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INDEPENDENT COMMISSION AGAINST CORRUPTION

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COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 6 JUNE, 2019

AT 2.00PM

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

THE COMMISSIONER: Thanks, Mr Soliman. Thank you.

MS WRIGHT: Mr Soliman, at the time that Novation lodged its submission for the 425 scale procurement, Mr Thammiah was in Canada. Do you agree with that?---It was round that time. I don't know if it was exactly then.

10 At the time that you reviewed his submission, he was overseas. Do you agree with that?---I'm not sure but he, he was over there around, around the time when it was due.

You were conversing via WhatsApp.---Yeah. I'm not sure if he was back by the time it was due.

Well, if we could go back to the WhatsApp page, message 110. You see these are messages sent on 30 August, 2018?---Yeah.

20 You asked Mr Thammiah whether he was all good with the submission? ---Yeah.

That was the date that the tender closed.---Okay.

And you told him that the tender closes in five hours.---Okay.

Do you see that?---Yep.

30 And he said, "I'm going to upload it now." And you asked him, "Do you want me to check it?" Do you see that?---Yep.

And you received it from him?---He would have sent it to my email I guess.

And you opened the email?---I don't even think I looked at it, but I mean I wouldn't have changed anything on it. He already said it was fine.

Did you say you don't think you even looked at it?---I don't recall seeing an email, but he must have sent it obviously.

40 Well, do you see what the next messages on the page are?---Yeah.

And what is the third message that you send, which is the bottom, see the bottom of the page?---Yeah.

The last one and the one above that.---Yeah, I see it, yeah.

What does it say?---"Looking at it now." So I must have, I must have seen it or opened it.

And you say to him, "Give me 10 minutes."---Yeah.

So you've spent about 10 minutes looking at it?---I guess so, yeah.

And did you make any changes?---Hmm, don't recall making any changes.

10 And then if we go down to message 110, sorry, 111, Mr Thammiah asks whether the deadline is 5.00pm, and says, "I'll upload it when I get back in two hours." And you tell him there's five hours left, and confirm that the deadline's 5.00pm.---Yeah.

And you tell him, "Don't leave it to the last minute in case there is issues uploading." Do you see that?---Yes.

You wanted to be absolutely sure that he lodged the submission in time. ---I was just telling him when, when it's, when it's due.

20 You wanted to be absolutely sure that he lodged it on time?---I guess so, yeah.

Because you knew that if he didn't lodge it on time, Novation could not be the successful tenderer.---Well, I mean if you're late, obviously, yeah.

Well, you knew that because of your role at RMS. Correct?---Yeah. I mean if you're late it's, you need to ask, you need to ask for an exemption or something like that basically I think.

30 And you wanted to avoid that risk.---Well, yeah. I mean like I said, he was my friend and I mean I told him to submit it on time.

It's not because he's your friend, it's because it's your tender as well. Do you agree with that?---Not particularly, but, you know.

40 Now, we go over the page to 113. You have some discussion about various aspects and you tell him, "Okay, review finished." I suggest you've spent about 17 minutes at least looking at the document, and then you tell him to, "Submit that mofo." You tell him, "It's all good to go, bro." See that? ---Yeah.

And he says he's going to submit it. And then if we go over to message 115 on 31 August, Mr Thammiah asks, "How did the submissions go?" And you query submissions, and he says, "Tenders." And you say, "You submitted the response, right?" Do you see that?---Yeah.

And because again you were concerned that he'd submitted that. Do you agree with that?---Sorry, I was concerned that he submitted it?

Yes.---Yeah, of course.

And you said, "I review it on Monday." Do you see that?---Yes.

And 30 August, being the date it was submitted, was a Thursday. Do you recall that?---No.

You took a flex day on 31 August, 2018. Do you recall that?---I don't, but if you've got the record then it's true.

10

And then there was the weekend. And at that stage the Tender Evaluation Committee meeting was scheduled for the Monday. Do you agree with that?---Again I don't know when things were scheduled, but if you're telling me it's true, it's fine.

Well, you've said, "I review it on Monday." I suggest that's Monday, 3 September, 2018.---Okay, if you say so it's fine.

20

And you intended to review the submission on Monday at the Tender Evaluation Committee meeting.---I don't know. I don't think so.

THE COMMISSIONER: Well, how else are you going to review it on Monday?---I don't know. Maybe after the finished document comes from the team.

MS WRIGHT: That's just – that's a lie, Mr Soliman. You would review it at the tender evaluation meeting.---Mmm, I never planned to go there. But also, I did actually go there, like I, like I said, so - - -

30

Why would you review the submission of Novation after the Tender Evaluation Committee meeting?

THE COMMISSIONER: Particularly when you've already read it.---Well, the recommendation from the, our committee would come to me, obviously, afterwards to sign.

MS WRIGHT: And then you would have some influence over what they said in the report, is that the idea?---Influence on the report? No, I never saw them write the, write the report, actually.

40

Why would you be reviewing the Novation submission after the Tender Evaluation Committee meeting?---I don't think that's what I meant by that, but look, it's possible. You know, I don't really recall exactly what I meant by there, but - - -

No, you didn't mean after the meeting, you meant at the meeting, didn't you?---I don't know.

When you said, "I'll review it on Monday."---Don't know.

What else could it mean?---Like I said, the only thing, other, other thing it could mean is that once I get the review from the committee, I'll be reviewing the report, and signing off on whoever they picked.

I see. So you intended to sign off on the committee's recommendation?---I think I had to, I'm not sure if, that or just some sort of approval.

10 And in that context you intended to review the Novation submission that you'd already seen for at least 17 minutes on 30 August? Is that what you're saying?---I'm not sure what you mean by "review the Novation submission". I've, I've already seen it, obviously.

Okay, well, let's go back. You said to Mr Thammiah on 30 August, 2018, "Looking at it now," and the phone clock showed 11.50. And then at 12.08, at - - -

20 THE COMMISSIONER: On message 113.

MS WRIGHT: Message 113, you've helpfully said, "Okay, review finished."

THE COMMISSIONER: "It's all good to go, bro."---Yep.

MS WRIGHT: 17 minutes.---Okay. Yeah, so I've already reviewed - - -

So you accept that you reviewed it during that 17-minute period?---Yeah, it looks, looks that way, yeah.

30 Yes. And then you said to Mr Thammiah at message 115, "I review it on Monday."---Yeah.

And that was the date that the Tender Evaluation Committee meeting was going to take place, wasn't it?---Yep.

And you wouldn't be getting access to the submission before that meeting - - -?---No, but that - - -

40 - - - do you agree with that?---No, but that could also mean the review of the recommendation from the committee. Again, I'm not exactly sure what that refers to, but it's one of those two things, obviously.

And what were you intending to do if it was the, if it's what you suggest, that you'd get it after the meeting with the recommendation, what were you intending to do with Novation's submission?---I don't understand the question.

Well, you said that it's possible that what you meant was you'll review it after the Tender Evaluation Committee meeting. You recall giving that answer, just a moment ago?---I think you misunderstood what I meant, so - - -

THE COMMISSIONER: Sorry, did you say that or not?---Sorry, can you just repeat the question first of all? I'm mixed-up now.

10 MS WRIGHT: I'm asking you about this message, in message 115, where you say, "I review it on Monday."---Yep.

And your answer was, when I put to you that that is a reference to the Tender Evaluation Committee meeting, you responded to my question by suggesting that you may have meant that once you got the report and recommendation of the Tender Evaluation Committee, that's when you may have been proposing to review the Novation submission.---No, that's not what I meant. I, I meant after, I would, I would get the report from the committee, I would review what they've said in that, obviously. Not, not necessarily the submission, obviously, I've already seen that.

20

But your – you said, what did you say to Mr Thammiah before saying, "I review it on Monday"?---"You submitted the response, right?"

What's the response?---(No Audible Reply)

What do you mean by response?---(No Audible Reply)

30 THE COMMISSIONER: And if you put it in the context, Mr Thammiah says to you, "How did the submissions go?" You question submissions and he says, "Oh, well, the tenders." You then say, "You submitted the response, right? I review it on Monday."---Yeah.

Now, in that context the response must be the tender, mustn't it?---Well, I mean, it's either that or it's - - -

Do you agree with that or not?---Trying, trying to explain what, what I might have said.

40 No, no, no. I want you first to state whether you agree or not.---That if I think it was - - -

Well, you - - -?--- - - - the tender?

You wrote it. I've taken you to the context. When you say, "I review it on Monday," my question to you is, the context I took you to, it must mean the tender. Now, step 1 in the process, Mr Soliman, is for you to say, I agree with that or I don't.---It's not a straightforward question though because I mean in the context her, Mr Thammiah - - -

All right. So you can't answer that yes or no?---Well, I'm trying to answer that.

10 No. I'm trying to avoid, Mr Soliman, the exculpatory irrelevant responses when you are asked a straightforward question. Now, for example, I've taken you to the context. If you sit back and think, yes, that's what I mean, that's fine, we can move on. If you say no, then either myself or Ms Wright will ask you some further questions or eventually Mr Young, your very
10 experienced counsel, may ask you some questions to clarify, but at the moment questions are not being answered in a direct fashion. So is your answer to my question, when I've reminded you about the context when you said, "I review it on Monday," are you talking about the tenders?---I don't know.

Okay.

MS WRIGHT: You said, "You submitted the response, right?"---Yes.

