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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 6 JUNE, 2019

AT 9.30AM

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

THE COMMISSIONER: Ms Wright, is there any administrative issues?

MS WRIGHT: Not at this stage, Commissioner.

THE COMMISSIONER: Right. Mr Soliman.

THE COMMISSIONER: Ms Wright.

MS WRIGHT: Mr Soliman, yesterday I was taking you through some WhatsApp messages exchanged between you and Mr Thammiah. Do you agree that you were using your influence as manager of the Heavy Vehicle Program to control the procurement process for the purchase of 425 scales by RMS?---When I'm thinking back to when I was helping Alex, I don't think that was what I was trying to do, but looking back now, the lines were very much blurred between what, what, if I should help a friend and what I should do for my job.

Do you agree or do you disagree with the proposition that you were using your influence as manager of Heavy Vehicle Programs to control the procurement process for scales?---I don't know if I would agree back at the time when it was actually happening.

20 So you disagree?---Well, at the time when it was actually happening, that wasn't what was at the front of my mind, but at the same time I was obviously helping, helping a friend.

Do you agree that you were seeking to ensure that Novation was selected in that tender?---I don't know if I would say I was trying to make sure they were the only winner, but I was definitely favouring him and helping him.

And sought to deter any one of your colleagues who might get in the way of Novation being selected, didn't you?---Could you give me an example?

30 No.

THE COMMISSIONER: Answer the question, please.---I don't recall.

MR YOUNG: Well, I object to the question in its generality. What does deter mean?

THE COMMISSIONER: I thought it would be rather obvious, but - - -

40 MR YOUNG: Well, I don't think it is obvious, with respect.

THE COMMISSIONER: You're a manager of a Heavy Vehicles Program with RMS. Do you understand what the word deter means?---I guess, yeah.

Okay. Ask the question again, Ms Wright.

MS WRIGHT: You sought to deter any of your colleagues who might get in the way of Novation being selected?---I mean I never told anyone not to pick any other vendor, if that's what you're asking.

You never told anyone not to pick any other vendor?---No.

10 Did you ever tell anyone anything to deter them from picking another sort of scale?---I wouldn't call it a deterrent. If there was things which I saw from another product, such as that me and Mr Jones saw on that, on the demo, and someone asked about it, I'm happy to provide the views.

Is that your answer?---Yes.

Could we have the WhatsApp please, at message 43, please. When we left off yesterday we were up to message 43, and you see you've told Mr Thammiah that to make sure he's still on track to pull out \$4,000 a week for you, and then about halfway down you say, "I'll collect every fortnight, 8,000 a fortnight." Do you see that?---Yes.

20 And then 10 August, 2018, "Give me a buzz when you can. He's not in. I'll be seeing him at Monday."

THE COMMISSIONER: "Midday."

MS WRIGHT: Sorry?

THE COMMISSIONER: "Midday."

30 MS WRIGHT: "Midday. All good." Thank you, Commissioner. Who were you referring to there?---Don't recall.

If we turn to the next message you say, "I'll bring it up casually over lunch with him." And Mr Thammiah asked, "But who's Guido, he was cc'd?" And you say, "Nothing to worry about though, Guido works for me also, he's Paul's manager." Do you see that?---Yes.

And so who were you going to bring it up casually over lunch with?---I'm not sure who I had lunch with.

40 And you're going to bring up something casually so as not to draw attention to whatever you're going to be bringing up.---I don't even know what the subject matter was.

Well, it's someone in your team, isn't it? One of your colleagues. You've told Mr Thammiah you're going to, "bring it up casually over lunch." Do you see that?---Yes.

And you don't recall what it concerns?---Not at this time, no.

But you're going to bring up something casually to do with this procurement so as not to draw attention to the issue.---I don't recall what this message was about.

And so as not to raise suspicions. That's what you're saying, isn't it, to Mr Thammiah?---This is the first time I've seen, seen this message, I don't recall what it was about.

10 You sent the message.---Yeah, this is quite some time ago.

So you've seen it before.---This is quite some time ago though.

And so you're slightly concerned here, both of you, aren't you, if someone's bringing something up and you're going to discuss it casually over lunch? ---Don't know.

And Mr Thammiah says, "Just saying both had a question." That's a reference to Paul Walker. Correct?---Yes, I think so.  
20

And someone else. And you say, "I'm Guido's manager." So there's no doubt you are the manager of Mr Zatschler. You agree with that?---Yes.

And through him you also managed Mr Lee and Mr Walker. Agreed? ---I didn't manage them, Guido was their manager. I didn't have any management responsibilities for them.

THE COMMISSIONER: Mr Soliman, they were in your team. You were the manager of that team. Correct?---Yeah, but when I say management  
30 responsibilities, I mean, the manager needs to do things like approve their leave and all those things and manage their PDRs.

Right, we're not concerned that Mr Walker or Guido want to take leave that they're not entitled to. This is clearly in the context of when you organised Mr Lee to manage the procurement of the 425 portable weigh scales, isn't it?---Yeah, but I was - - -

And you had responsibility over that.---For the tender or to pick them?

40 Well, you picked them to begin with, didn't you?---Well, it wasn't actually my choice to pick them. It was my manager's choice to force those guys to do more work. Those, their roles were about to get cut. And there's an email from him, actually, I recall him saying, make sure they do more work.

Right, and so you were told to make these three people do more work, and it was your decision that the more work would include being on this procurement panel, wasn't it?---I asked them if they want to do it, and they said yes.

Yes. So, at a minimum, as the manager of the team, you have an involvement as the manager in that procurement process, don't you?---In, in that sense, yes. In that sense, yes.

So when you start making, or giving answers along the lines of, "I'm not their manager," and when you're asked to expand on that, and you start talking about leave and other, in the scheme of this public enquiry, rather minor aspects - - -?---Okay.

10

- - - my view of that, presently, is that you're trying to avoid answering Counsel Assisting's question honestly.---I'm not, I mean, in terms of what I thought it was meant, that's what I answered. But I see, see your point, that's fine.

All right.

MS WRIGHT: And then if we could skip down to message 45, you tell Mr Thammiah that Paul and Guido are, "Harmless, don't worry," and what you meant by that is, "Don't worry, they're not going to get in the way of what we're scheming to do with this tender." You agree?---Mmm, don't think so.

20

That's what you mean, why would you be telling him they're harmless, and that they're "plebs"?---Maybe it was a joke, but, I mean, I don't really know what I meant at that time by that, but it was probably just a joke.

Well, they're not throwaway lines, Mr Soliman. What you meant is, "Don't worry, because they won't get in the way. They're harmless. I'm their boss. They have no idea what's going on."---Mmm - - -

30

That's what you mean.---I don't think so. I mean, I wasn't part of the actual tender, anyway. So - - -

You weren't part of the tender?---The - - -

MR YOUNG: Party to.---The committee.

MS WRIGHT: You weren't part of the committee, but you were controlling the outcome.---Mmm, not necessarily. I mean, well, like we've already founds, I mean, other scales met all of the specs.

40

Which scales met the specs?---I'm pretty sure some of the evidence showed that at least one of the AccuWeigh scales met the specs also.

Which scale - - -?---That's what I recall. I don't recall which one, but I think that's what my recollection is.

For this 425 tender?---I'm not sure which one.

Well, you're wrong about that, Mr Soliman. And then you say to him, "Okay, I spoke with Paul. He was checking it whether there is another," sorry, "He was checking if there is another supplier for PAT parts. He got told no." And so you're telling Mr Thammiah that you told Paul that there is no other supplier for PAT parts. Agree?---No, I think that's when IRD spoke to Paul, when he checked if there's another supplier, and that's, I'm pretty sure, that's what I mean by that if I can think back then.

10 Mr Walker checked with you, didn't he, whether there's another supplier for PAT parts, and you told him there wasn't.---He didn't, oh - - -

And how is it that he got told no, and that you knew that?---I, either IRD would have forwarded his info to me, and told me to speak to him if he wants to order parts or something like that.

You made clear to IRD that you would only deal with Novation, didn't you?---No, I didn't.

20 That's not true, Mr Soliman.---I don't, I don't recall ever saying to then you, you can only deal with Novation. Actually during the period I was actually asking Rish if you can move to any other vendor but again he didn't want to do that because they were, the didn't want to sell their product to the competitor.

You made it clear to IRD that you would only deal with Novation, didn't you?---I don't recall ever saying anything like that to them.

30 Well, do you accept that you, the effect of what you said was to indicate to IRD that you only wished to deal with Novation? Are you quibbling with the precise words I'm putting to you?---Well, the precise words have a big impact here because I mean, I never once said to them you can only deal with them. Actually they were the last option and they were the only, they were there because there was no one else that we worked with that wasn't selling hardware and wasn't selling software.

40 So you say your words were not you can only deal with Novation, but do you accept that what you conveyed to the staff at IRD that you were dealing with was that you wished to deal only with Novation in respect of these portable weigh scales?---I don't recall that but I do remember once when Rish called me and he said how is Novation going? And I said they're, they're fine. They're good to, they're good to go. They're getting all the parts and they got these scales in I think a few months before the target and I believe Mr Thammiah was scheduled to go up there for training so my point of view my feedback was they're, they're going fine.

We'll come back to that in a moment. Now, Mr Thammiah asks you in this message at message 45, "Why was he asking? Seems irregular." So

you understood that Mr Thammiah was suspicious about why Paul Walker had been asking whether there was another supplier for PAT parts?---It looks like that.

10 And you said, "For the trial I had him do and the upcoming procurement I didn't dig too deep." So you didn't dig too deep with Mr Walker because you didn't want to attract attention and raise suspicion. Correct?---I don't think so but pretty sure he spoke to me or I spoke to him, I don't know which one it was, and he just said that he had a chat with IRD to see if there's any other suppliers. I'm guessing he was just helping Mr Lee to see if there's any other suppliers for the tender that he was working on.

And the trial that you've referred to is which trial?---I think this was around August or something so maybe, I don't recall which one he managed at that time.

You asked him to raise a purchase order for a field trial in 2018 to do with weigh scales. Correct?---I think he done that one, yeah.

20 And you said to Mr Thammiah – Mr Thammiah said to you, "All right. Leave it be." And you said, "No need. It definitely wasn't malicious. Yeah, all good." In other words, what you meant was our scheme will not be foiled by this because Mr Walker has no idea what we're doing. Correct?---I don't really agree with that. I mean, I don't know, I don't get what you just said from the message that I'm seeing here.

30 Well, even if it's laid out in black and white for you, Mr Soliman, you seek to distance yourself from your conduct in your conspiracy with Mr Thammiah to control and profit from this procurement, don't you?---I've already said what I done was obviously wrong, me getting way too close to him was wrong. I'm not trying to separate myself from what I've done, it's clearly wrong, but - - -

40 I suggest in every answer you give practically you don't accept what you've done. These messages reveal explicitly your motivation and your conduct. Don't you agree with that?---Not really, I'm just having a very hard time to process my memories of the past year and this is the first time I actually can see these messages and I don't actually remember sending them, so when you ask me the questions I'm trying to think in my mind what was going on in my mind at, at that time and it's not as clear as you may think.

How else could an inquiry made by your colleague, Mr Walker, be malicious? Why would you be telling Mr Thammiah it wasn't malicious? ---I'm not sure.

How on earth could that have been malicious?---I'm not sure. I mean I didn't really speak to Paul much about that, he just told me he was checking if there's any other manufacturer or something like that, so I let it go.

THE COMMISSIONER: Didn't you go up to him and say, "I believe you're making inquiries about IRD scales?"---Either he came to me or I went to him, I forgot which one, but we definitely had a five-second chat. I think IRD might have asked me that this man wants to purchase hardware, yeah.

Because Mr Walker was relatively new to your team, wasn't he?---Maybe one year.

10

Had worked in a different section with Guido and Alex. The use of the word malicious does suggest that you and Mr Thammiah were up to something that you knew wasn't appropriate and you were concerned when somebody started making inquiries that might reveal the extent of your relationship and your dealings with Mr Thammiah.---No, I didn't really speak to Paul much at all about it. So I mean I guess if I had an issue or I was thinking of those terms I would have spoken to him longer, but I mean I didn't really care, if he wants to speak to them, that's fine. I don't remember what the concern was at that, at that time.

20

MS WRIGHT: And then if we go over the page, once you've told Mr Thammiah that Paul Walker's intervention is not malicious and he's harmless and you didn't dig deep and it's all good, Mr Thammiah says, "Novation is golden. Sweet, sweet." And you say, "Golden, son. PS, I still want that shirt, son, Novation represent, I'll wear it to work." And Mr Thammiah says, "LOL, sexy." So you're quite proud of yourselves that you're duping everyone at this point, I suggest.---No, I was just happy for, for him, him, actually that he's, that he's done a very good job here, to be honest. I mean whether, I mean - - -

30

THE COMMISSIONER: What good job had he done?---Well, he, he sent the scales, you know, three months early and if you compare him to the previous, the previous vendor - - -

Well, he's not doing any repairs, is he - - -?---No, but - - -

- - - because he can't do repairs.---No, if the parts - - -

40 So he's only, so he's just, he's produced from the, he's able to arrange from the manufacturer in Canada 125 scales.---Yeah, well, the previous vendor couldn't do that.

Didn't the previous vendor provide – how many was it?---I think it was 12 or 24 and it took them about one year.

24 scales?

MS WRIGHT: Yes, ELWC, yes, yes. There was a purchase by RMS for 24 sales and they provided them.---Yeah, it took them about one year.

