, page 305, sorry, volume 11. Mr Lee sent to Mr Bass the procurement strategy as prepared by you and him. Do you see that?---Yes.

And you congratulated him on his work and directed him to get the procurement strategy signed off by the chief procurement officer?---Yes.

And you, you were trying to given the appearance that you were at arm's length from this transaction, weren't you?---I'm not sure what you mean, I

mean I think I was just telling him who the signatures that he needs to get, that's what I see here.

Now, if we could go back to the WhatsApp messages, message 35, we've just seen that you sent an IRD document to Mr Thammiah. Why did you do that?---Are you talking about that screen shot?

10 That newspaper article or some sort of media article about IRD.---I think I was reading in a magazine or something about that news story and sent it to him just out of interest.

Just out of interest. And he said, "Good time to negotiate." Did you also have in mind that this news meant that IRD's position would be weakened in any negotiation?---No, that's not why I sent it, I just saw it in one of the magazines that I get and - - -

20 And going over the page Mr Thammiah says he'll ask Fernando when I speak to him and you asked, "Did you see my email to Novation? AccuWeigh lost the first batch of scales." AccuWeigh had the maintenance contract at this time?---Probably, yes.

And it received the first batch of scales from the 125 scale procurement? ---Yes, I think Jai told me there was major mix-up with the scales being received by them or something.

And you said, "I think I'm going to have to terminate their contract once I suss WTF happened." You see that?---Yes.

30 Because you were the decision maker with respect to the maintenance contract?---Not for the contract, I already had the contract. Again, maybe I was talking rubbish. You can't just terminate a contract for no reason.

Well, you could influence things very significantly within the Heavy Vehicle Programs Unit with respect to contracts granted and terminated, couldn't you?---Not necessarily. I mean, obviously I did for Mr Thammiah and, and Ali but in general, no.

40 The granting of a maintenance contract was your decision in relation to the portable weigh scales, wasn't it?---The maintenance?

Yes.---Which one? There were several changes.

There were and you were the decision maker on each occasion, weren't you?---I wouldn't have been the only one. There's normally at least a couple of people who would make the decision based on these things.

Ultimately you were the decision maker. Do you not agree with that?---It's hard to say what, what you mean by that. I mean, if someone, generally for

these things, the lowest price wins and that's the, the choice which is made, then - - -

But in the case of Novation the highest price wins apparently.---But also they were the only one, well actually now it turns out several of them, of the scales met the specifications but they were the best product.

THE COMMISSIONER: And you agree with Ms Wright's proposition that Novation was the more expensive?---Yes.

10

MS WRIGHT: And deliberately more expensive based on what you had concocted with Mr Thammiah?---Don't know necessarily that was my intention. From what I can recall - - -

Who decided the mark-up?---Sorry?

Who decided the mark-up, was it you or Mr Thammiah?---I don't know. It think what I was thinking about is how many scales can we go to tender for? I recall that's what my point was.

20

Based on the \$15,800 price. Who decided that price?---I don't know. I don't know.

Then you go on to discuss this lost batch which you say was lost and Mr Thammiah says, "What lost?" And he says, "Do we get another order? Hahaha." So he thinks, did you understand him to be suggesting that he might and you might benefit from these lost scales because Novation can make another order for scales?---No. Well, I mean - - -

30

That's what it means, doesn't it?---I don't think so. It was a joke either, either, either way and there's no funding for it anyway.

That's what it means, Mr Soliman. "Do we get another order," because there's lost scales, I'm the one that can make the order because I am Novation? Haha, isn't it funny, we're ripping anyone off. Isn't that what it means, isn't that obvious?---Well, I didn't make that, send that message. You might have to ask Mr Thammiah.

40

THE COMMISSIONER: And you respond to I - - -

MS WRIGHT: Well, you say - - -

THE COMMISSIONER: Sorry, go on, Ms Wright.