20 And you were referring to Novation's tender when you asked Mr Thammiah whether he submitted the response?---Yes.

And when you say immediately after that, within the same minute, "I review it on Monday," you must have been referring to Novation's tender submission.---Well, it was just asked that. I mean I don't exactly know what that means, that could have, that could have meant that I was going to review the report from the committee, but I don't know.

30 You haven't said anything to Mr Thammiah about any report.---He, he doesn't need to know that. I mean - - -

You wouldn't be telling him that you were going to review a report, if he doesn't need to know about the report. Do you agree with that?---To be honest I'm not sure how else I can answer you.

Well, you're just making it up as you go.---No, I'm not making it up as I go, I'm trying - - -

40 I said, I asked you, you haven't discussed anything about the report with him, and you said, "Well, he doesn't need to know." That was your answer. ---Yeah, I mean why would he need to know?

So you didn't mean the report when you said, "I review it on Monday."---I don't recall exactly what that meant because I don't recall a lot of things due to what's happened to me over the past 18 months and when you ask me these questions I'm trying to think what I meant by that.

You have no reason to proffer, no reasonable reason to proffer as to what else this could be referring to other than Novation's tender.---I've already provided another reason because I mean if the tender meeting was going to happen on Monday - - -

THE COMMISSIONER: All right.

THE WITNESS: - - - then the recommendation would have come on Monday also.

10

MS WRIGHT: You're trying to distance yourself from the I suggest obvious conclusion which will be drawn that you intended to attend the Tender Evaluation Committee in order to ensure that Novation was selected. ---I didn't intend to.

That's why you're saying that you don't recall.---I didn't intend to. I mean if I knew that I was going I'd have been there on time and I would have stayed for the whole meeting first of all.

20

THE COMMISSIONER: All right.

MS WRIGHT: And then you said, "Sweet we're golden," and you said, "I'll sort the rest from here. Nice." And when you said, "I'll sort the rest from here", you meant I'll sort the outcome from the RMS side. Correct? ---I guess so, yeah.

30

And if we could just turn over to message 120. You say on 3 September to Mr Thammiah that the moment of truth is two hours the tender reviews. AccuWeigh has lodged an informal complaint because they think the RFP was too product-specific LOL." Do you see that?---Yes.

And that was true?---They lodged a complaint?

Yes.---I'm not sure. I don't remember a complaint.

And it's true that the RFP was too product-specific. Do you agree?---I don't really agree with that. I mean, I'm pretty sure one of their scales met the specifications.

40

You might be confusing that with the previous tender, Mr Soliman.---I thought one of the scales fit in the racks and – which part did they not meet?

You might be confusing that with the 125 procurement that one of the AccuWeigh scales proposed fit within the racks.---Okay. I'm not sure. I thought they proposed both of their scales.

Now, you intentionally made the RFP product-specific I suggest for this tender.---I don't know about that. I mean, I, I knew there was at least two

scales just from the first tender that could meet the specifications and as far as I understand two of them did.

That's why you're laughing about it with Mr Thammiah, LOL in this message because you know that the tender requirements are product-specific.---I don't know about that.

And you say, "I'm going in to bat" and what you mean is I'm going in to bat for Novation being selected.

10

THE COMMISSIONER: Don't you?---Yeah, it looks like that, yeah.

MS WRIGHT: So you intend to go to the Tender Evaluation Committee meeting to bat for Novation?---I didn't say anything about Novation in the, in the meeting.

Well, you just accepted you're going in to bat for Novation.---Even if I say that it doesn't mean that I said anything in the actual meeting to change the outcome.

20

THE COMMISSIONER: Mr Soliman, you weren't asked that. You were asked what you meant when you wrote, "I'm going in to bat". My note was that you agreed it was going in to bat for Novation so you've answered the question.---That's what it seems like, yeah.

MR YOUNG: He was also asked questions in relation to whether that was in the Tender Evaluation Committee and he said no, he did not do that in the tender.

30 MS WRIGHT: No.

MR YOUNG: They were separate questions.

MS WRIGHT: No, my question was you intended to go in to bat.

MR YOUNG: At the Tender Evaluation Committee.

MS WRIGHT: At the Tender Evaluation Committee.

40 MR YOUNG: Well, that, yes, so there was - - -

THE COMMISSIONER: So yes or no that was your intention?---Are you saying if I intended to go - - -

No, don't ask me a question, Mr Soliman. You were asked was it your intention when you attended the evaluation review panel meeting to go in to bat for Novation. Now, is your answer yes or no?---To influence, no.

MS WRIGHT: You've said it here plain as day, Mr Soliman, "I'm going in to bat."---It doesn't mean that's what I did or - - -

No, I'm asking you about your intention. You went into the meeting intending to go in to bat. You've said it here in black and white. It is in front of you.---Okay, but I didn't, I didn't influence anyone. I didn't say - - -

I'm not asking you that.---I think you are.

10 THE COMMISSIONER: No.

MS WRIGHT: No.

THE COMMISSIONER: Listen to the question, Mr Soliman.

MS WRIGHT: You went to that meeting intending to go in to bat for Novation.---I'm not sure any other answer I can give you, I mean - - -

20 Well, you have no reason to doubt that sitting here now, do you, given that you've said it and it's straight in front of you on a screen.---Yeah, I know. I mean, that's, that's what I can see, but I'm just also telling you that's, wasn't what I planned to do, and that's not what I did.

When you say it's not what you planned to do, you weren't telling an untruth to Mr Thammiah here, were you?---I don't think so. I mean, maybe it was just a figure of speech, again. Maybe I was just trying to make him feel good, whatever. But that's not what I ended up doing.

30 About you two being \$2 million richer in a few hours.---Yeah, I think, yeah.

That was the intention, that you would be \$2 million richer as a result of the tender evaluation.

THE COMMISSIONER: In a few hours.---Well, yeah, the company, him.

MS WRIGHT: It says, "We're."

40 THE COMMISSIONER: "We're."---Yeah, again, it's the same scenario, as I touched previously, you know? I felt very close to him.

MS WRIGHT: Yes, and you're included in that scenario. You and Mr Thammiah, sitting behind Novation. Correct?---Mmm, I never saw two, \$2 million. I never got any of that money, obviously.

Well, we know why that is, don't we?---Yep.

You were intending to get a lot of money - - -?---Don't know about that. I mean - - -

- - - from this transaction. Now, you then tell him it's postponed till tomorrow, "we'll let you know tomorrow." Do you see that?---Yep.

So the meeting was postponed till 4 September, a Tuesday. Correct?

---Okay.

Yes or no?---I don't recall.

10 Well, you don't have any reason to doubt it, do you, when you've said it here?---You're, you're asking me which date, though. So 4th, yeah, the, tomorrow will be the 4th, yes.

And the meeting was postponed till the 4th. Agree?---I believe so, yeah.

Then if we could over to 123, please. The Tender Evaluation Committee meeting took place on 4 September. If we could scroll down to message 124. And you inform Mr Thammiah about the submissions, during the meeting.---Yep. Yep.

20

You tell him AccuWeigh's submission is trash, and that Novation's submission review is next up. Do you see that?---Yep.

And you tell him that he didn't sign the proponent page, and you've got to seek an exemption now from the CEO. And then if we go down, he says, "What, I signed everything in PDFs. You saw it, all right," and you say, "Yeah, I saw it before you signed it, but it was blank in the submission. Don't know what happened, anyway." He says, "Well, I'm going to check," and you say, "I got to go in to bat sometime in the next week or so to seek exemption." He says, "All right, anyway, next step," and you say, "Seeking exemption, LOL, don't worry, should be fine." He says, "LOL, how hard." You say, "Just risky as hell for me," and you say, "Hard." And he says, "Yeah, sweet. Was the rest solid." Now, you said it was risky as hell for you because you were not supposed to have access to the submission at all, because you weren't a member of the committee. Do you agree with that? ---I think it's more so because I know him obviously, so, like I said, by this point I knew it was wrong, and that I had a, had a conflict, so, that's probably what, what I meant by that.

30

40 Yes, and no-one else knew, apart from Mr Singh, that you were friends with Mr Thammiah.---Yeah.

At RMS, is that the case?---Mmm, yes, I think so, yeah.

Okay. Well, when you say you think so, do you know whether anyone else was aware of your friendship with Mr Thammiah?---I don't recall telling anyone else.

Message 126. You tell him, "I can handle it, all good, the rest was perfect, yee-ha." So you're very happy about that, are you?---The rest was perfect, yeah.

And when you say yee-ha it's because you're very happy about the situation?---Well, I'm happy that it's a good document obviously.

10 And a good outcome for you financially.---I don't, again, once again, I don't think we ever spoke about me getting any money about this but obviously you've got all of my messages so if it's in there - - -

It was your expectation that you would get money out of this, wasn't it? ---I don't recall us talking about that but there's no, I mean you've obviously got all of them, I mean I don't recall ever talking about it.

20 Was it your expectation, however, that you would get money from it? ---Hmm, not necessarily. I mean at the beginning he just asked me to kind of guide him with the, the tender just to check his answers and everything, but obviously got way too deep obviously, you know.

You told him, "I'll let you know if we're \$2 million richer in a few hours." ---Yep.

It can't mean anything other than you had an expectation that you would get money out of this transaction. Do you agree with that?---Not necessarily. I mean me and him were so, so close that I mean, I was happy for him if he, if he won it, obviously.