But it was cheap, wasn't it?---I don't know, but it wasn't - - -

THE COMMISSIONER: It saved the public purse a lot more, didn't it?  
---I don't recall what the price was but it wasn't the modified version and it took one, one year, that was another issue with them.

10 MS WRIGHT: No issues with Novation.

THE COMMISSIONER: But here you're saying you want to wear to work a shirt with Novation on it.---Yeah, I think he, he either give me, like, one of shirts as a gift, or, I don't know why it was there. Maybe it was just a spare shirt for him. But, yeah, I remember that I had one of his shirts.

MS WRIGHT: Because it was your company, Novation.---It wasn't, it wasn't my company.

20 It was your company. You aligned yourself totally and entirely with Novation's interest, contrary to your duties at RMS, and contrary to the public interest. Isn't that absolutely obvious, Mr Soliman?---I mean, I was helping a friend, and I was favouring him, and like I said, the lines got very much blurred, but it was never my company.

Then going on, you tell Mr Thammiah to, "Have a good one, bro. Come for dinner tomorrow night if you're free." And then, 14 August, you were asked by your colleagues, if we could just stop there, and if we could bring up volume 11, page 313, you were asked to confirm whether the whole  
30 budget for these scales would be spent this year. Do you recall that?---By who?

And you said that the budget would be spent. This is 14 August, 2018. Sham Sharma has asked you, "Can you please confirm that we would spend the \$7 million this year for weigh scales?" and you say, "Yes, that's correct. Alex Lee's managing the procurement, FYI. The tender's ready to go live, awaiting Melinda Bailey's signature on the procurement strategy doc so the RFP can formally be published online by TSS. It's been signed by Roger Weeks and the chief procurement officer already." You see that?---Yes.

40 And so that's at the same time as you're conversing with Mr Thammiah in respect of getting cash from him and deterring your colleague Paul Walker from a question he raises whether there could be another supplier other than Novation for PAT scales.---Um - - -

Do you accept that you demonstrated an extremely high degree of duplicity in your involvement with your colleagues at RMS?---What do you mean, sorry?

Do you accept that your conduct was very duplicitous, dishonest?

---Dishonest, yes.

Now, if we go to message 49, you tell Mr Thammiah, "See you in the morning," and he says, "Done, I'll bring my laptop." And on 14 August, you tell him, "I got an email from Alex saying TSS approved the tender upload which means it will be live anytime now. Book those flights, son. LOL." So "LOL" here, does it mean "laugh out loud" or does it mean  
10 "suspicious"?---Which, which part are you looking at, sorry? I can't - - -

Are you looking at message 49?---I think I - - -

THE COMMISSIONER: See under the date 14 August?---Yes, sorry, yeah.

MS WRIGHT: You say, "Got an email from Alex," do you see that?---Yes.

You're telling Mr Thammiah when the tender is going to be uploaded. You see that?---Yes.

20

And you tell him to, "Book those flights, son. LOL."---Yes.

Now, what did the "LOL" mean?---(No Audible Reply)

THE COMMISSIONER: Suspicious or funny?---Could mean several things. I mean, "LOL" means lots of things in a different, a different, I guess, the, the, the context.

Well, what did you mean there?---"Book the flight, son. LOL." Mmm,  
30 nothing.

"Hey, we're getting money. Let's go overseas." Isn't that what it's suggesting?---Me, I, I wasn't going, no, I think that's when he was going for the training to Canada.

MS WRIGHT: You were having him go to Canada in order to ensure that IRD wasn't deterred in any way from using Novation as its distributor, weren't you?---Are you asking me if I forced him to go to Canada?

40 No.

THE COMMISSIONER: No. Listen to the question.---Sorry.

MS WRIGHT: You had Mr Thammiah go to Canada in order to ensure that IRD wouldn't be distracted from using Novation as its distributor, didn't you?---I thought the reason he went there was for training. I'm not, I'm not sure if it was - - -

And to negotiate the price of these scales?---I think he did. He said that he was talking to them about the price also, yeah.

That was the purpose, wasn't it, to negotiate the price and ensure that IRD would use Novation and wouldn't be distracted from that course?---All I know from him is what I recall. He said he was organising training and he was going to try and talk about the price with them or something.

10 Well, that's just false your answer there. What do you say to that?---That's what I recall.

MR YOUNG: I there a question in that?

THE COMMISSIONER: Yes.

MS WRIGHT: What do you say?---Sorry?

20 THE COMMISSIONER: It's been put to you that that answer was false. Do you agree with that or not?---My answer that's, are you saying - - -

MS WRIGHT: That it was about training, Mr Soliman.---My recollection is Steve told me that he was going to try to organise training there and he did briefly mention that he was going to talk, talk with them about the price or something.

30 The training, if any, was incidental, wasn't it, it wasn't the main purpose of the trip?---I don't know. I mean, I don't know. He didn't really tell me much about the trip from what I can remember but he said he was trying to organise training and the was going to say, talk to them about the price or something like that.

And then you ask Mr Thammiah by WhatsApp, "To go to the bank and pull out around \$20,000 today. Need some funds, son." So that was \$20,000 for you?---Yeah. And I actually only used 5K of that. The louvres cost five, 5K.

He gave you \$20,000, did he not?---No. He ended up giving me only five of that.

40 And he says, "20K LOL. You crazy?" And then if we go over the page he says, "Who pulls out that much except dodgy c-u-n-t-s." Do you see that? --- (No Audible Reply)

And you said, "How much can you pull out?" And he says, "Banks are reporting everything now too." And then he refers to the royal commission. Do you see that?---Yes.

You understood that that reference r-o-y-s-l-c-o-m-i-s-s is a reference to the royal commission?---I'm not sure if I get it, I got it then but now that you say it like that, yeah.

THE COMMISSIONER: And that's the Royal Commission into Banking and Finance?---Okay. I'm not sure I picked up on it then but you've told it for me, yeah.

10 MS WRIGHT: And then you say, "How about you pull it out slowly every day before you leave next Monday?" Why would he be pulling out money slowly?---I guess he said he didn't want to pull out a large amount at once.

THE COMMISSIONER: Because the banks are reporting everything now. That's what he's saying to you, isn't it? Again, you're trying to disguise the fact that you're getting money from Mr Thammiah.---I don't know about that. He just said, yeah, he doesn't want to pull out a large amount. I don't know exactly what his reasoning.

But he - - -

20

MS WRIGHT: But you tell him – sorry, Commissioner.

THE COMMISSIONER: No, no, no, go.

MS WRIGHT: You tell him to pull it out slowly - - -?---Yeah.

- - - once a day, don't you?---I think just maybe because he can use a ATM. He doesn't have to go into the bank. I don't know exactly but either, either way obviously I've asked him for money for, for the, for something.

30

And he raises an issue about the banks reporting and you say get it out slowly. Do you see, do you agree that you said that?---Yeah.

And you said that because you understood what the issue might be with him pulling out a large amount like \$20,000, did you not?---Um - - -

40 You understood that could be an issue. It wasn't just a practical issue. You understood there was an issue with that, a problem with it. Do you agree with that?---I don't really know what the problem is. I mean, what's the difference to me? I mean, if he's going to give me an amount of money it doesn't make a difference how.

Well, you didn't say to him well, what are you talking about? It's fine. Why can't you just go into the bank and get \$20,000? You didn't question him at all, did you?---No. It was up to, up to him.

THE COMMISSIONER: No, indeed if you look further, you know the reason, you suggest the reason as to why there's a difficulty in pulling out

\$20,000. You say, "Limit?" And the answer is, "Banks trigger a flag at 10."

MR YOUNG: Well, I object to that, Commissioner. I mean "Limit" refers to the previous entry.

THE COMMISSIONER: And then it goes on - - -

MR YOUNG: No, but - - -

10

THE COMMISSIONER: - - - "Banks trigger a flag at 10 apparently right." What I'm saying, my question to Mr Soliman in the context of this entire conversation it is quite clear that he's demanding his, in my view presently, his share of the proceeds from Mr Thammiah and they're trying to work out how the money can be, how he can receive the money without being detected, and this raises this question of banks triggering a flag at 10, what the limit is, et cetera. That's the context of this conversation, isn't it, Mr Soliman?---I mean I'm asking him, limit, what do you, what do you mean? And he's asking me back apparently right, as in that's a question. I don't know what the context is. I think he didn't want to pull a large amount for whatever reason.

20

Mr Soliman, it's quite clear that the reason he doesn't want to give you \$20,000 as you've demanded is that banks are reporting everything now to royal commission, weekly limit was six and then he has, "Banks trigger a flag at 10."---Yeah. Mmm. I'm not sure what that flag is anyway, but I mean to me it, I had nothing to do with how much he would pull out and when, he just said he doesn't want to pull that much out and he said something about a limit, I asked what's this limit about.

30

MS WRIGHT: All right. And then you tell him to get \$2,000 daily until next Monday and you ask him to confirm that he's already got 8,000, and you say, "Fuck, I need to get my name on Novation. LOL." And he says, "That was for last and for this week. LOL." Then you say, "Can't deposit cash into the mortgage, dodgy as, come round when you wake up with whatever you have, we'll see what you can withdraw before Monday." So, and then if we could go to message 53, and you tell him that the tender is delayed and you refer in despicable terms to the executive director. Do you agree with that?

40

THE COMMISSIONER: Who is the stupid - sorry, go on.

THE WITNESS: Sorry?

MS WRIGHT: You referred in despicable terms to the executive director. Do you agree with that?---Yes.

THE COMMISSIONER: And who is the "stupid executive director?"

---It would have been Ms Bailey.

Ms Bailey.---Yep.

10 MS WRIGHT: And you tell me Thammiah that it's still likely to go live by Wednesday. And then you send him something where you say, "Had to show you this, I just LOL'd for two minutes." And then if you go over to message 54, and then if you go over to 57, just to show you that's turning into 16 August, 2018, and then if we could just go through the next ones up until message number 60. You then informed Mr Thammiah of the tender close date being 5.00pm on 30 August, and you tell him when it will be online. Do you see that, you agree that you did that?---Yes.

Ensuring that he would get his submission done. Correct?---(No Audible Reply)

You were seeking to ensure he would get his submission done?---I think I was just telling him the tender's up.

20 Why were you telling him?---Because he's my friend.

We know he's your friend. Why are you telling him when the tender's going up?---I don't know. I mean he would have known anyway, but just a casual chat I guess.

A casual what?

30 THE COMMISSIONER: Chat.---Chat, yeah. As you can see, we talk all the, all the time, so - - -

MS WRIGHT: Mr Soliman, why are you telling Mr Thammiah that the tender's going up?---I was just probably talking to him at the, at the time and then that's what I was working on at work and it came up, but he would have known anyway, I mean it's not going to make a difference if I tell him or he got, he gets told.

40 It's not going to make a difference if you tell him or someone else tells him. Is that your serious answer?---Yeah. I mean he would have got a call from Alex, Alex Lee and he would have got a notification I believe on the eTender site.

You were making sure that it would all happen according to plan.---Well, like I said, yeah, I was helping him, yeah.

And then you tell him that there's a passcode and Alex will contact him. ---Yep.

Making sure that Mr Thammiah's ready and able to respond to the published tender. Correct?---Basically, yeah.

10 And then at message 61, and you say you've logged on. You say, "It's officially live. I logged on and searched for the RFT ID, it's there." Mr Thammiah says, "I got a call from Alex 30 minutes ago. All good, I'm in." And you say, "Nice." He tells you it's downloaded and you say, "We're good," because it's also your tender submission which is going to be submitted by Novation. Correct?---It's not my company. I mean once again when you're so close, when you're best, best friends and obviously I've been helping him, the language is skewed and changed, but it was never my company, I, I never saw, I never saw the money from these, from the tenders anyway. I mean that's not what he said to me.

What do you mean, "That's not what he said to me?"---I mean he was, he said the money was from his personal bank, and like I said - - -

THE COMMISSIONER: I think this is the alleged loan.

20 MS WRIGHT: I see. So Mr Thammiah told you that the money he gave you was not from RMS. Is that your evidence?---Basically, yeah, but I mean obviously everything's - - -

30 What did he say to you, Mr Soliman?---Well, when we first spoke right, right at the beginning, obviously we had a long friendship and he knew that I had gone through problems and he basically said, "Look, I don't need the money that I have now from my, from my marriage and I'm going to get a settlement and you've helped me get through," obviously he went through a very hard period where he had mental, mental illness for a very long period of time and he credited me for pulling him out of that and this was his way I guess of paying me back somehow, but - - -

THE COMMISSIONER: So he said, "I don't need the money from my marriage settlement, you can have it." Something along those lines? ---Basically, and he was already very well-off.

We're just trying to work out what he said, what you, your evidence is - - -? ---To the effect of that.

40 - - - about what Mr Thammiah said to you.---Well, to the effect of that basically. I don't remember the exact wording but he was already very well-off when he was married also and this was his way, he said, of basically saving his life back, back in the day.

MS WRIGHT: And so was this conversation before you received the first cash payment from Mr Thammiah?---Yes, definitely, yeah.

And was there ever any further conversation about where the money that he would give you was coming from?---I don't recall a conversation but obviously the lines got very skewed and I mean we were so close that, I mean either way, whether it was a loan or from the contracts, either way obviously, as I know now, I've breached, I've breached the code of conduct, so either way it's wrong.