MS WRIGHT: Sorry, Commissioner. You responded, "LOL." So you understood what he meant.

THE COMMISSIONER: And “Technically they would have to order new ones. Yee-ha.”

MS WRIGHT: The next message is, “Yee-ha.”---Maybe that means AccuWeigh, you know, if they lost it they need to procure but not, not sure exactly.

10 And then you say, “At their cost.” So you’re saying no, you can’t order more and make more money because it’s at their cost of they’ve lost them?  
---Seems like that would be, yeah, AccuWeigh’s cost if they’ve lost the scales.

Yes. Well, you’ve just seen that on the message there, “At their cost.” Now, and the if we could just go down and you invite Mr Thammiah to come around and hang out. “Still checking how lost they are. AccuWeigh basically lied about the scales.” And then we go over and he says, “I’m going to send Jai the numbers.” And you say, “Let Jai know, could you, we’re golden. Good stuff. Smooth transaction.” So are you quite happy that you have got the 125 scale purchase through as a transaction?---I’m not  
20 sure what that refers to, I don’t, I don’t know. Maybe it was a delivery or something, but yes, I was happy for, for him, you know, obviously he’s one of my closest friends.

Well, when you say about, he says, “I’m going to send Jai the numbers,” that’s the scale delivery numbers that you’ve referred to earlier, and you say, “Yeah, let Jai know.” Do you see that?---Yeah.

And you say, “We’re golden. Good stuff. Smooth transaction.” And you’re referring to the 125 procurement transaction, aren’t you?---I don’t  
30 know, just reading that message it sounds like the deliveries went well. I don’t, I don’t know.

Yes, the deliveries of the first batch or some batch, the deliveries of those scales which were purchased has gone well.---Yeah.

And you say, “We’re golden. Smooth transaction,” because the transaction is complete.---I don’t know that, what I meant by that but all I can see reading it now is he said the scales got delivered, so maybe, you know, smooth transaction, the delivery was made.  
40

Now, just going over then to the next message, you just have some general further discussion together and you also sent to, if we could have volume 6 at page 91, on 7 August, 2018 you also forwarded an email from Mr Jones saying that his scales are yet to arrive, and you say to Mr Thammiah, “LOL. AccuWeigh lost the scales, ‘lost’.” And so this is a joke between you and Mr Thammiah?---No, I thought it was a little bit suspect that they lost the scales, that’s what I mean by lost in the quotes.

But it's a joke between you because you've said - - -?---No.

- - - in both the WhatsApp and the email that it's an LOL, laugh out loud, moment.---No, the LOL meant as in something suspect has happened here.

Is that usually the way people use LOL, do you use LOL that way?---I have in this instance, yes.

10 That it means something suspicious?---Yeah.

Laugh out loud.

THE COMMISSIONER: So what does it, what's it an abbreviation for then?---Laugh out loud.

Yes.---As in they've said it's lost, you know, laugh out loud, I don't really think it's lost.

20 MS WRIGHT: LOL meant laugh out loud when you wrote it, didn't it?  
---Yes.

And so it's funny as between you that these scales are lost?---No. I think it's funny that, that they said it was lost.

It's a joke and you forwarded him an internal email chain sent to you by Mr Jones.---Yes.

30 So you've sent unauthorised email that's internal to RMS Records to someone external from the agency?---I did think it was an issue.

You didn't think sending internal emails to a third party was an issue?---I didn't think it was, obviously I didn't think full stop.

You knew that this whole transaction here was unlawful, didn't you?  
---Well, at this point I knew it was wrong, again, he was my best friend and we got way too close.

40 So this is wrong but it's okay to send an internal email to a third party?---I wasn't talking about email, I didn't think the email was an issue, there's nothing of question here, really.

Then you go on, if we go on through the WhatsApp messages, message 40. Something about shed run amok and then, yeah let's do UT, I've got heaps of, oh sorry. If we could just move onto 41, I'm sorry. 9 August, do you see 9 August, 2018.---Yes.