30 Now, we'll just skip down to 127. You reiterate that it's a big risk for you, "But I'll let you know." You tell him, "You can't redo submissions, I'll update you when I know more so you can tell IRD to start." Mr Thammiah says, "Could use Canada as an excuse. LOL." What did he mean by that, to your understanding?---I don't know.

Then you say, "It should be fine." That's in reference to him not signing the document. Do you agree with that?---Ah, that makes sense, yes.

40 And then if we could scroll down further to message 129. On 5 September he asks, "Hey, what do you mean by didn't sign, was it the page witnessed be Fernando?" So Mr Garza had witnessed and signed Novation's submission. Is that correct?---Sounds like here, but I don't, I never saw Fernando's signature.

And you say, "At the beginning of the RFP you wrote your name as the proponent but didn't sign." And you've told him, "It instantly disqualifies the submission." And if you could keep scrolling down, at message 130 you tell him, "The process says if I still want to proceed with the submissions I've got to seek exemption from the CEO as it's a non-conforming tender."

And you say, “Stupid rules.” He says, “Ha ha ha, what a joke.” You say, “LOL. Yep.” He says, “All right. I’ll leave it to you.” You say, “Anyway, I’m seeing what I can do now.” He says, “What else choice is there?” You tell him, “Will let you know.” He says, “As in submissions?” And you say, “Intercomp would win by default.” Do you see that?---Yes.

The only other option was Intercomp. You agree with that?---I think so, yeah.

10 Yes, that was always your intention, that there be as few competitors as possible.---I mean not necessarily, but like I said, again I’ve already favoured Steve.

And then at 131 you say, “Mad, yeah.” And he says, “They don’t comply surely?” And you refer to the crappy scale AccuWeigh are selling, and you say, “They don’t even have an OIML cert for the scale.” And then if we go down to message 132, you were aware that they were getting certification in a very short period of time. Do you agree with that?---I think that’s what Paul Walker said was in their submission, or I may have seen it when I was
20 in the actual room.

It’s what you’ve said here to Mr Thammiah in the WhatsApp. You say, “They say they are getting it in October.” Do you see that?---Yeah.

So you knew that the Intercomp scales would be getting certified in October 2018?---I did not know that.

Well, you’ve just told Mr Thammiah that, so you must have.---That would have been what they said in the submission but they also said the same thing
30 in the first submission from what Jai said and that didn’t happen then either.

Well, it was your expectation that this was true, wasn’t it, that they were getting certified in October?---Of course not, if that’s what they said in the first tender and they didn’t do it, why would I, why would I know that it’s going to happen now when they say it?

Well, why would you refer to it, why would you even refer to it in your discussion with Mr Thammiah?---I don’t see why not, because that’s what I would have been told either by the committee or if I read it during when I
40 was in the, in the meeting.

And you tell Mr Thammiah, “The directors won’t want to run another tender, it’s too late, time will run out.”---Yep.

And you say, “But I’ll find a way.”---Yep.

Do you see that? And what you meant by that was, I will find a way to

avoid the Intercomp ever being selected, even after it's certified. That's what you meant by that.---Not necessarily.

What else could it mean in the context, Mr Soliman?---Well, obviously he's, he's got the winning scale so I think it was actually in there, the part that was missed, and the guys found out after I think.

10 You're concerned here that the Novation submission might be totally excluded from consideration because Mr Thammiah failed to sign the submission. Correct?---Ah, yes.

And you're having a discussion with Mr Thammiah about the possibility that the AccuWeigh scale, which is not yet certified but will be in October, could be selected by default. You agree with that?---No. I was obviously seeing if there's, if there's a way that his submission can be maybe checked again and obviously that's what happened and they found that missing part was actually in the, in the document, they just missed it when they were checking it.

20 THE COMMISSIONER: You're completely ignoring Ms Wright's question. Ms Wright, can you put it again. Not interested in what happened afterwards, you're being asked specific questions about what you have written in these WhatsApp messages, so please listen to the questions and answer them.

MS WRIGHT: Slightly late in the day for me to recall my question, Commissioner. You, Mr Soliman, are concerned here, you agreed with me, that Novation's submission might be totally excluded from consideration because Mr Thammiah failed to sign it. You agree?---Yes.

30 And you're weighing up here the possibility that AccuWeigh's tender, or sorry, AccuWeigh's scale will be chosen by default.---It wasn't even a complying product, and when I say, "But I'll find a way," - - -

And you're weighing up the possibility that RMS might go on to consider the Intercomp provided by AccuWeigh, because AccuWeigh have said they're getting it certified in October.---No, I was more so, more so worried that we'll be left with no other option because their scale wasn't a conforming scale.

40 And you've told Mr Thammiah, "They say they're getting it in October," because you're concerned that that's not too far away and it leaves a chance that the Intercomp will be selected.---No.

That's why you've told him that, isn't it?---No.

THE COMMISSIONER: That's your concern, because you're not, we won't be sharing in the \$2 million, we won't be richer by \$2 million. That

was your concern, wasn't it?---Not necessarily. When you say the October thing, I would have just brought it up because I, because I saw it, I mean - - -

MS WRIGHT: Well, you tell him "I'll find a way," in other words I'll find a way around this. If the Novation one is excluded because it's a nonconforming tender and if the AccuWeigh is being considered because it's going to get certified in October and you tell him the directors won't want to run another tender, time will run out but you will find to get
10 Novation slotted in as the successful - - -

THE COMMISSIONER: Tenderer.

MS WRIGHT: - - - tenderer.---Well, like I said, yes, I favoured him but that way I think the guys just checked it again and the document was actually there, they just missed it.

THE COMMISSIONER: We're not asking you that.

20 MS WRIGHT: Yes, and you're scheming every aspect of this procurement process, Mr Soliman. And then you go on to Mr Thammiah says, "Well, you reviewed it LOL."

THE COMMISSIONER: So, did you agree that you're scheming with every aspect of this procurement process?---Sorry?

I'm sorry, I didn't hear that there was an answer. Was there? That was a very good question. You were scheming about every aspect of this procurement process.---I was helping him way more than I should have and I mean, if you want to deem that scheming so, so be it. Obviously it was
30 wrong how much I've helped him.

MS WRIGHT: Then if you could go down to 134. Mr Thammiah says page 27 is the first signature required. There's an attachment on that page. Not that one. And he, if we could keep going. He screenshots in message 135 the undertaking which is part of I suggest the document I've taken you to in volume 12 being Novation's tender. Do you see that screenshot and it says undertaking?---Yes.

40 I, Stephen Thammiah, of an address in Rouse Hill?---Yes.

And then he is seeking assurance that that's the page. And you go on to discuss, if we could scroll down through message 136, please, and 137. You tell him, "We all missed it." And you say, "Let me see how I can notify Alex." And he says, "All good." And you say you're "not supposed to have access to the docs LOL but this is good. I'll sort it." Do you see that?---Yes.

THE COMMISSIONER: So the people who actually found the signature was, or the person who found the signature was you or you and Mr Thammiah as you're exchanging these messages?---I don't know if I was the first to find it but he told me then, yeah.

Well, it's out of the two of you, isn't it?---No, I think also when I showed that was missing in the actual, the committee they also started to kind of check again.

10 Well, you would have responded to Mr Thammiah don't worry because - - - ?---Yeah, I did.

- - - in the committee they found it and you're not saying that at all. You're saying the opposite.---It wasn't the same time.

And then during the messages the signature is found and you respond at message 137, "We all missed it. Let me see how I can notify Alex. All good. I'm not supposed to have access to the documents LOL but this is good. I'll sort it."---Yeah.

20

MS WRIGHT: So you were scheming every aspect of this tender to ensure Novation was selected?---Again, if you want to use that word, yeah. I mean from my point of view I helped him way more than I should have.

You were helping yourself as well in that process.---Again, I don't, I don't know if we ever spoke about money from this tender but I know prior to this there was definitely no - - -

30 You spoke about money in these WhatsApp messages.---Yeah.

So you did speak about money in relation to this tender.---Yeah, but it wasn't necessarily - - -

MR YOUNG: Well, I object to the generality of that. That's not a fair question. To speak about money is, is not a fair question in relation – because if that's going to be put in terms of a specific allegation, that is not an appropriate question.

40 THE COMMISSIONER: All right. "We're going to be \$2 million richer." You spoke about money and the sharing of profit between yourself and Mr Thammiah in these messages in the context of this tender, didn't you? ---Look, I'm pretty sure what I meant by that was that obviously I would be happy for him.

Yes, I know you've got an explanation as to what you now mean. But what I'm, what's being put is in these messages, you were sending messages to Mr Thammiah where you were saying things like, "We're going to be \$2 million richer as a result of this tender," aren't you?---Well - - -

So you were discussing money with Mr Thammiah in the context of the tender in these messages.---I was talking about money, yes, yeah.

MS WRIGHT: Money that you would benefit from, ultimately.---Look, once again, like I said, I mean, I don't think I ever spoke about any money that he would give me. He definitely never gave me any money from this tender. I don't, I don't even know if he, if he got paid for it.

10 It's because you were found out, Mr Soliman. If we could go to message 139, on 7 September, Mr Thammiah asks whether you've mentioned anything to Alex yet, and that's a reference to Alex Lee. Correct?---Yes.

And you understood him to be concerned about the possibility of his nonconforming tender?---Yes.