10 Now, going back to the messages, you said, you asked him to get a draft ready for you to review next week, and Mr Thammiah agrees with that. Do you see that?---Yep.

And then message 62, you tell him, "Good teamwork again, bro. We're almost there." Where are you almost, at this stage?---I'm not sure, but it's the same, well, it's the same thing over and over. I was so close to him that, I mean, the, the lines obviously got jumped and crossed and - - -

Where are you, when you say, "We're almost there"? Almost where?---I'm not sure.

20 You know very well where, Mr Soliman. Are you going to answer the question?---I'm not sure exactly what I meant at that time that, I don't know.

Your discussion is about the tender going live, and you ask him to get a draft ready for you to review with him the next week. And then you say, "Good teamwork, we're almost there." Do you think it's got something to do with the draft that you're going to review?---Maybe, yeah.

30 Is that a yes?---It's, I don't recall exactly what I meant by that message, but it's possible if it's in the context.

And he says, "One more hurdle. We got this." What's the hurdle?---Mmm, I'm not sure. I think maybe we, we, I don't, I remember at that time, at that period we were talking about my mum's cancer also. So, there was, yeah, several things happening. I don't, I don't know exactly what the hurdle meant.

40 This is not a discussion about your mum's cancer. You know that. Don't you?---Don't know exactly what the hurdle was, but I mean, we were, I, I know that we were talking about Mum, a lot about, in, during that period.

You're not telling the truth, Mr Soliman. You know very well what this conversation's about.---I just don't know what I, what he meant by "hurdle."

Isn't it the getting in of the submission, and the evaluation of the submission?---Don't know. I don't know.

THE COMMISSIONER: Mr Soliman, I've got to say to you, I'm finding that evidence very difficult to accept. You're really saying to me that in the context of this conversation, where you're saying to Mr Thammiah, "Get a draft ready for me to review with you next week, good teamwork again, bro, we're almost there," and he responds, "Yeah, one more hurdle, we got this," you're honestly saying to me, "I don't know what he was talking about?" ---Well, the hurdle, I don't know what hurdle he meant exactly.

MR YOUNG: Well, with respect, I mean, it is - - -

10

THE COMMISSIONER: He's given his answer, that's fine.

MR YOUNG: Yes, I accept that. But I mean, he's being asked about what his, what's, the questions are confusing, firstly, as to what somebody else meant, and what his understanding was. It's not his words.

20

THE COMMISSIONER: Yes. That's fine. I'm giving, I'm trying to be fair, Mr Young, and giving him an opportunity. I've warned, I've given him a protection under section 38 of the Act. I have informed him that there is a very important exception, where you give false or misleading evidence to this Commission. I'm giving him an opportunity to give honest evidence here, and I'm giving him the opportunity to say, where I tell him I'm having difficulty with some of his evidence. But if he maintains those answers, that's fine. Go on, Ms Wright.

MS WRIGHT: Have the questions been confusing to you, Mr Soliman? ---The questions are not, but again, I'm trying to think back to what exactly "hurdle" meant at that point, and I'm not sure exactly what "hurdle" meant. I don't know what Stephen meant by that.

30

Well, if we could go back to message 61. You see you say, "Can you get a draft ready for me to review with you next week?" Do you see that?---Yes.

So you've raised the topic of a draft with Mr Thammiah. He hasn't raised it, you've raised it. Do you agree with that?---Yes.

And you were referring to a draft tender submission by Novation, weren't you?---It seems that way.

40

I'm not asking you if it seems that way. I know it seems that way. I'm asking you if that is what you meant?---It probably was. I mean, again, I don't remember any of these messages but that's what it looks like reading this.

You don't recall asking Mr Thammiah to get a draft ready for you to review?---No, but I mean, I mean, like I said in my, the past 12 to 18 months I've had I mean - - -

This is not ancient history. This is August of last year.---Yeah.

It's not even a year ago. It's not even 12 months ago, Mr Soliman.---I know. I know.

10 And isn't it clear that what you were asking him was to get a draft tender submission by Novation ready for you to look at. That's what you meant? ---Like I said, that's what it seems like here but I've also said I don't recall even sending these messages due to what I've gone through in the past 12 to 18 months.

You just won't acknowledge it, will you, what is obvious I submit?---It seems obvious but I'm just telling you I don't even recall sending these messages.

What else could it be?---I don't, I mean, I don't know what else could it be. But like I said, it seems obvious. That's the way it reads so that's the way it must be.

20 Is there anything else you can think of in August 2018 that you might have been referring to here?---I don't know.

You can't think of anything else?---No.

Do you agree that's what it was, the Novation submission?---I think I've already answered.

30 Not going to agree that that's what it was?---Because I don't recall. Because I don't recall if there was anything else that he would have sent me but reading this now I don't think it could have been any, anything else.

Now, we'll move on from that. Message 64. Then you set out a message where you say, "Give Rish the idiot a ring would ya." And you've copied to him a message that you've received from Mr Malhotra. Do you agree with that?---Yes.

40 Mr Malhotra has said, "Hi, Samer. How you doing? Well, I am currently in Europe and received a message from Chris Patterson at CIC mentioning they have been invited by RMS to bid on the upcoming 425 portable scale tender. I'm a bit confused by this message given we are responding through Novation and wanted to check with you to clarify as I understood from our previous conversation that whoever supplies the 125 will also supply the remainder. Thanks." Now, those additional words further down the page and I'll just - - -

THE COMMISSIONER: I'm message 65.

MS WRIGHT: In message 65. Do you see that?---(No Audible Reply)

Now, if we could – do you see down the bottom of message 65?---Which, which part, sorry?

See at the bottom of message 65 there's some white area and it says, "Year will also supply the remainder. Thanks." Do you see that?---Yeah, yeah.

And then if we could go back up, please. I suggest there the final words are after the number 125 in the message that you've set out from Mr Malhotra.  
10 Do you see that?---Yes.

And so you had received a message from Mr Malhotra about the company CIC contacting him. Do you agree with that?---Yeah, yeah.

And you understood, didn't you, that Mr Malhotra was confused about that contact from CIC which said that they'd been invited by RMS to bid on the 425 scale tender?---Yes.

And Mr Malhotra raises with you, doesn't he, that he thought that he had to  
20 supply through Novation?---He had to or - - -

That he, well, if you've got an issue with had to, he understood or you understood that he was telling you that his company was supplying the scales through Novation?---That's what he's saying here, but I think he was mixed up because someone else asked him and I was also mixed up I think because I thought that Novation still had the licence but I don't, that's basically it.

You understood, didn't you, that Mr Malhotra was confused by the contact  
30 he received from CIC?---That's what he said.

You understood that he was confused about that?---Yeah, because that's what he, what he said, yeah.

Yes. And the reason he was confused was because he thought IRD would be supplying its scales through Novation.---I'm not sure I understand the question. Novation had the licence and, sorry, can you rephrase the question?

40 You understood – what did you understand by this message? You tell us, Mr Soliman.---That someone else has asked him to provide a quote and maybe he was looking at, I don't know exactly, that's, that's basically it, to ask for a quote, but also it was a bit weird for me at this, this late and this close to the actual tender to change your supplier.

Isn't Mr Malhotra checking with you what he should respond to CIC? Isn't that what you understood he was doing?---Maybe. I don't think I made contact with him during that time, I don't remember talking to him, but that

was one of my problems, I mean he was calling me about things that he didn't need to call me about.

Why did you think he was contacting you?---I'm not sure, again, I mean I don't know. He just said that he's been asked by someone else.

And you thought there was a possibility, didn't you, that he might have got the idea that he could supply through a company other than Novation?

---I'm not sure. I don't think I spoke to him during that, during that time.

10

So you don't agree that you took from his message that he was raising the possibility that it was open to IRD to supply scales through another company?---No, because he's saying he's a bit mixed up and I thought it was a bit odd because it's so close now that, I mean, how can you go through the process of changing a licence to a different person, that takes months and months. So I was a bit mixed up by his, by what's going on, I didn't really know what's going on. That's why I told Steve basically call him, I mean it's got nothing to do, to do, to do with me basically.

20

And you tried to telephone Mr Malhotra in response to his message to you? ---I think so, yeah, but I don't know, I don't remember speaking to him though.

You told Mr Thammiah, "He didn't answer my call," didn't you?---Yeah, yeah.

And you told Mr Thammiah to give Rish Malhotra a call.---Yeah.

30

And Mr Thammiah answers, "LOL." Do you see that?---Yeah.

And he said, "Great they know, I have to go." If we could scroll down to message 65, "What you think?" And you tell him, "Yeah, call him and tell him you're on your way. He'll call me later I'm sure and I'll tell him it's Novation or nothing."---Yeah.

See, I was putting to you that you understood that Mr Malhotra was concerned about whether his company would be supplying parts through Novation and he was confused by the contact he'd received by CIC.---Yeah.

40

And you understood perfectly well at the time that you needed to reassure Mr Malhotra that he had to distribute his product through Novation - - -? ---No.

- - - or he wouldn't get RMS work.---I mean from my point of view he was mixed up because if there's, if he's been asked by someone else maybe there's a concern with Mr Thammiah like there was with the previous vendor, ELWC and he's obviously looking for my feedback if they're doing a good job, I think. Didn't really see it any, any other way.

THE COMMISSIONER: Isn't he also confused, because he says in this message that you'd had a previous conversation with him in which you said whoever supplies the 125 scales will provide the remainder of scales ordered, so whoever got the 125 would get the 425 or the subsequent order. Isn't that what he's saying in that subsequent part of his - - -?---I don't know, but I think what, what was meant to happen - - -

10 No, no, no, do you agree that that's what he's saying in that latter part of that message?---There's a change in the context though, there was meant to be a larger bucket of funding to do the whole 550 or so scales at one, that changed obviously.

Yes. So he got the 125, sorry, Novation, and hence because Novation is the supplier of the IRD scales, they got the 125, correct?---Yes, yes.

20 And then what I'm asking you to begin with is the latter part of his message go you, which commences at message 64, is that he's saying, look, we had a discussion, we had a conversation and you told me if we supply the initial 125 we also will supply the remainder. Number one, that's what he's saying, isn't it?---(No Audible Reply)

Whether you agree with it or not we'll get to in a minute, but I'm just trying to establish that's your understanding of what he's saying there.---Do you have his whole message? I mean, whoever supplies the 125 - - -

30 Yes, you've been taken to it. It starts in 64 and I'm taking you to the section in the little box where he says, Mr Patterson of CIC has contacted me. A bit confused by this message, number one, because we're responding through Novation, and Ms Wright has asked you some questions about that, and then you said, "Wanted to clarify, as I understand from our previous conversation that whoever supplies the 125," and then we go down, thank you, to message 65, "whoever supplies the 125 will also supply the remainder." ---Yeah, that makes sense, yeah.

40 MR YOUNG: Sorry, I don't, but there's – in fairness I think that those words that are obliterated may, may affect the meaning. I mean I don't think it's fair that a person be asked to comment on something where there's plainly a line that's been obliterated.

MS WRIGHT: Commissioner, I can inform the Commission what those words are.

THE COMMISSIONER: Yes.

MS WRIGHT: "Scales from earlier in the year."

THE COMMISSIONER: All right. So the message, part of the message I'm focussing on is, "Clarify, as I understood from our previous conversation that whoever supplies the 125 scales from earlier in the year will also supply the remainder."---Yeah.

Now, step number 1, let's take it in stages. My reading of that message is that he's saying, I had a discussion with you, Mr Soliman, in which you said whoever supplies the 125, the initial one earlier in the year, will also supply the remainder.---Yeah.

10

Now, do you agree that's what he's saying to you?---Yeah, basically, yeah.

All right.---Because I think the licence - - -

Now, did you have that conversation with him?---Yeah, it was, I think he told me that Mr Thammiah got the licence for a year so he was obviously thinking or it was a, it was a guess maybe that whoever wins the first one, if they win it again then that will be the same supplier because it's in the same year period of the licence.

20

But he's not saying that. What he's saying is that whoever wins the 125 will automatically get the subsequent order.---Oh, I don't, I don't think - - -

You don't agree with that?---No. I mean I don't know how he would know that anyway, but I think he's just talking about his licence because I think from memory Mr Thammiah got the licence for one year, so maybe he's trying to plan his business saying, hey, do I need to like, change anything here or - - -

30

Well, that's not my reading of it. Are you sure you didn't have a conversation with him earlier in the year where you said, look, if you succeed on the 125 tender, if that further funding comes in for additional scales, you've got it?---I don't think that's what the context was.

No, no, no, no. Did you have that conversation with him?---Not, that's not what I said to him at all because I wouldn't have known that though. I mean what the context - - -

40

You would have known that he'd won the 125 tender, didn't you?---Yeah, but I think what he's actually talking - - -

No, no, no, no, you knew that he'd won the 125 tender?---Novation, yeah, of course, yeah.

And Novation/IRD.---Yeah.

And what he's saying here is if you win the 125 you automatically get, you

will also supply the remainder – when that funding comes in – in brackets?  
---That's not what I've, don't think I spoke to him, but he was asking about  
the, the licence basically previously when we spoke, so he was maybe  
planning his business for, if he wants to change the supplier after that one,  
one-year period.

It doesn't say anything about changing the supplier with the remainder, does  
he?---But it says supply, supply the remainder, so I'm guessing he's just  
thinking about if he needs to change the supplier after one year.

10

All right. Don't guess. What I'm saying to you is my construction of this is  
that it suggests a conversation you had with him - - -?---Yeah.