You've provided a screenshot photo to Mr Thammiah?---Yes.

And I suggest that that message says, from Mr Jones, that all 15 scales finally delivered to Penrith this afternoon, no chargers or leads? My response is, understandable DJ. If we could move down, you ask Mr Thammiah, leads and charger were sent? And he says, of course, well ahead. And then you refer to AccuWeigh and use disparaging language and you suggest this must be on purpose. Then we go over to 42 and you suggest that perhaps they are making the procurement look like a failure. Jai just told you they sent them today. Then if we go down message 43, while you're discussing this you ask him to make sure he's still on track to get out four K a week for you. This was your cut of monies paid by RMS to or formed part of your cut of monies paid by RMS to Novation in relation to the 125 scale procurement.---That was happening prior to scales anyway, but I mean - - -

During the course of the scoping study work which Novation did, you were receiving a cut of the monies paid by RMS to Novation, is that correct? ---That's not what we spoke about, he was giving me a loan from his personal money as he told me, I didn't have any reason not to believe him but obviously, you know, things got tangled and as you said, what does it matter, you know.

How much was the loan?---It was the rest of the house may be 250 K or so.

How was the loan paid to you?---I would have his card and I would pull out cash when I need it.

THE COMMISSIONER: You would have his ATM card?---Yep.

And you'd just withdraw money?---Yep.

MS WRIGHT: As and when needed?---Yeah, basically.

And was there an agreement that it be up to \$250,000? Where did the 250K come from?---Not necessarily, that's just what my guess is based on what the remainder of the house cost was, minus what money came from mortgages. So I'm not exactly sure off the top of my head.

And was the loan documented in any way?---I kept my, my part in Wickr on the laptop, on the, on the PC laptop.

So you kept a record of the amounts that you withdrew from the bank account?---Yeah.

And did you tell him when you made the withdrawals?---No, but I mean when he would pull out money and sometimes he gave me a small portion of that, I also kept a record of that, so we knew kind of, because I remember once I lost my Wickr login and the way Wickr works you can't reset your password, you have to create a new login, so I asked him on, on this date

what did you pull out so I can make a record. So from that moment on I kept a record of both, both things.

So sometimes he gave you cash payments?---Yeah, small, small cash payment, yeah.

10 In what sorts of figures?---Very small at the beginning. I mean he would take out some, some larger figures and give me say 500 bucks. I recall one larger one where he gave me money to fix a major problem with the house around the middle of 2018 or something.

And how much was that?---I don't recall. It could have been maybe 10K or something.

And that was in cash?---Yeah.

Was any interest payable on this loan?---No, it was an interest, interest-free loan.

20 THE COMMISSIONER: It wasn't documented in any way, was it, other than you recording in this Wickr account some of the money you received? ---That's right, yeah.

And if something occurred, happened to you there was no evidence or other record that you owed Mr Thammiah money?---No, just a man-to-man kind of thing, there was no loan record or anything like that.

30 MS WRIGHT: Did you ever pay any money back to Mr Thammiah for this loan?---Not formally, but I mean a little bit of money kind of went back and forward, if I had a bit of extra money in my wallet and which he would give me and sometimes he just used that.

THE COMMISSIONER: Sorry, when you say not formally - - -?---Yes, I mean the house wasn't actually finished so the plan was technically once the house finishes formally we speak and see how long and how much I'll be paying him back.

MS WRIGHT: Did you ever record what you paid him back?---No, no.

40 And what's your estimate of how much you paid him back?---No idea really.

Well, you didn't pay him back anything, did you?---I did, but it was just whenever he needed amount of cash.

THE COMMISSIONER: What, like \$20 or \$50?---A few hundred bucks, but I mean I never, I never borrowed more than what I needed for the house

so there was always some money in my bank, you know, sorry, in my wallet so it wasn't a large amount but - - -

MS WRIGHT: And what was the, what was the terms of the loan, was there a fixed amount up to which you could, you'd be borrowing money or was it just an open - - -?---Just for the, for the house, basically, for the, for the house build.