And you were working on that issue, were you not?---Yeah, obviously I should have spoken to him about it.

20 What did you do to address the issue?---I'm not sure, but I'm sure you're going to show me now.

THE COMMISSIONER: Mr Soliman, what did you do?---I'm not sure. I don't recall.

MS WRIGHT: You don't recall is an answer you give unless the Commission can show you evidence of what you've done. That's your standard response to questions, unless you are shown evidence, you say, "I don't recall."---Oh, you know, once again, I mean, I'm not going to go through my life story, but things that have happened to me over the past 18 months have affected me greatly, so - - -

Well, they might have affected you, but you do have a memory, do you not? ---I haven't slept more than a couple of hours every night for 18 months.

Well, you might not be the only person in the room to whom that applies. ---Didn't, I didn't say I was.

40 You still have a memory, don't you?---It's been affected, and I don't really know what's, you know, true or, anymore.

This is not even 12 months ago.---I understand that.

And you remember the events quite clearly, I suggest. And unless you're shown evidence, you're telling the Commission that you don't recall, and you're not telling the truth.---I don't agree. I mean, obviously you've got everything here, and there's no point in me sitting here and saying, lying

when I know you, you've got all of the messages. I mean, if I recall I got something, there's no point me saying otherwise.

So if we didn't have the messages you, there would be a point in lying, would there?---That's not what I meant at all.

Well, I've asked you a question, what you did to sort this issue with Alex Lee, and your response is, "Well, you're about to show me." Well, I'm asking you the question - - -?---No, my response - - -

10

- - - and you're required to answer the question, Mr Soliman.---My response was that I would have spoken to him, but I don't recall if that's what I actually did do. It makes sense for me to speak to him after I said that I would.

And what would you have said to him?---I don't, I don't recall.

What would make sense for you to have done in order to address this issue with Alex Lee?---Check the documents again.

20

For you to check the documents again?---I guess him.

For what purpose?---To see if that, that part that he, that they missed in the first place is actually in there.

And was it actually in there?---It must have been.

Why do you say it must have been?---Just to make sense, if Mr Thammiah saw it in his one, then it would have been in the one that he submitted because it's the same document.

30

And did you obtain that reassurance from Mr Lee?---That he found it?

Yes.---I guess I must have if I said that I was going to.

THE COMMISSIONER: Because isn't your problem, as you outlined in message 137, "I'm not supposed to have access to the documents."---Yeah.

So how did you finesse it?---I'm not sure.

40

MS WRIGHT: Then if we could go to message 140, you said, "All good, bro, I'm working it cleverly. Don't worry." And Mr Thammiah said, "I'm just going to stick with the five something." And you said, "I got this, Soliman guarantee." You see that?---Yes.

Now, then if we could turn to message 144. Mr Thammiah was coming back from Canada after that time. Do you agree with that?---Ah, yes.

And you continued to talk about his return to Australia, and you asked him to delete all the messages.---Yes.

You see that. And that was to hide all of the explicit discussion you'd had about you scheming the procurement process?---Don't know it was about that.

Was it about some other activity that you were engaged in?---I think he went to a dispensary or something, it's legal in Canada.

10

Ah hmm. And then message 147 you sent to Mr Thammiah the tender evaluation report, a screenshot of it.---Ah, yes.

And you reassured him that two signatures were done and that you were meeting with the executive director today to get her signature, and you said, "Not leaving it up to chance that we're golden!!" Do you see that?---Yes.

20 And the signature issue was sorted and you told him, "It's sorted." And Mr Thammiah said, "Show 'em the price, son. LOL. I can't believe it. It was missed. LOL." Do you see that? And then at message 148 you told him, "No one cares about the price." Do you agree you said that?---Yes.

There was no system at all in this process for anyone to review the mark-up by the supplier. Do you agree with that?---Don't think there was.

Did anyone ever ask you a question about Novation's mark-up?---Don't think so, no.

30 So really the price was absolutely irrelevant in your view to the selection of Novation to supply these scales?---Well, the most critical thing was getting the best product.

And you made the submissions for the funding that should be available for the tender, to your superiors?---Sorry, the review of it or - - -

You made submissions to your superiors about how much funding should be made available for the replacement of the portable weigh scale fleet?
---Myself and Mr Hayes, yes.

40 And in making those submissions, you based them on what you thought you could profit from an inflated price to be charged by Novation?---I'm pretty sure I just gave some very high level estimates basically.

And you sought to profit to the maximum possible through the price to be charged by Novation when you gave those estimates?---I don't know about that. Obviously I favoured Stephen, I was happy if he made a, made a profit and he was helping me obviously. So again the lines got blurred between what was his money and what was Road and Maritime money and then - - -

THE COMMISSIONER: What was your money.

MS WRIGHT: So your \$7 million price tag on these scales wouldn't have applied if it was AccuWeigh's scales, would it?---It's a different product.

And it wouldn't have applied if Novation was not the distributor of the PAT scale, would it?---I can't say what someone else would charge for the modified version of it.

10

ELWC hadn't charged anywhere near \$15,500 per unit, had they?---No but it also wasn't the modified version of it.

So you say the modifications required a price in excess of double of what the standard price for the PAT 10A III was, do you?---I'm not saying it should be anything, I'm just saying it's not a like for like, it's not apples for apples.

20 But it's an excessive price, do you agree with that?---I think you already asked me that.

Fifteen and a half thousand dollars?---I think you already asked me that but I don't know what you would deem excessive. I mean - - -

It's a simple question.---I have no option on what excessive could or should be for that scale. I don't know what the cost actually was, what the wholesale cost, I don't remember seeing it.

30 You wrote in your messages, your WhatsApp messages to Mr Thammiah that it would be \$15,800 per scale.---Yeah.

And then you asked him to prevail upon a Rish Malhotra to get a lower price and the price ended up being fifteen and a half thousand dollars, you're aware of that.---Yeah. Mr Thammiah when I spoke to him, yes.

Yes. And so you're aware of the price. When you said a moment ago that you weren't aware of the price, you were fully aware of the price.---No. I said I don't know what the cost or price was, the wholesale price to produce the modified version of it.

40

You just make up your answers, Mr Soliman, as you go.

MR YOUNG: Well, I object to, this is happening quite bit, Commissioner, where propositions, where statements are just made, not in the form of a question and they are going to appear in the transcript. If that is going to be put as a proposition, that should be put in terms of a question not simply a statement being made.

MS WRIGHT: Well, I assume he won't agree with it but do you agree that you make up answer as you go?---I'm looking at these messages and again I am trying to think what was happening then.

THE COMMISSIONER: So your answer is yes or no?---Sorry, what was the question?

MS WRIGHT: When you're asked questions, you make up answers as you go unless you are shown hard and fast evidence that's contrary to what you would wish the Commission to believe?---No. No. I mean, if I'm sure about an answer, I'm giving you yes or no but when I don't recall something clearly I'm not going to speculate over that.

Now, you then in this message tell him to speak to Fernando to get brochures for the ANPR cameras and you say, "Spec sheet et cetera. I'm starting our new revenue stream," smile symbol. See that?---Yes.

So you were seeking a new line of profit for you and Mr Thammiah through Mr Thammiah's relationship with IRD, do you agree with that?---Well, again, I think Rish was speaking about the cameras that he, he had and that's what we're talking about here.

THE COMMISSIONER: But, no, Mr Soliman, you say "I'm starting our new revenue stream." That's what Ms Wright is really drawing your attention to.---Yes.

And again in black and white, you are clearly stating that you and Mr Thammiah are in business together utilising Novation. That's what you're saying, "I'm starting our new revenue stream."---That's maybe the way it looks here, but it wasn't, obviously wasn't my business. But again, once again the lines got very blurred between what was between us, and I was happy for him anyway if he did make, make money.

MS WRIGHT: So all the money was to be made by Mr Thammiah, was it?

THE COMMISSIONER: Is that the case? That's what you're saying? ---What, what do you mean? What do you mean, sorry?

MS WRIGHT: You said you were happy for him? And did you say because he was to make some money?---Yeah, like, now I'm reading all this and I'm wondering if he offered me money, but I don't recall ever speaking about that with him.

So why did you say, "I was happy for him because he would make some money"?---Yeah.

Why did you say that?---Because it's true.

So you weren't happy for yourself to be making money?---Well, I was already getting a loan from him. I mean, I don't think we spoke about getting money from the contract. I don't remember that. But again, who knows what was chucked around. I don't recall speaking about that.

THE COMMISSIONER: But you just gave an answer something along the lines of "Now I'm thinking did he offer me money."---Yeah. Did, did he offer me money from this contract because - - -

10 Because the messages here in black and white that you were sending Mr Thammiah clearly indicate that you were going to get money out of this contract, don't they?---Not necessarily, no. I think once again when you're looking at the terms "we" and "us", that was having such a close friend that I saw him as myself sometimes.

Why then did you just say, and again my note is something along the lines "I'm now thinking did he offer me money"?---Yeah, because now the way that you're putting it, I'm thinking did he offer me money from this contract? But again I don't recall that that ever happening, but once again
20 you've got all the messages.

MS WRIGHT: And at this time you were discussing with Mr Lee executing the contract with Novation.---Yes.

And that contract was executed.---Yes.

And you sent the letter of acceptance to Mr Thammiah.---It was probably Alex Lee.

30 Well, if we could go to volume 12, page 239. See, Mr Lee would not have had the authority to accept the Novation proposal, would he?---Probably not.