- - - previously and you're denying that you had a conversation in those  
terms, that whoever wins the 125 will automatically get to supply any  
subsequent scales.---That's not what I recall of the conversation.

MR YOUNG: Commissioner, can I just seek one point of clarification?

20 THE COMMISSIONER: Yes.

MR YOUNG: You've put to him that that conversation occurred after the  
awarding of the 125.

THE COMMISSIONER: Might not have. Yes, I take your point, Mr  
Young. The conversation that I suggest Mr Makhotra - - -

MS WRIGHT: Malhotra.

30 THE COMMISSIONER: Malhotra is setting out there, I did put to you it  
would have occurred after the successful tender of the 125. That might not  
have been the case.---Okay.

But your evidence is you never had such a conversation with him?---My  
recollection of the chat with, with him, he was saying that - - -

No, no, no, just tell me the terms of the conversation.---That's, that's what  
I'm saying, yeah.

40 Yes.---So my recollection of the, the chat, he basically said, okay, we've  
given the licence to Novation for one year, and that's basically, I think this  
was right, when I called him was right before or right after the first tender.

All right. So your recollection is he said something like, I've given  
Novation the licence for one year.---Yeah, but he's also seeing if he should  
change the supplier after the year.

No, no, no, I'm asking you the terms of the conversation you claim that you had with him, and you've said, "He said to me, Novation's got a licence for a year."---Yeah, that's what I recall he said.

MS WRIGHT: And did you take it from this message which you received from Mr Malhotra that you should tell Mr Malhotra that IRD would have to supply through Novation if it wanted to sell portable weigh scales to RMS as the end customer?---I gave him some feedback about how they've done it with the previous tender.

10

Could you just answer my question? Did you take it from this message that you should tell Mr Malhotra that if IRD wanted to supply to RMS's end customer, it would have to go through Novation?---I saw his, that message as looking at, to get feedback on how they were doing, because he was, it seemed like he was mixed up.

But so you told Mr Thammiah, "I'll tell him it's Novation or nothing."  
---Yep. Because obviously at that, at that point, I, I felt it was pretty crazy to change your supplier very close to the tender.

20

But that's not just about feedback about Novation's performance. That is you responding to this message by telling Mr Malhotra that it's Novation or no company, no business.---Yeah, the, the purpose of that obviously was not to change now at the, at the point of an actual tender being there, so, it seemed silly - - -

THE COMMISSIONER: So, again, you're favouring Novation.---Yep.

MS WRIGHT: And you had lined Novation up as the exclusive distributor for IRD.---I had given his, their, their name last out of all of the actual vendors, and I, and I know that I told Rish also that the best, the best person here to supply is actually AccuWeigh.

30

Two years before this, you had lined Novation up to get IRD's business. Do you not agree with that?---Well, "lined up" is a strong term. I gave their name last out of all the other, the recommendations that I, that I gave, yep. And obviously, you know, it was a good thing for Mr, Mr Thammiah, and yes, I was favouring him, but I mean, was it a, kind of a plan at the, at the beginning to do that? No, it wasn't. I gave his name, and he was one of two  
40 of the, of the vendors that weren't selling hardware, weren't selling software, so, they made their own deal.

40

Now, you responded to Mr Malhotra by saying, "Hi mate, feel free to call me now, for some feedback, Novation done an excellent job to manage the last procurement. I'm more than happy," over the page, "with their performance and ability to deliver and especially deal with the end customer. The public tender was released today." You sent that to Mr Malhotra?---Yes.

And when you referred to the end customer, you were referring to RMS?---I think the inspectors, sounds like.

Well, Novation wasn't dealing with the inspectors.---He was.

Novation had a contract with RMS.---He was meeting the in, he was meeting them regularly. I know he met Mr Jones a lot, or I mean, at least a dozen times.

10

How do you know that?---Because Mr Thammiah and Mr Jones told me.

Who told you?---Mr Thammiah and Mr Jones told me.

Meeting regularly?---Well, not regularly, but definitely for a period of, period of time anyway, they were meeting regularly.

20

So for what period of time were they meeting regularly?---I know definitely when the 10C scales were purchased, think that's the main time, and Mr Jones said he was very, very happy with the support of Mr, Mr Thammiah, and he was much better than the previous vendor.

THE COMMISSIONER: Do you remember Mr Jones gave evidence that the software or the bluetooth wouldn't work?

MS WRIGHT: Yes, and Mr - - -

30

THE COMMISSIONER: And Mr Thammiah came out, and I - my recollection is his evidence was that he couldn't fix it either.

MS WRIGHT: No. That's correct, Commissioner. Where you say the end customer, were you referring to Mr Jones in your message to Mr Malhotra? ---I think I would have been referring to the inspectors in general, yeah.

The inspectors in general. So when was Mr Thammiah meeting with inspectors in general?---I just answered that.

You told us that - - -

40

THE COMMISSIONER: Well, you referred to Mr Jones.---Yeah, yeah.

So it's Mr Jones, is it?---Yeah, and I think Mr Thammiah also spoke to other inspectors. I know he went also to the Penrith site several times.

What for?---I'm not sure but I know he went there.

MS WRIGHT: And so when you said his ability, Novation's ability to deliver and especially deal with the end customer, were you referring to

Mr Jones and some inspectors at the Penrith site?---Looking back now that's more than likely what I meant.

You were referring to the agency with whom Novation had its contract, weren't you?---I don't know. That wouldn't make sense because I mean, I would, there will be no need for me to tell Rish that. I mean, he knew that already. I'm pretty sure I would have meant the inspectors by end customer.

10 And why did you send this message to Mr Malhotra about Novation's ability to deliver and deal with the end customer?---Because I'm pretty sure his previous message was asking for feedback, if they're doing good. Maybe he was mixed up and thought they were doing poorly so I gave him that feedback.

And why did you want to tell him they were doing well?---Because they were.

20 Why did you want to tell him that?---Because I thought that's what his question previously was asking.

And why did you think he was asking if they were doing well?---I'm not sure I understand the question.

30 Well, you've told him – you understood that he was asking if they were doing well and you've said that in your response you sent that response in order to give him some feedback and inform Mr Malhotra that Novation was doing well. Why did you think Mr Malhotra was making that inquiry about whether they were doing well?---Because he had the same issue previously with ELWC so I'm sure he didn't want that to happen again.

So you thought this was just a general inquiry at large about whether Novation was performing up to standard?---That's what I took it I think, yeah.

And you didn't think it had anything to do with whether he should continue to use Novation in this procurement?---Well, of course that's what he was asking about like I just said and if they weren't doing well he would need to change. I mean, that's what he was asking basically.

40 Isn't it there in black and white you've said to Mr Thammiah, "My response FYI so he knows he can't change to another supplier"?---Yeah, I thought it was very late to change now then you will have no one basically. I think it took Mr Thammiah many months, it's a legal process also, to change vendors so I thought it was obviously silly to change now.

THE COMMISSIONER: So again you're identifying with the interest of Novation and making sure Novation is going to get the tender, be successful

in the tender?---Well, not through that message but definitely I was favouring him, yes.

MS WRIGHT: And you said to Mr Thammiah that he better call Fernando and Rish asap to lock things in.---Yeah.

To lock in Novation's position as IRD's distributor in New South Wales?  
---Yeah.

10 And you say because every vendor on the panel will be calling them now.  
---Yeah.

And so you were concerned at the risk that Mr Malhotra might take an interest in CIC who has contacted him?---I don't know if I took it that way. The way I took it was that Stephen done, done something wrong and to figure out what the problem is. I mean, once again - - -

It's obvious, Mr Soliman, that you are telling Mr Thammiah to ring Mr  
20 Malhotra and Mr Garza in order to ensure that Novation continues to be the company with whom they do business, because you were concerned that Mr Malhotra might have had discussions with CIC and changed its distributor.--  
-My worry was, number one, why is Rish asking me? He shouldn't be asking me, he should be asking Mr, Mr Thammiah. And what's happened? What has, you know, Steve done wrong? And it's not really for me to solve it. That's why I said you need to call them.

Then if we go to the next message, Mr Thammiah says, "All good. They can't touch me," and you say, "Sweet," and he says, "I'm going to Canada," and you say, "Yee-ha." So the trip to Canada was about making sure that  
30 Novation would continue to be the company with whom IRD chose to do business for the portable weigh scales, correct?---I don't recall that's what Mr Thammiah was planning. He already had that trip planned from what he told me. He was meant to be teeing up some sort of training.

He's informing you, "I'm going to Canada."---Yeah, that's right. And I'm pretty sure that trip was planned a long time prior.

And the trip was going to be used to ensure that Novation would continue to be the company with whom IRD did business. You don't seem to be  
40 accepting that that would be one of the purposes of the trip.---Well, for me, I mean, it wasn't for me to say. Obviously, well, I don't recall Steven telling me that. I mean, I thought the purpose - - -

You're discussing it here, Mr Soliman, in these WhatsApp messages.  
---Sorry. Where is he saying that?

Well, he tells you, "I'm going to Canada," and you say, "Yee-ha."---Okay.

So you understood perfectly well that Mr Thammiah, when he says, “They can’t touch me, I’m going to Canada,” you say, “Sweet. Yee-ha,” that an outcome of the trip or the purpose of the trip, or one of the purposes of the trip if you like, would be that he would lock in things with IRD for Novation to continue to be its distributor.---Look, I mean, maybe he did, but I don’t, I don’t remember him ever telling me that. I mean, it doesn’t really make a difference.

10 That’s what you’re discussing here, I suggest. There’s no other possible meaning, I suggest, to this exchange. You tell him, “Lock things in because every vendor on the panel will be calling them.” He says, “All good. They can’t touch me. I’m going to Canada.”---I mean, that had nothing to do with me. I wasn’t, I wasn’t the one who went there. I wasn’t the one who, who planned the trip.

In saying, “Yee-ha,” you were endorsing that approach. Do you agree with that? You’re agreeing with what Mr Thammiah was saying?---I mean if he, if he got the licence, obviously I was happy, happy for him. I mean, but it’s not for me to plan his trip or - - -

20

All right. And then if we go to message 69. On 17 August, Mr Thammiah asks you where you’re at and he says he’s called Fernando, “Rish is in Egypt.” And he says, “Going to try and do training in Canada too.” Do you see that?---Yes.

So you didn’t know before that he was going to try and do training in Canada, I suggest.---I’m pretty sure he told me. I’m pretty sure he told me. That’s why I knew.

30 Yes, he told you here on 17 August, 2018, in this message, that as an adjunct to his trip he would try and do some training.---No, I, he said something to me, a person that they were trying to plan up some training. That’s what I, what I knew.

And he said, “Set up for maintenance then and looks good.” What did you understand him to mean there?---Maybe he was trying to get training for the maintenance maybe.

40 Novation hadn’t been able to do any maintenance on the portable weigh scales. Do you agree?---No.

Do you agree or not agree?---Oh, I do, sorry, I do agree.

Mr Thammiah did not have the expertise to do any maintenance on portable weigh scales to your knowledge?---I think he just didn’t want to do it at the, at the end after he looked at it. You don’t need any specific knowledge. I mean you, if you can take apart the actual scale itself that’s basically it, it’s not rocket, rocket science.

You're suggesting Mr Thammiah could have done the maintenance himself?---Yeah. I think you just have to get - - -

So why does he need training in Canada to set up for maintenance?---I'm pretty sure just to open up the actual scale and there's a process, I remember reading a booklet on the process to open the actual scale and how to service it properly but once you know that process, then it's very, very simple.

- 10 So your evidence is if Mr Thammiah had the expertise to do the maintenance on the portable weigh scales it's because anyone could do it, is that your evidence?---That's not what I said. I said basically - - -

It is what you said.---It's a simple, simple process. Once you get training on the actual hardware itself, there's nothing more to it. I think you also just, from memory, the previous maintenance vendors had some sort of accreditation, like a licence also to maintain hardware but the actual process itself is not rocket, rocket science at all.

- 20 I'll go back to my initial question. To this point, Mr Thammiah had no expertise to do any maintenance on portable weigh scales, do you agree with that?---Yes.

And then he says he'll set up for maintenance and you understood him to be saying, didn't you, that if he did, he'd get more work from RMS because he'd get the maintenance contract?---No. He was just trying to get trained up for the maintenance like he always wanted to.

- 30 And there was a mutual understanding between you, wasn't there, that if he set up for maintenance you would ensure that Novation got the maintenance contract?---I couldn't ensure that. There were - no.

Because you could decide who got the maintenance contract as the manager of the Heavy Vehicles Unit which had responsibility for awarding such a contract?---There was already a contract in place. From memory, the AccuWeigh contract could have been three years or something like that. I'm not, I'm not sure exactly how, how long it was but that's, I don't think that's what he was saying or I definitely didn't say that or I don't remember saying that.

- 40 And this would be a new line or work for Novation and a new line of profit for you and Mr Thammiah to earn money from RMS's business?---I don't agree with that. I mean, he was, he was always trying to get trained for the maintenance also. That was the plan from, from the beginning but there was an issue with the, the time and obviously if he got trained it would take maybe six months for him to do that so we had go with a, another vendor and we were forced to use AccuWeigh first which was a mess.