10 THE COMMISSIONER: So whatever the house was going to cost, you could go to the ATM and withdraw money using a card that Mr Thammiah had given to you?---Yeah, basically.

MS WRIGHT: Now, around this time of these WhatsApp messages that I've been taking you through, and you can see there's still messages of 9 and 10 August, 2018, you were meeting with Mr Lee, weren't you, to work through a request for quote for a scoping study for a heavy vehicle avoiding detection by enforcement sites?---I think, yeah, yeah.

20 And was the intention to give that RFQ to AZH?---Not sure. I mean, that's not really the way it worked with me and Ali. It was a different practice, I guess. I was training him in a lot of things and things got out of control but, but I don't know if AZH won that one or not.

You didn't actually train Mr Hamidi in anything, did you? You did the AZH work yourself, didn't you?---No, that's, that's not true. I gave him a lot of things, templates and the method of my training got out of, out of control.

30 THE COMMISSIONER: What did you mean got out of control?---Well, at first I was basically guiding him on, on paperwork and I would say, "For this trial, this is what you do. I recommend this, this hardware. I recommend you to this site. I recommend you contact this manufacturer and you do the scoping study in this format." And then as he asked for more and more things, it got to the point where I was even working in the actual quotes for him. So rather than writing on a piece of paper, that would be basically the scope of the work which he needed to do to finish the job and the, and the invoices, he said he wasn't getting the purchase order numbers so eventually it turned out that I, I used one of his templates I think for the invoice, put in there and sent that to him.

40 So you drew up the invoices for him?---Off a template, I think, yeah, yeah. They were just a copy/paste really from the quote. So again, one thing led to another, another until I basically stopped in June I think, June 2018 because things got out of control.

MS WRIGHT: And they were out of control, were they, because AZH was being paid for scoping study projects where Ali Hamidi wasn't doing anything at all?---Well, I, yeah, I don't know what the real truth of it is now.

I don't know if he was doing anything at all or because I gave him a very long leash because of his family, he had a major family trauma for about 12, 12 months and also he was in serious need of money, I kept on I guess, making his leash, leash longer until the middle of 2018 where we both agreed, okay, I said I'm out, you know and he said he doesn't really need my help anymore. It wasn't a falling out as such but we just agreed that the next one will be the last one.

10 By that stage there were projects, weren't there, where you created the documents and he just didn't attend any trial at all but he issued an invoice and he was paid for projects where he'd had no involvement at all?---Well, that's not what I understood.

He would have had to know where the trials were taking place in order to attend and - - -?---That was part of, yes, sorry, go on,

20 And wouldn't he, he would have had to know and he – you agree with that? ---Yeah, that was part of what I was, I guess, training him on, recommendations for options for where he can do the trial, manufacturers for the recommended hardware and his job was to basically do it but - - -

But he could only get that information from you, couldn't he? RMS needs this particular trial and a scoping study report and he would get that from you, wouldn't he?---Sorry, do mean on how to perform the trial or - - -

30 Well, what is the trial, where is it, what, what we need as RMS. He couldn't, you didn't, the leash was not so long that you let him come up with the types of trial - - -?---No. That's, that's not what I, what I meant, I mean, I would basically, you know, I don't know what you would term it as, but plan a project for him, so this - - -

THE COMMISSIONER: So, you came up with the trial topic?---Yes. Sometimes - - -

You know, it's going to be a thermal camera or it's going to be this.---Yeah, yeah, or he would - - -

40 You would come up with that and then you would orchestrate, you'd seek a, a quote from him and you'd draft the quote?---Yeah, well, I'm not drafting the quote as such. My way of I guess training him about the steps he needed to do was the scope part of the quote.

And you'd draft that?---Yes, that part of it, yes.