And so you are the person who sent the letter of acceptance to Novation. ---Yes, that's, that's what I see here.

So why would you say it was probably Mr Lee?---Because I assumed if he was managing the tender, then it would come from him.

40 But you agree that he would probably not have the authority to do that.---I just thought you meant the letter itself.

Yes, this is the letter itself.---Yeah.

Which is from you.---Yeah. I can see that, yeah.

And if I hadn't showed you the letter, your answer was it was probably Mr Lee.---Yeah.

Because you seek to ascribe all of this to other people.---No.

Now, you raised a purchase order to approve the purchase?---(No Audible Reply)

Do you agree with that?---I don't know if it was me.

Volume 11, page 239A.

10

THE COMMISSIONER: Sorry, what page again?

MS WRIGHT: I'm sorry, it's volume 12, I apologise. I'm afraid that's my fault. Volume 12, page 239A. You see you've said, "I approve the PO?" ---(No Audible Reply)

So you approved the purchase order?---Yes.

20 And at the same time that you did this, you were liaising with Mr Thammiyah?---Yeah, I'm pretty sure I told him, yeah.

And if we could go back to the WhatsApp messages, on 17 September, 2018, this is message 157, you screenshot an RMS document to Mr Thammiyah. Do you see that?---Yes.

And then if we could go back to message – I'm sorry, that document was the purchase order, you see that, or the request for the purchase order - - -? ---Yes.

30 - - - that you sent to Mr Thammiyah. Do you agree with that?---Yes.

And that was to assure him that it was all good, that the transaction was about to be complete.---Yeah, that the purchase order was about to be approved, yeah.

And then if we could just go back briefly to message 151, Mr Thammiyah complains about the exchange rate for the scales that he is to purchase from IRD. Do you agree with that?---Yeah.

40 And he says he's going to source a new trader. See that?---Yeah.

And then over the page you've said to him, "██████ each?" Was that per scale?---Sorry, where are you looking, where are you seeing that?

I'm sorry, it's message 151.---Yeah.

You say, ██████ each?"---Yeah.

And then you say - - -

THE COMMISSIONER: So that's per scale?---Is it? Okay. I'm not, let me just read it.

MS WRIGHT: Well, if we could scroll down, you say, [REDACTED]

---Okay.

10 So you're referring to the price per scale in US dollars?---That's likely, yeah.

And so you've asked him, [REDACTED] "Yeah." In other words, is that Novation's cost price for the 425 scales. You're asking Mr Thammiah to confirm that, do you agree?---I think that's what it is, yeah.

20 And you say "Aussie?" and he says, "Closer to three," and you say, "Still, it's a lot," and he says, "Yeah, it is." And then you send him a calculator screenshot suggesting that it's [REDACTED] and he says, "Every cent it falls is like a couple grand." You see that?---Yeah.

And so the point of this discussion is how much you're going to profit from what RMS is paying to Novation, correct?---Don't recall. Looks like just trying to figure out what the cost is.

Why would you be trying to figure out what the cost is?---Don't know.

30 You don't know?---Yeah. Well, it's, it looks like, obviously, like you said, trying to figure out what the profit is but - - -

Yes, the profit for Novation based on what it has charged RMS.---Yeah, looks, looks like that way, yeah.

Yes. And then if we go down, there's further discussion about it and you say, "Plus the cost of the chargers." And you say, "We still did very well." So in other words, on the 6.9 or so million that Novation charged RMS, out of that price you've only had to pay IRD [REDACTED] and you've done very well out of that.---That's what it reads as, yeah.

40 Yes. And so that's an extraordinary amount of money, do you agree with that, Mr Soliman?---Yeah.

And you fully intended to reap the benefit of that profit margin, didn't you? ---Once again, I don't know if we spoke about any money that will come to me about this, but - - -

So you didn't speak about the specifics of the split between you and Mr Thammiah, is that what you're saying?---Didn't say that. I just, I said I

don't remember us talking about if he was going to offer me any money from this, but I mean if he did, he did, and it's going to be here.

You've said, "We still did very well." You were referring to both you and him in that equation.---Again that's probably just the same thing as before. Like I said, "we" means, you know, I'm happy for him.

10 And then you went on. If we could just go on to message 158. You tell him, after forwarding him the screenshot of the purchase order request, "I approved it. It's done, son." And he says, "Damn," and then you say, "Heads up, Alex Lee will advise you if you need to submit the invoice via Ariba." He says, "No problem." And then message 160, you discuss the cash payments that you're receiving from him on 19 September, and he says that "You took out 12,000 last week, this week, 10,000 last week. Why the rush? Take one pic of your face withdrawing and it's over. I don't know the internal audit process. Why take the risk?" And you say, "Each week \$8,000 so far." So Mr Thammiah was complaining about the size of your withdrawals. You agree with that?---Yeah. It wasn't that much, though, as he was saying.

20

And how did you take money out of his account?---ATM card.

How many accounts did you have an ATM card for?---I just had one of his cards at any, any one time.

You had one of his card at any one time, and did you have a card for the Novation account?---I don't think so. His, he just said he was giving me his personal card.

30 THE COMMISSIONER: This is when he was away?---No, just in, just in general. He gave me a couple of different cards, and - - -

MS WRIGHT: And you used different ATMs to withdraw the money?---I, yeah, whatever was close, I guess.

And did you at times cover the cameras?---I don't recall if I did that.

And when was the first payment he ever gave you?---Maybe 2016.

40 And how much was it?---Don't think I was using his card then. He would pull out something, and then if I needed some of the money, he would give me some of that. It was only small amounts.

The very first payment he gave you, how much was that?---I don't recall.

And was that a payment made to you after the first payment made to Novation by RMS?---Mmm, I'm not sure.

When he paid you, were you aware that he'd already been awarded a contract by RMS?---Yeah, I don't know what the timing was, exactly. But we started speaking around the, around the, talking about the loan and that around a similar time, so, it wouldn't surprise me if it's around the similar time.

And were you involved in the opening of a account for Novation?---Sorry?

10 That's a bank account. Were you involved in the opening of a bank account for Novation?---Mmm, no.

And perhaps if we could just finish off the WhatsApp messages. If we just go back to message 160, and then you've said that each week you've had, got out \$8,000. Do you see that?---Yep. Yep.

At the bottom of the page?---Yep.

20 And then going to message 161, you took out the money in \$2,000 lots?
---Yep.

And you've given him the dates and said, "I just withdraw four times a week when I'm at work at Parramatta," and you ask him to check his statements.---Yep.

30 And then, if we go over the page, he tells you to take it slower, and he says he doesn't want anything to happen, it's a risk, and it's a game over risk. You understood that what he meant by that was that if he made a transaction on his account that was too large and it attracted attention from the bank, your whole scheme may have come undone.---I would have thought it's meant if, because obviously it's not my card, so, if I'm using his card, it's obviously not a good, good thing.

What's "game over" mean?---Mmm, I'm not sure.

THE COMMISSIONER: Why is it not a good thing if you were using his card, if he approves of it? There's no problem.---Because it's not, well, it's not my card. I'm sure - - -

40 Yes, but - - -?---I'm sure you're not allowed to do that.

But if you've got the approval of the account owner - - -?---Mmm.

- - - there'd be no difficulty.---Mmm, I would have thought there would have been, I don't think you can use someone else's card.

MR YOUNG: A breach of the terms.

MS WRIGHT: And you tell him - - -

THE COMMISSIONER: So that's why you took out 2,000 amounts in consecutive days.---Yeah, I had a major problem with my house, house build, a major issue - - -

10 No, no, no, I'm not interested in the amounts. But if you're concerned with getting, that you can't use another account owner's card even with their approval, you wouldn't risk it day after day going and utilising the card at the ATM, would you?---Mmm, well, during that period, I didn't really have a choice, I did need, need the money during, there was a major issue with the house - - -

What, the major issue was a renovation or a building of a house?---Yeah, I had a major fault with the, with a house and there was a major leak.

MS WRIGHT: You tell him here that you're careful and that you choose ATMs where you can block the camera.---Yep.

20 Well, why are you telling him that?---I guess I must have blocked the camera but I don't, I didn't think I blocked the camera, but obviously if I'm saying that then I must have blocked the camera at least once.

That's why you're getting small amounts. You don't want to be seen and you don't want this to be detected.---No, because I think that's the maximum that Mr Thammiah said you can pull out from his card.

Then if we can go over to message 202 - - -

30 THE COMMISSIONER: And, sorry, can I just confirm, your evidence is that this alleged loan commenced what, towards the beginning of 2016? ---Ah, that's my best guess, yeah.

And my recollection of your evidence this morning is at that time Mr Thammiah said to you something along the lines of, I have plenty of money through my divorce settlement."---No, he, he had, he and his wife were quite well-off and he was going through a separation and he knew he was going to get several hundreds of thousands so he got funds through, through that.

40 So it wasn't settled at that stage. So where was he, if they hadn't been divorced with a property settlement, where was the money supposedly coming from?---He just said it was from, it was from his, like, his, him and his wife's money.

Sorry, where are we going now, 202?

MS WRIGHT: 202.

THE COMMISSIONER: Thanks.

MS WRIGHT: Now, you see there's a reference to, "I hope Ali finds one too on that note." Do you see that halfway down the page?---Ah, yes.