I see, so you would have given the maintenance to Novation otherwise, would you?---That's not what I, what I said. Normally the person who sells the, the, the actual hardware would actually maintain it all. So, but the way things happened, ELWC was saying they were giving us the genuine parts. It turns out they weren't genuine and that, that went on for about one year and the scales were failing at a crazy rate and he was told again, you know, you can't put these part which Joe Blow is making into the scales. The scale certification is not legal at that point. He kept on doing that, so at that point I needed another way to get the real parts.

10

And so you exploited that opportunity to slide your friend's company into the position ELWC had been in?---No, once again - - -

But you couldn't give your friend's company all of the functions that ELWC had carried out to that point because your friend had no expertise to carry out maintenance of portable weigh scales?---There was no mention or even thought of Novation getting the licence at that point.

Licence for what?---For the IRD hardware.

20

At what point are you talking about?---When ELWC failed to procure the OEM parts, when they said they were actually purchasing them and they weren't.---And we found out that even after he was told over the period of one year, by me, by the inspectors, well, mainly me, that you can't put these parts into the scales, they must be OEM unless the scale certification is not legal - - -

Which year are you talking about?---Between 2015 and 2016.

30

And by July 2016, you worked steadily to ensure that Novation would be the company that RMS would use in lieu of ELWC and the IRD would use in lieu of ELWC.---I think I've already given evidence about this.

Is your answer yes? From July, 2016, you set out to ensure that Novation would take ELW's place in both IRD's business and RMS's business.

---Novation was the last name that I gave. I gave every other, I gave the name of basically every other vendor that we worked with first, and IRD said they can't use those ones, is there anyone else that doesn't sell hardware, and doesn't sell software. I gave the only two names that I could think of. One was CIC, they got the licence for WIMs. Other was Novation, they got the licence for scales.

40

Okay, well, I'll take you back to the documents that relate to that period I've just referred to, July 2016, Mr Soliman. Just coming back to these WhatsApp messages, you respond to Mr Thammiah, that he'll set up for maintenance after the training and it looks good, that that's nice, and he says he'll call Rish. And then you exchange a series of voice messages. What were you saying in those voice messages?---I don't recall.

Is that true?---That's true.

There's a lot of voice messages there. Do you recall exchanging voice messages?---I can see that we did, obviously.

And what were you talking about?---I just answered.

10 What were you talking about?---Just answered you twice. I mean, I don't recall what I said in those voice messages over, well, how, I don't know how long that was, even.

Well, you can see the timestamps on the voice messages.---Yes. 8.15, 8.16 - - -

And this on 17 August, 2018.---Yes.

You can see one, the first message?---Yes.

20 You can see six seconds?---Yes, I can.  
Were you discussing IRD?---No idea.

You don't wish to tell the Commission what you were discussing with Mr Thammiah?---You're asking me to recall - - -

THE COMMISSIONER: You can't recall, is that your evidence?---I can't recall. I can't recall. I can't recall.

30 MS WRIGHT: All right. If we go to message 72, you ask Mr Thammiah for some more cash, do you agree?---Yes.

And you ask him for \$8,000 before Monday, and he suggests that he'll leave the cards with you. And you say, "Transactions while you're gone looks bad." Do you see that?---Yep.

You said "translations." Do you agree it, you meant to say "transactions"? ---Probably.

40 And why were you saying it looks bad?---Well, it's a bit, it's a bit odd if someone's using his card and he's not, not in the country. His card might get locked maybe.

And why would that matter?---Well, his card might get locked.

But you said it looks bad.---Yep.

Why did you say it looks, would look bad? Why were you concerned about that?---Well, normally if, if you get a transaction when you're in a different, in a different place, your card gets locked.

THE COMMISSIONER: But that doesn't make it look bad, that means you can't access money. Your comment, "Is that smart, transactions while you are gone looks bad," that suggests again that you were trying to keep the fact that you were getting money from Mr Thammiah secret, doesn't it?---I don't know about that. I mean, I just - - -

10

So you don't agree with that?---Don't know, well, that's, I don't think that's what I meant. I don't know that's what I meant, but obviously if you're a different country, and you use your card in a different country, then it's going to get locked.

Yes, but you don't say, is that smart, your account might get locked or I might be prevented from accessing money, you say, "Transactions while you are gone looks bad."---Yeah.

20

And then the response in it is, "I can say I've got a GF." I take it that's a girlfriend. "Not unusual." "Well, true." You clearly, I would suggest to you, Mr Soliman," your concern is disclosure that you're getting money from Mr Thammiah.---I mean I didn't really have an issue with it, I thought it's his personal card, I mean what I thought, anyway, I don't - - -

30

MS WRIGHT: You knew you were getting secret money, secret commissions from Novation and that that was not only contrary to the code of conduct but you knew that it was contrary to the law, Mr Soliman. ---I mean it wasn't a moral thing to do obviously, but to me I probably normalised it in my, in my mind just by saying, yeah, it's just from his personal bank, it's his own money. But now I'm kind of seeing everything it's all very blurred and it's all, we crossed the line.

This had nothing to do with concern that his card would be locked. Mr Thammiah has suggested that he could lie in order to explain why transactions occurred on his account while he was out of the country, transactions which would be shown to have been made in Australia. ---Yeah, I don't know.

40

Do you agree with that?---I don't know. Maybe. Yeah. I don't know exactly what he would have meant by that, "Not unusual."

Well, why did you answer, "True?" You understood perfectly that's what he meant.---Yeah, I'm not sure exactly what the conversation meant back then but again obviously the lines got crossed.

At the time you understood what it means. Do you agree?---Well, I would have, yeah, otherwise I wouldn't say, "True."

Yes. And he said he'll give you his personal Bank of Queensland, you understood that to be his card, Bank of Queensland card?---Yes, correct.

And you say, "Or do a one-time withdrawal from the bank, \$8,000." And he suggests, "You can pull it out of there." And you agree saying, "Okay, easy, why not."---Yes.

10 And you tell him going down to message 73 that you'll withdraw \$4,000 a week and he says, "I'd rather not do the big ones anymore." And did you understand that was because it would attract attention if he was to do big withdrawals from his account?---I guess if that's what he meant, yeah.

You understood that at the time, didn't you?---Hmm, I didn't really know what his limit was at the, at the time or, but I guess he knew what his limit was.

20 And you understood that he was concerned about doing big withdrawals for you because it would attract attention from the bank and possibly law enforcement.---I don't know if that's what I recognised but he just said he doesn't want to pull out big chunks of money.

You're just not being totally honest with the Commission, Mr Soliman. ---I'm trying to recall, I'm trying to recall if he ever told me specifically but he just basically said, from what I recall, that he doesn't want to pull out big, big chunks of money for his own reasons, for the limits on his card or his bank, whatever.

30 THE COMMISSIONER: No.

MS WRIGHT: It's not nothing to do with his own reasons and limits on the card, it's got to do with not attracting attention because the big withdrawals would be suspicious.---Maybe that's what, what he meant. I mean I didn't, I didn't really care about it. At the end of the day he, he gave me his card and he told me, you know, what I could use.

You didn't care about it is your evidence, is it?---I don't recall ever kind of saying it's, it's a problem for me anyway.

40 Well, he was raising it as a concern and you understood why he was raising it as a concern?---It was a concern and he said that he didn't want to pull out large chunks of money. I mean, that's fine, I didn't, I didn't care.

THE COMMISSIONER: Because on 14 August, you were told by Mr Thammiah about withdrawals of large sums of money, "Banks trigger a flag at 10," i.e. the banks start looking at withdrawals at \$10,000. He told you that.---Yeah, I didn't know what this flag was. Maybe it gets locked or

maybe they start looking, maybe that's what he meant but again I didn't really care. I mean, he told me how much I can use and that's what I did.

MS WRIGHT: Have you ever heard of money laundering?---Laundering, yes.

Money laundering.---Yes.

10 And do you think that the bank's reporting has something to do with money laundering?---What do you mean, reporting in general or - - -

Well, Mr Thammiah referred to you about reporting - - -?---Are you asking if the - - -

THE COMMISSIONER: You know what money laundering is, dealing with proceeds of crime?---Yeah, I do but are you – of course I do but are you asking in the context of what Stephen said in that message or just in general what money laundering is?

20 MS WRIGHT: Did you have an understanding of why he was concerned about large transactions which might trigger banks reporting obligations? ---He had his own reasons. I mean - - -

THE COMMISSIONER: No, no, no. But we're asking about, you have been told this, you're getting lots of funds from Mr Thammiah's bank account, including being given your own card and he's been saying to you, look, you're saying you need \$20,000 for new blind or something and he says, look, no way because 10,000 triggers a flag at the bank. Now, I am interested, what's going on in your mind? Are you thinking money  
30 laundering, this is going to reveal that I am getting money, is this going to reveal the dishonesty that I am involved in. What's going through your mind?---Well, I didn't think of laundering. I don't think that went through my mind. I mean, again, there wasn't much going through my mind at that, at that point. He said, I mean, this is how much I can pull out, okay, sweet, I mean, it's fine. I didn't have an issue with it, it's his, it's his money, I mean - - -

And then it became your money.---When he lent to me, yes.

40 MS WRIGHT: Now, did you get his Bank of Queensland card from him? ---Yeah.

And did you withdraw \$4,000 a week?---It was something around that for that time, I think, yeah. I don't know exactly how, how much.

And for the time he was away?---Probably, yeah.

And then if we could just go on, message 73, you say, "Rish still hasn't called," and you say, "Can we transfer some business funds to buy BTC?"  
---Yes.

What did you mean by that?---The, the Bitcoin.

So you were wanting to buy some Bitcoin?---Yeah.

10 And how much were you wanting to buy?---It says there 1,800.

And did you do the transfer?---No.

And he says, "Yeah, but I'd prefer to transfer to Cointree from a personal account." Do you see that?---Yes.

And over the page he corrects his spelling and says, "I'll do it today," and you say, "Okay, mad." And he asks, "My account or yours?" And you say, "I'll add it to my tally I withdrew." And so was that transfer made?---No.

20 But he said he'd do it.---Yeah, he didn't.

And he didn't do it, is that what you say?---That's what I recall. I don't recall him ever making that transfer.

And then when you referred to the mixing service, what are you referring to?---I think it's just where you transfer the Bitcoin to, like where you buy Bitcoins from.

30 And what does he mean by it's so low risk?---I'm not sure.

Now, if we could just go down to message 75. You asked Mr Thammiah halfway down the page, "Can you have a draft ready by Monday?" Were you referring to the draft submission by Novation to the RMS tender?  
---What date was this?

This is still 17 August.---It could have been. I don't know.

40 Well, there's no other draft you could be talking about, is there?---I don't know. I don't think there was anything else.

And you say, "So we can polish it up." And you ask him to lock in Monday night to work on it. That's to work on the draft. Correct?---Yeah.

And on 18 August, 2018 you talk about some other things. And then if we go over to message 80 on 19 August, 2018 you tell him that, "Rish called. I settled his issues. I said we're good to progress." Mr Malhotra called you, did he?---He must have, yeah.

And what did he discuss with you?---I believe he was just asking is there something wrong with Novation because I believe he was worried that there's something wrong with them and why he was getting the calls from other vendors and he was asking if they're doing good. How was basically the scales. Did they do everything, and that's it.

And you reassured him he could continue to use Novation?---Well, he was, he was asking me if they were doing good and I said yes.

10 Yes. So you reassured him he could continue to use Novation?---Yeah.

And again you were using your influence to influence the outcome of the tender. And you said to Mr Thammiah by WhatsApp that the tender ends in two weeks and you said, "I told him", and you're referring to Mr Malhotra there? Do you see where it says, "I told him"?---Yes. Yes.

You're referring to Mr Malhotra. "The only issue for IRD might be the price as it was very high last time and he would need to speak to Novation not me regarding that."---Yeah.

20

So you're referring to the price IRD had charged Novation for the scales that it supplied for the 125 procurement?---It seems that way, yes.

And you wanted to – you were seeking to have IRD drop its price for the scales for this tender?---No, I don't think that's what the purpose was. I mean, there was some sort of chat previously with Steve and Rish and I think Rish asked me what's, you know, when is the next tender and things like that and he said something about the price but I don't remember what he spoke about exactly.

30

You told Mr Malhotra that IRD's price was very high for the last tender, didn't you?---In this message, yeah.

You told Mr Malhotra not in this message but when he called you on the phone that IRD's price for the last procurement was very high.---I probably did but I don't recall saying that to him but I probably did.

Well, you've told Mr Thammiah that.---Yeah.

40 And you wouldn't have lied to Mr Thammiah, would you?---I'm not saying I would but I'm just saying I don't recall saying that to Rish but, you know, I probably would have.

Do you accept that you did?---I accept that I could have. I mean, if I'm trying to help my friend anyway, I probably would have said that to Rish.

It's not could have, Mr Soliman. You've just had a conversation with Rish

Malhotra and you've informed Mr Thammiah straight away, haven't you?  
---I don't know if he called at that time. 11.49 is a weird time to be calling  
Canada. I would normally call in maybe 2.00am in the morning.

He called you.---Yeah. I don't think he would have called then. He would  
generally call between the hours of, say, 2.00 to 8.00am, 9.00am.

There's a time difference.

10 THE COMMISSIONER: I thought he was in Egypt. Was he in Egypt. I  
thought there was something and he was travelling.

MS WRIGHT: He was in Egypt when he last contacted you, wasn't he? He  
said that.

THE COMMISSIONER: So he might not be calling from Canada.  
Message 65. So he might be calling you from another time zone.---Maybe,  
yeah.