And then that would come back to you and you'd say to somebody like Mr Singh raise a purchase order for this?---Yes, for the first ones, yes, for the, yes for the ones later.

For all of them wasn't it?---No, for the ones later, there were differences, I think he only wanted, I think of the last three or four he only wanted one or none, I'm not sure, but he was basically going in with just a couple of general dollar figures and that's what worried me also, I guess.

10 And then you'd tell him how to do the work because you were training him, is that correct?---Yes, basically, I mean, what I recommended for different options for hardware, I done that for some of, some of the trials, I gave him some options for the locations, lots of templates and examples of similar things.

And then he would, you would produce a report.---I would produce a report.

What happened?---For that, he was - - -

For any of them you'd produce the report didn't you?---No, that's not true. For the first, for the first couple he was working with IMC and SICK to produce the report as he said.

20 So you didn't produce any of the reports?---It's not about producing but I defiantly touched I think the first two a couple of his - - -

You touched them?---Yes, a couple of his formatting was very much off.

So not the substance, just the formatting of the first two you touched.---No, well the substance he said came from his workings with the actual - - -

30 No, no, I'm asking you what role you say that you did. So for the first two, you touched it by improving the formatting?---Formatting, yes, he had his logo a little bit too small and he didn't have footers and things like that.

Okay, so that was for the first two. What about the subsequent ones?---All I saw was the quick drafts which he skimmed through, that's basically it.

MS WRIGHT: The first one was a report which the evidence shows is identical to a report provided by IMC.---Yes.

40 Identical content.---Yes, what I was, what I was told anyway that was a collaboration between them, the thermal - - -

THE COMMISSIONER: Sorry, told by whom?---Ali. That the thermal data that was in there came from him and now I don't know if that was the truth but when I did kind of see, I guess, what he called the final product, I made those formatting changes and asked him to add the photos because he was actually taking photos and stuff when he was onsite.

MS WRIGHT: What photos Mr Soliman, the report was produced by a legitimate business IMC, sent to Mr Singh, copied to you on 25 February, 2017.---Yep.

Now what's happened is someone's taken off IMC's name and put on AZH's name.

THE COMMISSIONER: Which could be the formatting, touching for the formatting?

10

MS WRIGHT: Who did that?---What do you mean changing the logos and stuff?

Who turned it from an IMC report into a report that purported to be by AZH? ---I'm pretty sure I sent it to him but he didn't actually have it, which now makes a bit more sense. Then when he sent me the final copy that he called was final, I just asked him to add the photos which I saw him taking when I was onsite for a short time. He also had, he was working with them to note the comparison he said between the thermal camera and the temperature gun, I asked him to put that in there too.

20

There's no adding of photos, who changed it from an IMC report into an AZH report?---I sent that to - - -

Who took off IMC and put on AZH, who did that?---I think that would have been him, that was, that was there when I got a copy of it already.

THE COMMISSIONER: Sorry, so you got the copy from ICM? ---Yeah, yeah.

30

And then you sent it to Mr Hamidi?---Yeah, just on a USB, yeah.

And then Mr Hamidi sent exactly the same report back but instead of having IMC's logo it had AZH's logo?---I think it went something like that basically, yeah, but there were lots of issues with his formatting and I think I even made his logo I think bigger because it was too, too, too small, didn't have a footer or something, basic stuff like that, but - - -

40

MS WRIGHT: When you say you think it went that way, is that what you recall or are you guessing or are you not telling the truth?---Because the file went back and forward and lots of things went back and forward between us, that's, that's the best thing that I can recall right, right now.

Is it possible that you were the person who took off the IMC details and applied the AZH logo and - - -?---I'm not sure. I don't, I don't, I don't remember doing that. It would be a little bit weird if I did that because I mean he would be doing that, he should have been doing that.

If Mr Hamidi denies preparing it, the only other person who it could be is you, isn't it?---Yes.