And above that Mr Thammiah and yourself are talking about someone who's looking for a job?---Sorry, where you are looking for that?

10 Okay. So the message above that, or there's three messages. "He's looking for perm job."---Oh, yes, yes.

"Perm, let him do his thing. Hopefully he does find one, it's what he wants. I hope Ali finds one too on that note." And you answer, "Yeah."---Yep.

And then he says, "I'm still shocked by his decision to leave."---Yeah.

20 That's a reference to Mr Hamidi?---Yeah, he, he got a job as a business analyst for a few weeks and he decided to quit. I was surprised by that basically because he didn't have a job and - - -

That he decided to quit a job that he'd had for only a short period of time? ---That's right.

And Mr Thammiah is wishing that Ali finds a permanent job.---Yeah.

And so Mr Thammiah to your knowledge is a friend of Mr Hamidi? ---No.

30 An acquaintance of Mr Hamidi?---No.

Well, how would you explain why he's raised with you his concern about Mr Hamidi finding a job?---I definitely would have told him just in general chatter if something maybe happened during my day and I guess I would have told him, but I've never seen them speak, let alone meet.

40 Well, I'll just skip to page, message 219, please. And Mr Thammiah asks you to stop taking money out of the card, says he's getting new cards and he has to give you a personal card. He says, "It looks really bad to be pulling out 2,000 in so many transactions. The account you're using is a business account." "Cool." You see that?---Yeah.

And that was Novation's account that you understood you were using? ---Yeah, I didn't know that it was.

No, but he's told you there that you're using the Novation account.---Yeah, I didn't realise it was. I mean - - -

And over the page at message 220, you talk about the fact Novation hasn't been paid yet.---Yes.

And you ask Thammiah whether Alex Lee has confirmed anything and he says that Lee has told him to wait until the end of the week saying he's only approved it last Tuesday.---Yes.

And then you say, "All Alex's are useless"?---Yes.

10 So you're eagerly waiting for the money from RMS?

THE COMMISSIONER: Yes?---I think he just asked me if there was an issue with the payment.

MS WRIGHT: Yes and you're eagerly waiting for the money to go through, are you not?---Not necessarily, I don't know. I think he was just asking me about it previously.

20 And then over at message 226, you tell Mr Thammiah that whatever card he gives you, you won't be pulling out large chunks anymore because you have no need right now and you say, "Maybe \$2,000 a week. It's too much of a hassle pulling out four times a week," and he says, "Your money, up to you." Do you see that?---Yes.

So this was equally your money that was in Novation's account?---I don't know about that. I mean, I, like I said, he's, he's already agreed that the loan that he was going to give me is the loan that he was going to give me, so - - -

30 And then did Mr Thammiah contact you by WhatsApp and said that he had been contacted by another company in relation to portable weigh scales. Do you recall that?---No.

Do you recall him telling you that someone had asked him for a quote on scales?---When, when was this, when was he asked?

Do you recall him telling you that he had been contacted - - -?---No.

40 Can we go to message 231. He told you someone had asked him for a quote on scales, some big construction mob and he asked you what kind of price should he give them.---Yep.

And going down he said that they said RMS said they are using my scales and you tell him that he would have to drop the price to be competitive. ---Okay.

You knew that he price that Novation had charged was not a competitive price?---I don't know about that.

RMS had paid way over market price for these scales and you knew that.
---The price wasn't necessarily for me to finalise.

10 THE COMMISSIONER: No. You were telling him there you would have to drop the price to be competitive in line with the HAENNI and Intercomp prices. So as Ms Wright put to you, clearly you knew that the price charged by Novation to RMS was exorbitant?---I don't agree with that. I mean, maybe compared to the other products it's higher but also, I mean, everything that I've learnt about them, they last longer too,

MS WRIGHT: You've clearly told him he has to drop the price to be competitive because the current price is not competitive. There is no other possible meaning from these messages. Do you agree with that?
---Basically, yeah, because it's higher than other ones that he just mentioned yeah, that I just mentioned.

20 The price, when you say drop the price, you're talking about the price which Novation had charged RMS, namely \$15,500.---Okay.

Do you agree with that?---Yeah, that's the price that Novation charged, yeah.

And when you say you would have to drop the price, that is the price that you're referring to.

THE COMMISSIONER: It's the only possible answer.---Yeah, it must be, yeah. It must be, yeah.

30 MS WRIGHT: Yes. And that is because you know that price is an excessive price which is not competitive.---Mmm, I don't agree that it's excessive but, I mean - - -

Do you agree that it's not a competitive price?---Not necessarily. I mean, not, look at apples for, like, if it's apple versus apple you can say that, but the other products, I mean, have not lasted as long and, from what I've heard and I've seen, they're not as good in general. I mean - - -

40 This is an inquiry about Mr Thammiah offering the PAT scales, selling the PAT scales, the same scale, to another company.---Yeah.

Exactly the same scale, isn't it?---I don't know if it's modified, what they asked for, but - I don't know. I wasn't the one speaking to whoever wanted this quote.

You do not want to acknowledge what is plainly obvious from this message, Mr Soliman.---I don't know about that. I mean, I don't know what the

quote was for, if they need modifying. Don't know what the competitive price would be again. I don't even think I ever set the price for him.

There was no need to be competitive when it came to RMS because there was no oversight of the price. Do you agree with that?---Of course there was, but the main thing was to get the best product.

There was no oversight in relation to the price.---Of course there was oversight, yeah.

10

Oversight by you?

THE COMMISSIONER: What was the - - -

MS WRIGHT: Sorry.

THE COMMISSIONER: Sorry, no, no, go on.

20

THE WITNESS: Well, by others. Well, by others also. I mean, if anyone else thought the price was crazy, obviously they wouldn't have gone through with the, with the process but - - -

MS WRIGHT: To your knowledge, no one was aware of Novation's mark-up.---Don't know, but obviously I just found out also recently, as you can see in those messages.

No, I cannot see.

30

THE COMMISSIONER: You knew of the mark-up. We went through this yesterday, didn't we?

MS WRIGHT: Yes. And then you tell Mr Thammiah to basically modify our tender response for this other company that's made an inquiry.---Where are you seeing that, sorry?

No, I'm just asking you if you told him to modify your tender submission.---For the new person which is quoting?

40

Yes.---Don't, don't know. I don't recall.

He says, "Shall we say 50 per cent margin?" "Nah, nah, LOL. Too low." And you say, "I know." And you say, "But they will choose the cheapest product, no doubt." And he says, "LOL, nah, they want the scales RMS uses." And you understood by that that he was suggesting that there was no need to be terribly competitive because they want the scales.---I guess so, yeah.

And then going down to message 233. He tells you he's going to price them at "50 per cent profit post-cost and delivery and no need to drag it out."
---Yeah.

And you are fully on top of what the profit margin is because you suggest that would be like [REDACTED] --Yeah. Well, he told me previously, obviously, so I would have known by then.

10 You knew all along.---I don't know about that, I mean - - -

And then he tells you, going down to message 234, that it's "Mmm, around [REDACTED] I'll price in US." And you say, "That's reasonable, in with a running." He says, "I don't really care, they're only buying two, ha ha." And you say, "You can basically modify our tender response for them." And you question, "2? LOL. Fuck." And then he says, "I'm just being practical." And then you were hopeful that this might lead to further work, weren't you?---No, I mean I didn't, didn't really care, I mean - - -

20 You didn't care?---Not necessarily, he just brought it up with me.

THE COMMISSIONER: And again you're referring to, "our" tender response. "That was 'our' tender response to RSM."---Well, again I think it's just - - -

"You can basically modify 'our' tender response."---It's the same language but he's the one who's submitted the quote to this guy obviously.

30 MS WRIGHT: And then if we go down to the next page, 235, sorry, we're at 235, and do you maintain your answer that you didn't care about selling to this new company for the scales?---I mean - - -

What did you say there?---In this message you mean?

Yes.---Which, which one are you reading, sorry?

Well, which one do you think is relevant to your answer that you didn't care about selling more scales?---50 per cent.

40 THE COMMISSIONER: What about, "But it could be the beginning of more?"---Okay, yeah.

That displays an interest - - -?---Yeah.

- - - in this approach by some kind of, by another company, doesn't it?
---Yeah.

MS WRIGHT: Could be the beginning of more sales from which you and Mr Thammiah will profit.---Well, again, it wasn't my business.

A search warrant was executed on your home, Mr Soliman.---Yes.

And you recall that was on 18 October, 2018?---Yes.

And could I show you volume 20 – sorry, before I do that, Commissioner, could I tender the extraction report containing the WhatsApp that we’ve been through.

10 THE COMMISSIONER: Now, I think you started yesterday afternoon, this is the extraction report consisting of about 126 pages.

MS WRIGHT: Yes.

THE COMMISSIONER: All right. And this was from, an extraction report, was it from Mr Thammiah’s phone?

MS WRIGHT: It is from Mr Thammiah’s phone, and a Samsung Galaxy S9. And there’s a coversheet. I can hand up the document that I tender.

20

THE COMMISSIONER: Look, I’d better just look at it to confirm it’s the same as the document I’ve been looking at. Thank you. All right. The extraction report from a Samsung Galaxy S9 consisting of 126 pages will be Exhibit 53.