20 MR YOUNG: That'd be, it'd be 3.00, it would be 3.00am in the morning in  
Egypt.

THE COMMISSIONER: I don't know if it was Egypt. 65 talked about  
Europe, but anyway.

MR YOUNG: No, but 11.49 – what's being put is that it was immediately  
before that. That would be, it should be noted, 3.00am in the morning in  
Egypt.

30 THE COMMISSIONER: Okay. Though message 65 says Europe, but  
anyway, go on.

MS WRIGHT: He's called you around 19 August, 2018, hasn't he?---Yeah.

He hasn't called you weeks before you've informed Mr Thammiah that Rish  
has called.---It would have been soon in that period, obviously.

Yes, obviously. And you said that, to him, that IRD's price was very high  
last time.---Yeah.

40

So you were aware of the price.---Don't recall ever seeing the price, but - - -

How could you know it as a very high price, then?---Remember Steve was  
actually saying that they were, they were wanting more, but I don't recall  
seeing prices, but again I might have.

Did you know approximately what the price was?---I think for the 10C it  
was like nine, \$10,000 or something like that. I'm not, I'm not sure exactly.

Is that US or Canadian or Australian dollars?---I think that's Australian, but maybe I'm thinking about something else. I thought it was around that mark.

You thought that IRD's price at which it sold the scales for the 125 scale procurement was nine or \$10,000 Australian dollars, did you?---Look, I'm just trying to think if I saw that number, where I saw it. That number sticks out to me but I could be wrong.

10

And did Mr Thammiah tell you what the price was for the 125 scale purchase?---He probably would have but, again, I don't recall what, what he said or if, if he said it. I mean, why wouldn't he say it, you know? We were very, very close and he would probably tell me.

And you thought nine or \$10,000 per scale was very high, did you?---Just based on what Mr Thammiah would have told me.

20 And for this procurement you were proposing a price of \$15,800 per scale. ---Well, that's Novation's price, yeah.

Is that not also very high?---I'm not sure once you factor in delivery and the customs duties and - - -

Are you saying Novation paid for the delivery?---Don't know.

You don't know?---Yeah, I would assume.

30 So just assuming that it didn't, \$15,800 per scale, if 9,000 or 10,000 is very high, isn't \$15,800 also very high?---Depends on, I guess, what the costs are. Like, I don't know what the overall costs were per scale after you factor in all the taxes and customers and duties and - - -

But you were prepared to tell Mr Malhotra that IRD's price was very high and yet you didn't know.---Yeah, I, I may have known when we spoke but I'm just trying to think back now, I don't recall exactly what the number would have been, but Steve probably would have told me. I don't see why he wouldn't have told me.

40 So is your evidence that you did know at the time but you don't recall today?---Yeah.

THE COMMISSIONER: Is that an appropriate time?

MS WRIGHT: Yes.

THE COMMISSIONER: All right. We'll adjourn for morning tea and resume at 5 to 12.00.

**SHORT ADJOURNMENT**

**[11.35am]**

THE COMMISSIONER: Have I got a witness?

MR YOUNG: Oh, he was here just a moment ago, he may have just - - -

10 MS WRIGHT: Sorry, Commissioner, I did think I saw him as well, but - - -

THE COMMISSIONER: Would you mind, Mr Young, seeing if you could find him?

MR YOUNG: Not at all. I'm sorry, I just got a phone call as I saw him walk past me, I just got a quick phone call so I took that, sorry.

THE COMMISSIONER: Ms Wright.

20 MS WRIGHT: Mr Soliman, with reference to message 80 that I showed you before the morning tea adjournment, I suggest the reason you told Mr Malhotra that IRD's price was very high was because you were seeking to pressure Mr Malhotra to drop IRD's price for the portable weigh scales. Do you agree with that?---I didn't tell him to drop, drop his price, but I just remember something that Mr Thammiah said that the price was very, very high.

30 And you told Mr Malhotra that the price was very high in order to pressure Mr Malhotra to drop IRD's price for the portable weigh scales. Do you agree or disagree with that?---I don't think that was the point of the, the conversation, I think I just brought, brought it up as a, as a passing comment to Rish. Maybe I was thinking about something that Mr Thammiah said and it was a passing comment.

40 And I suggest that you sought to have, to pressure Mr Malhotra to drop IRD's price for the portable weigh scales in order to maximise the profit that would flow to you and to Mr Thammiah from the procurement. Do you agree?---Don't really agree with that because I mean again I don't even recall what their price was and all I recall is that something, Mr Thammiah said something about the price being high and it was probably just a passing comment, but I don't recall what I said exactly even, so it's hard to tell you exactly what I meant if I don't, if I don't recall even what I said to him.

Do you agree that you were going to get money from this procurement from Mr Thammiah?---Well, from Mr Thammiah, but I mean what, what we spoke about previous to this was that it was a loan from his own personal money but like I also said, I mean like you also said, I mean, does it really matter, I've breached, I've breached the code of conduct.

Do you agree that you were going to get money from Stephen Thammiyah from this procurement or as a result of this procurement?---I (not transcribable) recall talking to him about that but, you know, things got very, very crossed again, lines got crossed, and, but I don't recall talking to him about that but who knows what, what, what the hell happened when things got so crossed, you know.

10 So were you intending to get any money from Mr Thammiyah as a result of this procurement if it was awarded to Novation?---Don't recall talking to him over that but - - -

Well, I'm not asking if you talked to him, but did you in your mind intend that once Novation got this contract from RMS, if that be the case, you would get money from Mr Thammiyah as a result?---Once again, I don't recall talking about that but who knows what we talk about after this, you know, I don't know how much money he came into obviously after this but I don't know what conversations - - -

20 Are you avoiding the question, Mr Soliman?---No, you're, well - - -

It's a clear question, I submit. In your mind were you intending to get money from Mr Thammiyah as a result of the award of this contract to Novation, if it was awarded to Novation?---Well, like I said, I mean I don't, I don't think I had a chat to him prior to, to this about it - - -

I'm not asking you whether you had a chat to him. What was in your mind? ---Prior to this I don't recall me ever asking him for - - -

30 At this time.---Sorry?

At this time, here, 19 August, 2018, around this time. I'm not asking you about prior to this time.---I don't recall.

You were fully intending to get money from this procurement.---I don't recall, but once again we spoke about lots of, lots of things and who knows if something got kind of thrown around about that. I don't, I don't remember talking to him about that, but he never - - -

40 And when you say in message 80 at the bottom, "He got the point," you're referring to Mr Malhotra?---Yes.

And "the point" was that IRD should drop its price?---Maybe.

Why is it only maybe? You've just told Mr Thammiyah, "I told him," that is Mr Malhotra," "the only issue for IRD might be the price as it was very high last time and he would need to speak to Novation, not me, regarding that. He got the point."---Yeah. It could mean several things. That could mean

what you, what you said, it could also mean, I mean, that he should be speaking to Mr Thammiah only. Like I said previously, he would call me sometimes out of the blue and I always thought it was a bit weird but he shouldn't have been calling me at all, yeah.

Now, if we go down to the next message, message 81, you tell Mr Thammiah to expect "him" to be in touch, that's Mr Malhotra from IRD?  
---(No Audible Reply)

10 Do you see that, Mr Soliman? "Expect him to be in touch"?---Yep.

Do you see that's the next message after you've said, "He got the point," "Expect him to be in touch"?---Yep.

You're referring to Mr Malhotra?---Yep.

And Mr Thammiah says, "Issues like?" And you tell him, "CIC called him for a quote, he was asking which vendor he should go with. Really he was checking who I still supported, to make sure he gets the sake."---Yep.

20

"Sale," you clarified the typographical error. And then you said, "Usual Rish." You see that?---Yep.

And then, Mr Thammiah says, "Ha, ha, ha. F-expletive snake. Such a dumb C-expletive." You see that?---Yes.

30 So, you're telling Mr Thammiah that you had told Mr Malhotra that you still supported Novation, and that Mr Malhotra should only go with Novation if it wanted RMS's business. That's clear, isn't it?---What I said prior is the same. I mean, he was, he was asking if Mr, Mr Thammiah was doing fine, because he was mixed-up about the message, about the contact from, I think, CIC or whoever it was, and he asked for feedback, and if they're still doing well, and if I still support what they're doing, obviously, and I did, obviously. That's exactly what it's saying here.

Yes. That's exactly what's it's saying, that Mr Malhotra was checking who you still supported, and your answers to the Commission before the adjournment, that all he wanted was some feedback - - -?---Yep.

40 - - - was not the full picture, was it?---No, it was the full picture, that's exactly what, what he asked for.

Your answers were not as candid as this WhatsApp, I suggest, which is that he was checking who I still supported to make sure he gets the sale.---Well, it's one and the same to me. I mean, if they're doing a good job, then yes, I support them. That's, to me, one and, one and the same.

And then over to page, message 82, you talk about the delivery timelines and how long IRD would need to supply the scales, and you tell Mr Thammiah that the recent acquisition means this opens a whole new market for us. You were referring to the recent acquisition of IRD, correct?---(No Audible Reply)

THE COMMISSIONER: That was the newspaper article that was forwarded?

10 MS WRIGHT: Yes. Yes, Commissioner. That's clear, isn't it, Mr Soliman? You were referring to the recent acquisition of IRD?---(No Audible Reply)

THE COMMISSIONER: Do you remember yesterday you were taken to the newspaper article that you'd forwarded to Mr Thammiah about a takeover of IRD, wasn't it?---Yeah, but what, what was the acquisition?

MS WRIGHT: Message 35, you sent to Mr Thammiah a copy of a media article about WiLAN completing the acquisition of IRD to become  
20 Quarterhill. You recall that? It's coming up on the screen.---I remember the screenshot, yeah.

You can - - -

THE COMMISSIONER: So we're back on message 82?

MS WRIGHT: Message 35, Commissioner, sorry.

THE COMMISSIONER: Oh, sorry, 35, where, has got the newspaper  
30 article.---Yep, I'm seeing it.

You see that?---(No Audible Reply)

MS WRIGHT: And Mr Thammiah said, "Good time to negotiate," and you see that the newspaper article that you have sent to Mr Thammiah is - - -?  
---Yep.

- - - about the acquisition of IRD?---Yep. Mmm.

40 And we go back to 82, and you've said to him, "Also ... the recent acquisition means this opens a whole new market for us."---Yep.

And by that you meant for Novation?---I assume so, yeah.

And he says, "Say each month 50," and you say, "We will sell the new tech," and by that you meant Novation will sell their new tech?---Assume so, yes.

And Novation was your company as well as Mr Thammiah's in your mind?  
---It wasn't my, my company at all. Like I said previously, we were very close friends and when you're that close you're like brothers and you're a union bloke in the sense of the company. I never saw it as my company.

Well, at the same time as you were determining to award contracts and using your influence at RMS to have contracts awarded to Novation you were also aligning yourself with the company to whom contracts were awarded namely, Novation. Do you agree with that?---Sorry, can you say  
10 that, that question again.

At the same time as you were using your influence at RMS to award contracts to Novation. Do you understand?---Yes.

You were also aligning yourself with the contracting company, that is, Novation. So you were on both sides of the transactions, weren't you? You were acting for RMS and you were acting in the interests of Novation?  
---Yeah, I favoured Mr Thammiah, yes.

20 Yes. And they're supposed to be, they've got separate interests?---Of course.

Then Mr Thammiah says something disparaging about Mr Malhotra and if we go over to 83 and then perhaps if we just skip down to 85. You tell him to, you tell Mr – if I could go back, please. Thank you. There should be a message 85 which is just the one below. You tell Mr Thammiah to go for larger deliveries at least 100 each delivery and then you say, "Yeah, obviously we wait to win the tender LOL." And Mr Thammiah says, "We need to do the same as last time." Which is a reference to the 1125  
30 procurement. Do you see that?---Yes.

And you tell him, "The tender needs high-level sign off from the CEO." And Mr Thammiah says, "And give us a delayed clock, like a month delay would be perfect." You say, "Depends in IRD. Once we win it" – do you see that?---Yes.

"Once we win it we'll know more." "We" is Novation and through Novation you and Mr Thammiah. Correct?---Sorry, what was the question?

40 When you say, "Once we win it we'll know more", by "we" you mean Novation and through Novation you and Mr Thammiah?---(not transcribable) Novation but again I mean, going over the same thing here. My language when, like, he was seeing me very, very irregularly and we were like brothers.

And then message 86 you say, "I'm running this tender so only I can put our contract into breach if we miss the June 30 timeline. Clearly I'm not going to breach us LOL." You agree you said that?---Yes.

And so you were controlling every aspect of this tender. Correct?---It was actually a joke. It's not in my power to breach anyone. It's a contract, contract management area. I think I was trying to again just make him feel I guess comfortable.

10 It's not a joke. You meant what you said, Mr Soliman, didn't you?---Well, I'm not going to try to hurt him obviously. Well, you acted in accordance with what you've said here so you meant it, didn't you?---It's not in my power to breach, breach a contract if I don't sign it, if I don't run it.

So why did you say this to Mr Thammiah?---Like I just said, probably just to make him feel calm or, or comfortable. I don't know.

You said, "I'm running this tender", because you were running the tender in the sense that you were using your influence at RMS to award this contract to Novation. It's obvious, isn't it?---Sorry, what's, what's obvious?

20 When you say, "I'm running this tender," that is because you were in fact running the tender.---It's probably just a figure of speech because I was over, over, overseeing Mr Lee.