And if he says he didn't do it, you don't deny that you did it?---Well, I definitely touched it and I worked on it but that wasn't for the content, the content was there, like, and like I said, he said he was collaborating with him and he made sure the data wasn't changed or modified or cleansed in any way, the views were the same as the manufacturer so I - - -

10 But you had received the report from IMC so you knew - - -?---Yeah.

- - - it was IMC's report, didn't you?---Well, after speaking to him, that's what I learnt it was a collaboration but again now, I don't know what the truth really is.

Well, you didn't for one second think that IMC had produced this report in collaboration with AZH at the time it was sent to you on 23 February, 2017? ---When he told me I had no reason not to believe him and because he was also taking the records of the actual, the thermal records which were in the, 20 in the report I believe, I didn't scrutinise it much but again I didn't really have any reason not to believe him but - - -

You knew your friend, Ali Hamidi, had not prepared a report with this technical content.---Well, when I looked at the actual technical content I know that part couldn't have come from him because that could have only come from the manufacturer really, but there's lots of stuff in there that is reasonable to believe that Ali worked with him and he was onsite with them for all of, all of it and he was taking a record, even when I was there, I was only there for a short time, he was taking a record of the temperatures and 30 taking notes and speaking to them and Jai also said he was doing well and he was turning up and just didn't have any reason at the time not to believe him.

And yet IMC didn't acknowledge his contribution in the report.---Yeah.

Would you have expected them to do that?---Well, I don't know, I mean knowing what I know now, probably, but again, what the truth is I don't know.

40 THE COMMISSIONER: But what was the point? You've got ICM producing a report and then you get the identical report, bar different logos, and you pay AZH just under \$30,000 for it.---Yeah. The, the point was to make sure that it's not a biased view from the manufacturer or from Roads and Maritime also, for those early, early ones anyway and to make sure the data wasn't cleansed because we actually saw that several years ago. I think it was a bluetooth trial where the manufacturer cleansed the data and changed it and when we purchased it, it didn't, it didn't work. So - - -

So if that's the point of it, a collaboration is the complete antithesis of that?  
---Well, no, I mean, I guess if, from my - - -

You're saying that your expectation was AZH would be independent. Independence does not encompass collaboration with the vendor or the interested party.---Well separate from Roads and Maritime and obviously making sure that the data's not cleansed and again, when he told me I had no reason not to believe him. He had worked with them, he had ensured that the data was his.

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But if the data's his, it shouldn't be in an IMC report.---No. I mean, just the thermal, thermal data that was in the actual study itself. Yeah, it's, that's, that's what happened.

MS WRIGHT: Commissioner, I note the time.

THE COMMISSIONER: Is that a convenient point?

MS WRIGHT: Yes, Commissioner.

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THE COMMISSIONER: All right. We will adjourn.

MR LONERGAN: Commissioner, if you - - -

THE COMMISSIONER: Oh, I'm sorry, Mr Lonergan, I didn't see you there.

MR LONERGAN: Just before you do adjourn, the WhatsApp messages obviously involved Mr Thammiah. We don't have those and I'm seeking to have them so that we can go through them.

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THE COMMISSIONER: I will consider that when – you will get them, I just want to turn my mind to when, all right?

MR LONERGAN: All right. Well, I mean, Commissioner, the issue obviously is one of fairness to Mr Thammiah in being able to see them particularly given they did come from him phone.

THE COMMISSIONER: Oh, yes. Well, he'd probably be able to give you lots of instructions about them.

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MR LONERGAN: Well, if we had them then we wouldn't be asking for them.

THE COMMISSIONER: All right. Mr Lonergan, I'll take on board your application.

MR LONERGAN: Please the Commission.

THE COMMISSIONER: Thank you. All right. We're adjourned until 9.30 tomorrow morning.

**THE WITNESS STOOD DOWN**

**[4.31pm]**

**AT 4.31PM THE MATTER WAS ADJOURNED ACCORDINGLY**

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**[4.31pm]**