#EXH-053 – EXTRACTION REPORT FROM A SAMSUNG GALAXY S 9 CONSISTING OF 126 PAGES

30

MS WRIGHT: Thank you, Commissioner. I note that there are redactions made in this which would have been apparent from some of the messages shown on the screen. There is some irrelevant material there and the Commission has sought to make all appropriate redactions to protect identities as well as other matters. It’s proposed that it be placed in the first instance on the restricted website. As an exhibit, obviously ultimately it will end up on the Commission’s public website, but it may be that the interested parties can check the document with a view to checking that nothing’s been missed in terms of protecting identities.

40

THE COMMISSIONER: For example, children and other - - -

MS WRIGHT: For example, children, yes.

THE COMMISSIONER: - - - or other relevant material.

MS WRIGHT: Yes.

THE COMMISSIONER: All right. Good. Thank you for that. If everybody can take notice of that.

MS WRIGHT: Now, Mr Soliman, you're aware that there were a number of contracts awarded to Novation.---Yes.

Not just the 425 scale contract.---Yes.

10 And I'm going to show you a table showing the payments made to Novation between 21 December, 2015 – this is in volume 20 – and 12 October, 2018. Pages 1 – sorry, table 1, which is at page 1 of volume 20. Do you see here the first payment is on 21 December, 2015?---Yes.

For \$45,780.---Yes.

And that was for the under-vehicle camera project which you awarded to Novation.---Yes.

20 And if we could just go through to page 2. Novation was paid in total \$7,222,998.10 by RMS. And then if we move to table 2. You don't dispute that Novation was paid that sum?---No.

And table 2 sets out the invoices which correlate with each payment. Now, you kept a note on your phone of cash payments that you obtained from Mr Thammiah?---The money that I got was on my Wickr account.

Can I show you an extraction report from your gold Samsung Galaxy phone.---Yeah. I think I've already spoken about this.

30 And did you head the record that you kept "Steve"?---Sorry, the one - - -

THE COMMISSIONER: I think we're just waiting for it to come up.

MS WRIGHT: If that could be enlarged if possible. See, this record was found on your mobile phone that was seized upon execution of a search warrant, Mr Soliman.---Yeah. Yeah.

And the title of the note is "Steve, PIN 8291."---Yeah.

40 This record is a record which you made recording the amounts and the dates that you took out cash?---No, that's, that's not what I, what I said. That's, that's how much Steve would have pulled out from his bank and I kept my own copy of how much I took of that in my Wickr account.

So what is this a record of?---Of how much Steve pulled out because one I lost my Wickr, Wickr login once and I had to ask Steve, "Can you please check this date to see how much I pulled out to get my records?" So I have

a record here of how much he's pulling out and then I will keep my own separate record of how much my, I guess, share of that was.

So did he tell you how much he was pulling out?---If he was pulling out, yes. If I was pulling out, I would put it in there also as a backup.

So this is a record of both what you pulled out and what he pulled out?
---Only when he would be giving me some, some sort of money. For
example, all those top ones there, 2,500, 2,000, I got a small portion of that
10 but I kept my own record in Wickr.

Now, didn't you, when he gave you money, didn't you deposit some of the money into your account?---Yes.

And are you saying – it's entirely unclear what you're saying about this note. You kept a record of what he pulled out of his account, is that what you're saying?---Yeah. So say if, if, if he was planning to give me money, he would always pull out more, more for, for himself and whatever I needed at that stage, he would give me that part which, which I took, I kept a record
20 of.

You kept a record of what he gave to you?---Yes.

And this is the record that you kept?---No. That's not what I mean. So this is - - -

THE COMMISSIONER: He's now claiming, I think, I'm sorry I withdraw that. What your evidence is, for example, the one on 6 July, '16, that's a record that Mr Thammiah withdrew \$2,500?---Yes.
30

And you're saying that you got some of it?---Yes.

Why on – sorry - - -

MR YOUNG: But that's not the case, with respect, that's not the totality of the evidence. He's also given - - -

THE COMMISSIONER: All right. What else is it, Mr Soliman? Go on. I just gave that example of 6 July, 2016, that entry.---Yes.
40

You're saying, is this your evidence, that that is a record that on that day Mr Thammiah withdrew \$2,500 and you got some of it?---Yes.

MS WRIGHT: Is this the amount that – this is not the amount that you got, this is the amount that he took out of his account?---Yes.

And what proportion of these sums did you receive?---All the early ones, very little. It was only until I started, when the house, house build started,

where most of the time I would have his card some of the time and when I needed to purchase anything or pay for tradies or whatever, I would have his, have his card.

How did you know how much he took out of his account in order to record it in your phone?---I would, I would always ask him so he can correlate the dates also that when he pulled out money and so I have an actual backup then. Because I did lose the Wickr backup, the Wickr login once, so - - -

- 10 So each time he pulled out money, you'd have a conversation with him and he would tell you how much he'd pulled out, is that how you say it went?
---Yeah. Because he would, he would always basically bring it over.

And then you would record on each occasion the total figure that he took out?---Yes.

And you'd keep a separate record, do you say, in Wickr of the amount of cash that he gave to you?---Yes.

- 20 Why were you keeping a record of what he took out?---Because like I said, I lost my login once and then the only way I could figure out how much my taking were, I knew what, how much it was but I didn't know what date it was so I asked him to look into his statement to see what date it was so I can then translate it.

Oh, it just doesn't make any sense. Why did you need to know how much he had taken out of the Novation account?---Well, think I just answered that. Well, because if I, if I lose my login - - -

- 30 THE COMMISSIONER: Don't – just answer the question, please – give a gratuitous statement beforehand. Answer the question, please.---When I lost my Wickr account, obviously I have no way of knowing what date it was that Steve gave me the money, so that's when I asked him, can you please check your statement, see what day it was. I knew back then what the actual dollar figure was, I didn't know what the actual date was. So I asked him, and he gave me the actual date, so then it became a habit obviously to keep a record of both things, how much was actually coming out of his one, and how much I was getting, and same for Ali also.

- 40 MS WRIGHT: Why did you want to know the dates?---Oh, just a bit, turned into a habit also, for, from that first time which I lost my Wickr account.

THE COMMISSIONER: So when did you lose your Wickr account?
---Very early on, maybe, you know - - -

Give me a year?---Well, it was right, right, right at the start, you know, in '16, probably in that first month.

What, in July, 2016, you - - -?---Yeah, it would have been in the first - - -
- - - your recollection is?---Yeah, it would have been right at the, at the
beginning, and then I had no record, basically.

MS WRIGHT: Now, if I could take you to table 6 of volume 20, which is
page 23, this is an analysis of the withdrawals made from the Novation or
Mr Thammiah's account and the cash deposits made into your account. Do
10 you see that?---Yes.

And so, if you just take it as an example, 22 July, 2016, there is a
withdrawal from the business account of \$2,000, and there is a
corresponding deposit into your CBA account of \$2,050.---Yes.

And it goes on.---Yes, I recall this, yeah.

And you have recorded in your phone, on 22 July, 2016, "\$2,000."---That's
correct, yeah.
20

So I suggest that that note is a note of how much you got from Mr
Thammiah. It's not a record of what Mr Thammiah took out, it's a note of
what - - -?---No, but I, I think - - -

- - - you received in a cash payment - - -?---No.

- - - from Mr Thammiah.---No, I think you misunderstood what I was
saying. So, after the first time which I lost it, anything which was - if he
ever pulled out money, say if he pulled out a, well, one, \$1,000, I would
30 note that down. And if I got, say, \$500 of that, I would note that down. But
there's a record of both. So obviously here, the \$2,000 came out, and I got
that two, the \$2,000 also.

And so if we look at the records that you made in your phone - - -?---Mmm.

And if there's a corresponding deposit into your personal bank account, you
accept that you got that money. And it may be on occasion that you got the
entirety of what Mr Thammiah withdrew - - -?---Yes.

40 - - - from the Novation account.---Yes. I'm not saying that - - -

But your evidence has been that you had access to the Novation account
yourself.---Not always, no. Only, I only had the, had a card sometimes. Mr
Thammiah had it half of the time.

So you had the card half the time?---Mmm, about half. I don't know exact,
50%, but I had it a portion of the time.

And how much do you say that you received in total from Mr Thammiah between December, 2015, and October, 2018?---I don't know exactly, but I'm just guessing how much the leftover cost to build a house, probably 250 or so.

\$250,000?---Yeah, that's just on top, on the top of my head.

And when was the last payment that you received from Mr Thammiah?
---Sometime in October.

10

You haven't received any money since execution of the search warrant?
---No. No.

THE COMMISSIONER: Sorry, can we go back? I'm getting confused. That extraction report, please.

MS WRIGHT: Yes, Commissioner.

20

THE COMMISSIONER: Extraction report from your phone. And your evidence is that that records the withdrawal by Mr – sorry, I'll start again. Your evidence is that that record are all the withdrawals by Mr Thammiah where you either received all of the amount withdrawn or a portion of the amount?---Yes. Or also if I had, had the card, for example, and when I did pull out \$2,000, that's the record that would go in there too.

All right. So where's your record of - - -?---It's in Wickr.

Can I finish the question, please?---Sorry.

30

You claim that this was an alleged loan. Where's your record of the loan payments that you received?---It was in Wickr but I'm assuming you have that because - - -

Well, no, don't assume anything, Mr Soliman.---Well, I'm trying - - -

I'm asking you a series of questions.---Yeah, I'm trying (not transcribable)

Where is your record of the alleged loan amounts that were given to you? And you said it's in Wickr, is that the case?---That's correct, yeah.