You were present at the Tender Evaluation Committee meeting.---I think I was there for 20 minutes or something because I was asked to go by Mr Lee.

30 You were not there because you were invited by Mr Lee, I suggest.---I was invited by Mr Lee, I was invited by Mr Lee and there's a calendar invite there.

You see that's entirely inconsistent with what you've said to Mr Thammiah here, "I'm running this tender."---It's just a figure of speech.

MR YOUNG: I'm sorry, I object to that.

THE COMMISSIONER: Why?

40 MR YOUNG: The question, well, one is in relation to whether he was invited by Mr Lee, the other one is in relation to whether he said he's running the tender.

THE COMMISSIONER: Well, he said he's running the tender.

MR YOUNG: Yes.

THE COMMISSIONER: He's now said that he – I don't know what he's really said, he didn't mean it or he's just being nice to his brother, making his brother feel better, and I think Ms Wright's putting to him further

evidence that we have independently that appears to be independent from these WhatsApp communications that he was running the tender and gave as an example, you attended it. And he's come back with, oh, well, 20 minutes and I was invited to, and I think she's exploring that.

MR YOUNG: Well, what I'm submitting is that there is no rational connection between what's there and whether Mr Lee invited him to the, to the meeting and that there's a calendar invite in relation to that.

10 THE COMMISSIONER: I'll allow Ms Wright to explore whether, as Mr Soliman has put in black and white in message 86, "Remember, I'm running this tender."

MS WRIGHT: Mr Soliman, when you say Mr Lee invited you, are you suggesting that he invited you in person or that he sent you a calendar invite?---Both. He sent me a calendar invite, it was a while before, maybe a week before, and I, I said no to the meeting, then when he was walking out he kind of just waved, waved me over so I assumed he needed some help or  
20 and when I walked in they were already going through the submission. For the most time I listened and the rest there was a few things that Novation and Inter, AccuWeigh missed, I think Novation had one, they were asking for a iso something in the requirements and Intercomp I think had missed something else, and I left after that.

Well, I suggest that Mr Lee did not invite you by waving you over to the tender. What do you say?---I saw him waving me over with his head.

30 I suggest that you fully intended to attend that meeting, whether or not you were invited. Do you agree?---Didn't intend to go. I thought they, they were fine, but after he waved, waved me over, I went.

You attended that meeting to ensure that Novation was the successful tenderer.---No. I wouldn't have, I wouldn't have had to. I mean there was nothing there, I mean, that I could have said to anyone and the evidence has already, from Mr, Mr Walker also shows that I didn't say anything else.

40 THE COMMISSIONER: Don't make submissions, Mr Soliman. You're being asked particular facts. If your evidence is that you didn't intend to go to the meeting, when you attended the meeting your evidence is you didn't influence anything, fine, but I don't require and I don't need submissions that ultimately I anticipate will be made by Mr Young on your behalf.  
---Okay.

MS WRIGHT: Now, just going back to message 86, you told Mr Thammiah after telling him, "You're not going to breach us, LOL," you said, "We're set. Rish asked which scale was cheapest, I said dunno, I wasn't in the last tender, but I think Intercomp at half price." And when you

said that to Mr Malhotra you were suggesting that he should drop IRD's price for the portable weigh scales, weren't you?---(No Audible Reply)

THE COMMISSIONER: Yes? No?

THE WITNESS: I'm just reading the message. I'm trying to figure out where you got that from.

10 MS WRIGHT: "Rish asked which scale was cheapest." That's what you've told Mr Thammiah. So you understood Mr Malhotra was concerned about which scale from the previous tender came in at the cheapest price.---Ah, yes.

And you understood that he was concerned that IRD's scale be selected? ---That he wanted it, you mean, as in Rish wanted that to be selected or - - -

He wanted his own scale to be selected, didn't he? That's what you understood?---Well, of course.

20 Yes, of course. And told Mr Thammiah that you had told Mr Malhotra, "I don't know. I wasn't in the last tender, but I think Intercomp at half price." And what I'm suggesting is that you told Mr Malhotra that information because you were seeking to pressure Mr Malhotra to drop IRD's price for its portable weigh scale.---I wasn't trying to pressure him, he, he, obviously, as you can see, he brought it up and I'm pretty sure I did say yeah, the Intercomp, the one, the 600 or something, I think Jai said it was around 10 grand or something like that, I'm not sure.

30 And you told Mr Thammiah to go to IRD with a fixed price reduction in mind - - -?---Yeah.

- - - because you were trying to get a cheaper price from IRD. Correct? ---Well, not me, really, it was Mr, Mr Thammiah and I guess we were talking about that subject.

You were trying to get a cheaper price from IRD in order to maximise the profit to Novation and yourself. Correct?---I don't know about that, I was just obviously stuck talking to him about everything and - - -

40 You weren't trying to get maximum value for money or best value for money for RMS with this, were you?---I don't know. I mean I don't know how Steve came up with the final price, I'm, I'm not sure.

You were trying to maximise profit to Novation. Isn't it the case the lower IRD's price, the more profit you would get because you wouldn't lower Novation's price?---Well, it wasn't up to me to lower Mr Thammiah's price, you know, obviously we spoke about it, but - - -

Well, you told Mr Thammiah what Novation's price would be, didn't you?  
---Oh, we - - -

We can go back to the beginning of the messages if you like.---No, it's all right, I know, I know the message you're talking about, but I don't know if I came up with that price or he's the one that figured out exactly, but it's not really my business to tell him what's the price.

10 You told him that it would be \$15,800.---I don't know if that came from me or him.

Now, you then tell him, "That's the price you tell them, will enable you to be in the price bracket or be in the running or you lose." Do you see that?  
---Yeah.

In other words, RMS will not do business with you unless you drop your price to this fixed price reduction.---Yeah, it looks like that's what, what it means, yeah.

20 That's what it does mean. That's what you meant. You meant what you said, didn't you?---Well, just reading it now, that's, looks like what it, what it means.

And then if we go down to page 87, you suggest to Mr Thammiah that \$500 off each scale is fair, and Mr Thammiah says a few more expletives, "That's wishful." Do you see that?---Yeah.

30 And then if we go over to message 88, you tell him to "Suit up. Usual bullshit." And Mr Thammiah says, "He wants to be in his office by Thursday." That's Mr Malhotra's office, correct?---Mmm, I assume so, yeah.

You tell him to get a business, a custom business shirt with the "Novation" word on it. You see that?---Mmm, yeah, I think that's, he showed me one of the demo ones, that's where I got it from.

That's to make Novation look like a legitimate company, isn't it?---I don't, I don't know.

40 That's because the company's a front, it's a total pretence, isn't it?---Mmm, I don't agree with that. Mr Thammiah's been doing a very good job for the time that he's been managing this.

Is that a serious answer, Mr Soliman?---Yeah.

You don't accept that RMS was effectively defrauded of a significant sum of money through your scheme with Mr Thammiah?---I don't know if you would call it defrauded. Obviously it, it wasn't, wasn't a honest thing to do,

because I knew him, and lines got crossed where I was helping him in ways that I shouldn't have.

And yet you tell the Commission that Mr Thammiah did a good job.---Yeah, he did do a good job.

A good job at scheming with you - - -?---Not - - -

10 - - - to get money off RMS.---He delivered the product, you know, months, months ahead of schedule. He done what the previous vendor couldn't do.

What did he do to get the delivery, isn't it IRD that delivered the scales?---I don't know what the process was, but you know, obviously it's managed by Mr, Mr Thammiah.

It's managed by you to get Novation selected in two tenders worth significant value in order to make money for yourself and Mr Thammiah. ---I had nothing to do with the first tender, first of all.

20 Well, I suggest that that is a lie.---Well, nah, I wasn't in the, in the, in the actual country, first of all, and even during that time, me and Mr Thammiah for a period of time were, I guess the word is "distance."

Well, we'll come to that tender in a moment. Message 89 - - -

30 THE COMMISSIONER: Well, just before we go there, message 88, when you were discussing the custom business shirt, "in that blue we use." The blue is, that's a reference to Novation logo? It's a blue one, isn't it? Reference to blue?---Mmm, it probably is, yeah.

And again, Mr Soliman, the blue "we" use. ---Yep, it's the same - - -

Not the blue "you" use. Not the blue "Novation" uses.---Mmm.

Your use of "we", "our", in all these communications - - -?---Mmm.

40 It's not an aberration, a one-off. Consistently throughout these communications, I'm seeing reference by you to "we", "our", et cetera, which - - -?---Mmm.

My current thinking on that is that you and Mr Thammiah are Novation. ---Mmm, I don't agree with that, I mean - - -

"Our", "we".---When I'm, when I'm kind of very close to my wife, you know, for example, I say, you know, "We are going for," for whatever, you know, I'm just, that's my language. When you become very close to someone, and there's a different thing there to, you know, at friends or someone who's a very close friend when you kind of become similar to that,

to that person also, and I obviously helped him more, more than I should,  
and - - -

All right, Ms Wright.

MS WRIGHT: And then if we could go to message 89. You tell him  
further about what he should wear and Mr Thammiah says, "Let the show  
begin ha ha." And then if we could then go over to message 93.

10 Mr Thammiah asks you to find out the exact prices quoted from the last  
tender. That that would help to pin them down. Did you tell Rish you are  
running the tender? And so the last tender is a reference to the 125 scale  
procurement.

THE COMMISSIONER: That's correct, isn't it?---Yeah, yeah.

MS WRIGHT: And you say, "Yeah, I can probably pull some strings to get  
the tender docs but I know AccuWeigh quoted around 7,000 not including  
the modifications. Mah I didn't tell Rish I'm running it." Do you see that?  
---Yeah.

20

That's because you were running this tender. Correct?---I don't agree with  
that. Alex Lee was managing and running the, the tender. I mean - - -

You just told Mr Thammiah "I am running this tender" in message 86 which  
I took you to.---Yeah. It's probably the same, same reason as I told him that  
previously, just to make him comfortable I guess.

And you got the tender documents from the 125 tender. Correct?---If I did  
get it, it would have been from Mr Singh, yeah.

30

And are you saying that Mr Singh, you requested the documents from  
Mr Singh?---If I did get it, yeah, I would have asked him for it, yeah.

You already knew without reference to the documents that AccuWeigh had  
quoted around \$9,000, sorry, \$7,000?---Yeah, that, I don't know where I got  
that. Maybe Mr Singh told me. I don't know, yeah. Obviously I hadn't had  
the, the, the documents at that stage.

40 Then going to message 94. Did you tell Mr Malhotra that the Intercomp  
was around half IRD's price?---(No Audible Reply)

THE COMMISSIONER: You told him that?---Sorry?

MS WRIGHT: My question is did you tell Mr Malhotra that the Intercomp  
was a round half price in the previous tender?---I don't know if I told him a  
price but I recall saying that what Mr Thammiah told me is that the price  
was high. I don't know if I specifically said half price.

You see you've told Mr Thammiah in this WhatsApp message - - -?---Yeah, I know, yeah.

- - - "I just told him". "Him" was a reference to Mr Malhotra?---Yeah.

THE COMMISSIONER: Correct? That's right, isn't it?---Yeah, it is Rish, yeah. It's Rish, yeah.

10 MS WRIGHT: "I told him that the Intercomp was around half price." So you weren't making this up. You did tell Mr Malhotra that the Intercomp that was around half price.---I could have. That's, that's, that's I say, yeah, but trying to think back to that phone call I don't again recall saying a specific figure because I wasn't sure about the price anyway.

I'm not asking you about a specific figure. It doesn't give a specific figure here, Mr Soliman. It says, "I just told him that the Intercomp was around half price."---Yeah.

20 Do you accept that you told Mr Malhotra that the Intercomp in the previous tender had been around half of IRD's price?---I may have. I probably did just judging by this but again - - -

I'm sorry, I withdraw that. Did you accept that you told him that the Intercomp was around half Novation's price?---I don't recall what I said to him on the, on the phone call but I do remember saying that Mr Thammiah said the price was high.

30 And you were seeking to pressure Mr Malhotra to again reduce IRD's price?---It's for the same reason that I said previously. You know, Mr Thammiah said the price was high and when Rish, Rish asked about it, I fed it back to him.

Because you go on in this message to say that you told Mr Malhotra he'll need to speak to Novation about price to at least be in the running.---Yeah.

Yes. So if IRD wants the business, they have to drop their price, correct? ---Basically, yeah.

40 And Mr Thammiah says, "But he knows what Intercomp costs, then can double it and says what Novation quoted, the flip side to that, but it's Rish and he's a dick. I've got to get him drunk." And then you say, "Yeah, don't worry. Just go there, get the best price." And you say, "There's no completion, LOL." And Mr Thammiah suggests that Rish is the competition and - - -

THE COMMISSIONER: And does that reflect in your mind a concern by Mr Thammiah that he didn't want IRD to know what price quoted in the tender for the 125?---Sorry where, where do you get that?

Because he says, "But if he knows what Intercomp costs, then can double it and says what Novation quoted." That's Mr Thammiah's concern, isn't it? ---That message doesn't really read, make sense to me. "If knows what Intercomp costs, then can double it and says what Novation quoted."

10 MS WRIGHT: You were aware that Mr Thammiah didn't want IRD to know what Novation's mark-up was, weren't you?---I thought, I thought they knew but again I don't know what Mr Thammiah and Rish spoke about.

And that's because it was an exorbitant mark-up?---I'm not sure.

You're aware that it was an excessing mark-up?---I'm not sure what the mark-up was.

20 Then going over to message 98, which will show the date of the next messages, 21 August. And then if we could move to message 99. Halfway down the page you ask Mr Thammiah to have a draft ready by tomorrow so we can review and you ask him how he went with the Bitcoin. Do you see that?---Yep.

30 And then if we go over to message 100, then you say, he says on 22 August, "Let's hit this," and you say, "Yo, yeah, sweet. Come soon. Let me wake up, LOL." He asks, "An hour?" And you say, message 101, "Don't forget to bring your card so I can withdraw when you're gone," and he says, "Yeah, no probs." You say, "Sweet. Send any RFP docs you have. Will work on my laptop." So you agree here you're arranging to meet up to work on the draft Novation submission?---Yep.

And then if we go over to page 102, you see what's on those messages. And then if we go to page 104, sorry message 104, Mr Thammiah, on 27 August, 2018, sends you a screenshot of the way he proposes to answer questions in the tender, correct?---Yes.

And if we go to message 105, he asks you whether it's okay to answer the questions like this and he talks about putting a lot of bullshit into the response. You see that?---Yes.

40 Because Novation's submission was not a legitimate submission, do you agree with that?---Sorry, where, where do you read that?

Well, he talks about "putting a lot of bullshit into the response". Do you see that?---Yes.

What did you understand by that?---I don't know.

You don't know or you won't say?---I don't know what part of it is bullshit. Just reading it now it's, there's no bullshit I can see there.

All right. And then you say, "The answers are fine, keep them short and sweet. The only part that needs to be elaborate is the scoring criteria questions which I done."---Ah hmm.

You had prepared the scoring criteria answers, correct?---Sorry, the scoring criteria. What's the scoring criteria for this one?

10

Well, you tell us, Mr Soliman. You set the criteria. See what you say? "The only part that needs to be elaborate is the scoring criteria questions which I done." See that?---Yeah. Maybe that just means you need to kind of answer all of the requirements properly in your document.

You prepared part of Novation's tender submission, didn't you?---I prepared it?

20

Yes.---I don't recall preparing, preparing it for him. I'm pretty sure at this point he was finished and he was getting some sort of guidance from me.

Is it your evidence that you didn't draft any of Novation's submission?---I don't recall doing that. But, I mean - - -

You said you - - -?--- - - - he was over my house a lot and - - -

Well, you told him - - -?--- - - - maybe he asked me some questions.

30

- - - "Come over and we'll work on my laptop."---Yeah, I don't think that ever happened. I think he did actually come over, but by that point I think the document was finished.

I see. So Mr Thammiah arrived with a document at your house, did he?---I think it was just on his laptop.

So he brought his laptop to your house, did he?---I believe so, yeah.

40

So when you said, "Let's work on my laptop," that didn't end up eventuating?---I don't recall but I don't remember using my laptop.

So he brought his laptop. And did you sit down together and work on the submission?---I don't think so. I think he just kind of skimmed through it from what I remember.

So he'd already drafted it or he already had a completed document when he came to your house? Is that your evidence?---I don't recall if it was finished but I don't recall if I done anything, but he was asking questions about it.

Do you say that you didn't draft any of the submission in terms of you actually typing it out? Is that your evidence?---Saying I don't recall typing anything, but he did come over. I thought he was just asking me stuff, but -  
- -

So he asked you stuff, and then on 27 August he sent you a screenshot of part of his submission. Is that how it went?---No, he would have been asking me stuff also when he came over, otherwise why, why would he say that.

10

And did you see him type on his laptop when he was over at your house?---I don't know. I don't recall.

On 27 August, which is the day he sent you a screenshot of his submission, you told him that "The only part that needs to be elaborate is the scoring criteria questions which I done." You see at the bottom of message 105?  
---Yeah.

20

That seems to suggest that you prepared answers in response to the scoring criteria questions.---I thought that's leading more towards the criterias which I set, which were set in the tender, but I'm not sure what the scoring criteria questions are even.

30

THE COMMISSIONER: So did you establish the criteria or did you – sorry, did you prepare the criteria that was in the tender documents or did you prepare his answers or his responses to the criteria?---I don't recall doing his, I don't recall doing his answers because, I mean, he's already answered these things here. But the scoring criteria questions might be all the points - - -

But I'm asking you – I don't want your thinking process or anything like that, I'm trying to work out what you meant there. Is your answer that you wrote the answers for the Novation response which addressed the scoring criteria?---I don't recall doing the answers for him but I don't even know what the scoring criteria questions are.

40

MS WRIGHT: All right. Well, if we could take volume 12, page 25. Do you see here Returnable Schedule 1 Proponent Particulars and Undertaking?  
---Yep.

Do you recognise this as forming part of Novation's submission in response to the 425 scale procurement?---Yeah, this looks familiar, yeah.

And if we go over to page 28, the screenshot which Mr Thammiah sent you by WhatsApp includes the part of this page which is section 2.1.1. Do you agree with that?---Yeah.

And you told him that the most, “The only part that needs to be elaborate is the scoring criteria questions.” So in other words, not this part. Do you recall that?---Yep.

And if we go over the page to page 32, you see this is a section dealing with demonstrated ability to perform the services - - -?---Yeah, yeah.

10 - - - in compliance with the scope of works. When you referred to the scoring criteria questions were you referring to this part?---I think what I was referring to was what the tender would be scored on. I don’t know if, I’m not sure which part it was.

Okay. Did you draft this part that’s on the screen now, headed Returnable Schedule 3 Demonstrated Ability to Perform Services in Compliance with the Scope of Works?---Don’t recall.

THE COMMISSIONER: Sorry, draft the answers?

20 MS WRIGHT: Yes, did you, sorry, Commissioner, yes. Did you draft the answers in this part of the tender submission of Novation?---I never knew that the scales are used in this country so I don’t think I would have done this part.

THE COMMISSIONER: So your answer is no?---That’s not what I recall. I don’t recall doing this.

30 MS WRIGHT: You told Mr Thammiah via WhatsApp that this particular requirement, to demonstrate ability to use 10 highway agencies from around the world for 10 plus years, was designed to exclude AccuWeigh, didn’t you?---Yeah, but, but again we know that they weren’t actually taken out because of that.

THE COMMISSIONER: You weren’t asked that, you were being reminded, and you agreed, that you remembered the message exchange with Mr Thammiah where you said the purpose of this was to exclude AccuWeigh.---Yeah, I’m just saying - - -

40 MR YOUNG: With respect he answer that question yes, and then he went on to - - -

THE COMMISSIONER: To add something that - - -

MR YOUNG: To answer.

THE COMMISSIONER: - - - wasn’t responsive to the question.

MR YOUNG: Yes, but it is an answer and, well, with respect it’s an answer, yes.

THE COMMISSIONER: What I'm getting concerned about, Mr Young, is I don't want submissions in the answers, I don't want gratuitous comments that Mr Soliman appears to think are exculpatory. What I'm trying to do is get this public inquiry finished, and if he would listen to the questions and answer them I would be very grateful.

10 MR YOUNG: I understand, but there is a, there is a clear distinction between not answering a question and adding something to the answer, and it was then put to him that he had not answered the question.

THE COMMISSIONER: All right.

MS WRIGHT: Could I take you to page 234 and then we'll come back to this.

THE COMMISSIONER: In volume 12?

20 MS WRIGHT: In volume 12. Mr Soliman, this forms part of the Tender Evaluation Committee report in relation to the procurement that we're dealing with. Do you see that?---Yes.

And it says AccuCorp?---Yes.

And it said, "Nominated scale did not meet the majority of the performance requirements."---Yes.

30 And then do you see below, the four points there, is says, "Tenderer supplied evidence of previous models having a usable lifespan of 10 years and greater. However, all the highway agencies were located in only one county, USA." Do you see that?---Yeah, yes.

And so your answer that you gave a moment ago that AccuWeigh wasn't excluded on the basis of those requirement which I took you to at page 32 of volume 12 is not correct?---I don't believe they were knocked out because of this, this one and - - -

40 THE COMMISSIONER: So your view is that answer, the information that AccuCorp or AccuWeigh gave, which is recorded there in the tender evaluation report didn't knock them out, that's your evidence?---Well, I didn't knock them out, I didn't run this tender but I don't believe from what I've read we knocked them out.

Okay so that's your evidence.

MS WRIGHT: But what I'm suggesting is this is the committee's report and it makes clear that it was knocked out on the basis of this requirement. ---It doesn't say that.

And you had said to Mr Thammiah by WhatsApp that the whole purpose of the requirement was to exclude AccuWeigh to make it harder to get.---Well, maybe that was a figure of speech again. Maybe I was trying to make him calm about the whole thing but - - -

You're just lying, Mr Soliman. You are just lying. You set that requirement to exclude AccuWeigh so that Novation would be the successful tenderer.

10

THE COMMISSIONER: Do you agree with that or not?---I don't think that's very fair to say because my, what I wanted in there was states, states or countries and AccuWeigh met that.

MS WRIGHT: So going back to Novation's tender submission, page 32, please. Did you did you not draft the answer to section 3.1.1 of this document?---I don't recall doing that.

20 Is it possible that you did it or do you deny that you did it?---It's possible that me and Steve spoke about it when, when, when he was there. I'm reading it now and I don't recall the substance of it but again, he did, he did come over and I'm sure we would have spoken about it.

Spoke about it, I'm not asking you about speaking, I'm asking who did it? ---Yeah. I've already answered.

Who typed it up?---I said I don't recall me physically typing anything in.

30 And if it wasn't you, it must have been Mr Thammiah?---It would have been but again - - -

There was no one else involved in this process?---No.

Then if we go over to page 33, you see the referee contacts, did you insert them into the document?---I don't know who these organisations are so again I don't recall typing this.

So if it wasn't you, it was Mr Thammiah?---I assume it was, yeah.

40 You're not familiar with these entities or the names here in section 3.1.2?

MR YOUNG: It's gone off the screen.

THE COMMISSIONER: Have you ever heard of Tecbas from Spain?---I don't think I've ever heard - - -

Have you ever heard of Central Pacific Co from Taiwan?---No. They would have come from Mr Thammiah, I guess.

MS WRIGHT: And then section 3.1.3, "Please describe how you intend to perform the services." You see this answer, "The scope of works in part B requires," do you agree that's Novation's answer in that box?---Yeah, it's their answer, yeah.

Did you draft it up?---Same thing. I'm reading and I don't recall the substance of it so all I can say is I don't recall typing this.

10 Is it possible that you typed it?---Anything's a possibility if I, if I don't recall what, what happens, but again it seems to be a lot for me to do and pointless for me to do, and Mr Thammiah had this information.

I suggest you do recall but you are not willing to give candid answers to the Commission.---No, that's, I don't really agree with that. You're pointing me to - - -

THE COMMISSIONER: Okay, doesn't agree with it.

20 MS WRIGHT: We'll go to page 334. Do you see how this responds to the performance requirements of the tender?---Yeah.

Did you draft Novation's response to the performance requirements of the tender?---Again it's the same thing. I'm reading it and I don't remember typing these in.

You don't remember?---Yeah.

30 And if we go to page 40, section 5.1.3. "Please provide examples of successful delivery of 100-plus scales in the last 24 months," et cetera. Do you see there Novation's response below in January 2018?---Yeah.

Did you draft that response?---I don't recall typing this. I mean, I don't see why Mr Thammiah would ask me to do it when he knows all this information.

So more likely to be Mr Thammiah who set this out?

40 THE COMMISSIONER: Yes?---It seems that way, yeah.

Yes. Good.

MS WRIGHT: And page 42? Do you see the prices set out here?---Yes.

Did you fill this out?---Don't recall typing this.

You discussed the prices with Mr Thammiah?---Yes.

And did you have any involvement in the preparation of an annual financial report provided by Novation in support of its tender?---Sorry, what's, what's that?

Did you have any involvement in the preparation of an annual financial report at all?---I'm not sure what that is, sorry.

All right.---Can you show me it?

10 No. If we could go back to message 108. Mr Thammiah says, "Hey, dude. Sending the doc to review now. Let me know. I'll make changes today. Just double check the IP rating explanation. Going to get the scales for about 300 less each." And you say, "300 is a good deal. Good work, bro." You see that?---Yes.

And so the price came down from \$15,800 to \$15,500, excluding GST, that Novation would charge RMS for each scale, correct?---For each scale, yeah.

20 And you have told Mr Thammiah that you would send the documents back within an hour.---Yeah.

And so you made some amendments to the tender.---I don't know. I don't recall what changes I made.

And if we could just go to 109. You sent him part of the tender and told him to choose "yes" for all insurance check boxes. Do you see that?---Yeah.

30 And you said, "Overall looks good. No issues. Give it another skim before you submit to make sure nothing's missed. We're golden, son." You see that?---Yes.

And by that you meant we're going to win this, correct?---I just meant that his document was golden, it's fine.

And by that you meant Novation is going to win this and through Novation you and me are going to profit from this?---I'm pretty sure given the context of the message the, the document's good. What he, what he done is fine.

40 Well, you're not telling the truth again in that answer. Do you agree with that?---I'm reading what I said and it's pretty clear.

Commissioner, there's more that's relevant unfortunately from this WhatsApp and it will take some more time and I note the time.

THE COMMISSIONER: That's all right. We'll adjourn for lunch and we'll come back at 2.00pm.

**LUNCHEON ADJOURNMENT**

**[1.05pm]**