40

And is it still in Wickr?---That's what I was trying to explain to you.

No, Mr Soliman, please do not add these gratuitous comments. You are being asked questions. Listen to the question and answer them. Do you still have that Wickr record, yes or no?---No. Am I allowed to answer? I mean, I don't know.

I asked you do you still have that Wickr record. Is the answer yes or no?
---No, because it was accessed and wiped.

Right.---I thought that obviously ICAC was the one that accessed it.

So if there's going to be some dispute between you and Mr Thammiah about the amounts that you borrowed pursuant to this alleged loan, there's going to be difficulty because you don't have any evidence of it.---Now there is, yes.

10

There is evidence? What's the evidence?---No, I mean, yes, it's going to be difficult to know exactly, exactly what it is.

MS WRIGHT: Where is the Wickr, did you say? On your phone?---No, you, it was on the laptop.

Did you only have one laptop?---Yeah, just a blue laptop. I think it's a Dell or something.

20

THE COMMISSIONER: And are you saying it was seized during the execution of the search warrant.---They didn't take it.

MS WRIGHT: Did you say they didn't take it?---That's correct.

And did you delete or wipe the Wickr?---No. When I tried to log in afterwards, everything was gone. And the way Wickr works, once you read the actual message, there's a clock which wipes it, which means someone's accessed my log-in and I assumed it was ICAC, obviously.

30

And you kept, you say, a record of the cash payments you received from Mr Thammiah only on Wickr?---Yes.

Now, Mr Soliman, just going back to ELWC, you're aware and you were aware at the time you were manager of the Heavy Vehicle Programs Unit that RMS had been in a business relationship with ELWC for a number of decades?---I think it was about 20 years, yes.

40

And you were aware that ELWC had purchased some new Series III scales from RMS in 2016?---Ah, yeah, there was a small number of them I think, yeah.

And you've referred in your evidence to some concerns which RMS and you had about ELWC's performance.---Yes.

And you're aware that ELWC sought to address RMS concerns with you?
---They, he tried, but you know - - -

That's all I'm asking you.--- - - - he definitely didn't succeed. Yes.

He tried?---And he failed.

He sought to address your concerns with you.---He was lying about things and - - -

Well, I'm not asking you that.---Well, sought is a word, did he try, yes. Was he genuine? I don't think he was.

10 And he asked you to provide him with lists of specific items that you would like addressed so that he could properly assess the situation, didn't he?
---That was after about 18 months of him failing, yes. That's when I was forced to basically performance manage him due to the safety concerns.

And, but you don't deny that he asked you to list specific items that you wanted addressed so that he could properly assess the situation?---I don't think he asked me, I forced him to basically go into a performance management process where the problems that were coming from the users were now coming to me, being listed, and I'm managing what the vendor is
20 doing and if they're fixing the issue.

Could we have volume 5, page 19. Do you see this is an email chain between ELWC and Mr Malhotra in June of 2016?---(No Audible Reply)

Do you see that?---Yes.

And down the bottom of the page is an email from Mr Doherty to you saying, "I want to request for you to please cancel our meeting for Tuesday as I need the time to review items of discussion and potential concerns, plus
30 I asked you to provide me with a list of specific items that you would like addressed."---Yes.

So he asked you for a list of items.---In this time, yeah, but I'm talking about something different.

This is in June of 2016.---Yes.

And then at page 21 of volume 5 you ordered from him 24 portable weigh scales.---Yeah.
40

And you raised and approved the purchase.---Yeah.

And the total cost of 24 weigh scales was \$157,800.---Yeah.

And so you'd agree that each scale was about \$6,575?---In its unmodified form, yeah.

Thank you for that comment. And you informed IRD that you were dissatisfied with ELWC, didn't you?---Of course, yeah.

You told IRD that you were dissatisfied in April 2016 when you attended a conference in Amsterdam.---It was much earlier than that.

And you told him again in April 2016?---My manager, Paul Hayes, was the one that spoke to Rish at the conference. I was there, I didn't say anything to him.

10

And you endorsed what Mr Hayes was saying?---Well - - -

MR YOUNG: I object to that. I mean what does that mean, does it mean agreed with it or does it mean that he was involved in the discussion?

MS WRIGHT: I'll rephrase it, Commissioner. You agreed with what Mr Hayes was saying to IRD at the IRD stand at that conference?---Am I allowed to say what, what was said or - - -

20 THE COMMISSIONER: No. You've been asked a question, answer it, please. Did you agree?---Yes, yes.

MS WRIGHT: And then you told Mr Malhotra that in July 2016 that you had other vendors in mind to meet RMS requirements for portable weigh scales?---I believe so, yes.

30 Yes. If we could go to page 28. You said, "RMS have some vendors in mind that are capable, resourced and responsive enough to meet RMS requirements for the RMS WIM and portable weigh scale fleet." Do you see that?---Yes.

And you said, "We're also about to start an asset replacement program to replace all 550 portable weigh scales."---Yes.

So you had in mind at that stage, didn't you, that Novation was a vendor that you considered capable, resourced and responsive?---I don't know if at, at that point but I know I definitely spoke to Rish about other vendors first and they didn't want to sell their hardware to the competitor.

40 By this stage, you had given Novation a number of contracts in your role at RMS, hadn't you?---Yes.

And you don't deny that one of the vendors you had in mind to meet the requirements for the portable weigh scale fleet was Novation at this time, July 2016?---I'm not sure when Novation came into play. It was rather later on, so - - -

But you don't deny that Novation was one of the vendors?---No, I don't deny.

And then at page 29, if we could have that. On 15 August, you told Mr Doherty that you would, that RMS would have to operate on a multi-vendor environment henceforth? Do you see that?---Yeah.

So do you agree with what I have just said, what I've just sked you?
---Sorry, what did you ask?

10

I asked you if you informed Mr Doherty that RMS would henceforth have to operate on a multi-vendor model?---Yes.

And you informed him by this email?---Yes.

And you told ELWC that more than one vendor would now be required to provide services for any single program?---Yes.

20 And Mr Doherty continued to ask you to provide a list of potential issues so that he could put forward a business case to address RMS concerns?
---Sorry, where, where do you see that?

Page 31, see on 19 August, 2016?---Yes.

And you told Mr Doherty that there would be no change to his maintenance service that he was providing to RMS at page 33, if we could have that. Do you see this email chain of 31 August, 2016?---Yes.

30 And there is an email frock you Mr Doherty at the bottom of the page, dated 19 August, 2016?---Yes.

And you said "There's no current change in terms of maintenance certification. ELWC will continue to maintain scales," do you agree you sent that email?---Yes, yes.

40 There were no issues with ELWC's maintenance of scales at that point, were there?---They were operating fine for maybe one month maximum, that's the feedback I got from the field. And again, they continued to do the things which were illegal, basically. Mmm, that was the main issue.

And if we could see the email at the bottom, 19 August, 2016, "Good morning, Samer." Click over the page. Mr Doherty wrote to you saying that as he understood it, you've discussed using another vendor for the scale maintenance with IRD yesterday, and having them trained accordingly, as yesterday, you confirmed you're happy with the service level being provided for current scale maintenance with a big improvement experienced over the past six months. And he asks you to confirm what plans you have for this other company. You see that?---Yeah, but what he said was false.

You'd had a conversation with him, hadn't you, where you told him that you were happy with the service level being provided by ELWC at that stage?---Not for six months.

What do you mean, "not for six months"?---He wasn't doing well for six months.

10 You wrote back to this email where he referred to your discussion yesterday, on page 33, confirming to him that there were no current changes, and ELWC will continue to maintain the scales.---Yep. There was no other option.

You didn't say to him, "You haven't been providing a good service for six months," did you?---I don't understand the question, I mean, he, I mean, it wasn't - - -

20 THE COMMISSIONER: Well, look at your email. Did you say that in the email?---Just trying to answer, I mean, it wasn't for the successive - - -

No, Mr Soliman, you were asked a question about whether you said in the email, "And you haven't been doing a good job for six months." It is very easy to look at that email and see if you did say it. Did you say it? Have I missed it? Has Ms Wright missed it?---I said it.

In this email?---The one that was just on the screen previously.

30 MS WRIGHT: The one that was on the screen previously was an email from him. Do you, are you referring to that email?---Yes.

And he said that you had confirmed you're happy with the service level, and then you wrote back to him at page 33 saying, "No current changes. ELWC will continue to maintain the scales." You haven't raised any issue about the past six months.

THE COMMISSIONER: In that email, have you?---Yeah, but that, that doesn't mean there weren't issues, though.

40 Okay, you just – oh, anyway.

MS WRIGHT: Now, you introduced Novation to IRD as the preferred vendor to RMS by this stage, didn't you?---Introduced who, sorry? Novation?

You introduced Novation to IRD.---Yeah, it's very likely around, around this time.

Around this time?---Yep.

And you discussed with Mr Malhotra that the immediate focus was for Novation to be able to resell IRD's portable scales to RMS.---Well, the first thing was parts. That was the main thing. Well, there was no funding for scales.

If I take you to volume 18, at page 188. Do you see an email here from Novation to Mr Malhotra?---Yes.

10 And below that in the chain is an email from Mr Malhotra to Novation dated 30 August, 2016?---Yes.

And Mr Malhotra says in his email, "Per our discussion with Samer, I understand that the immediate focus is for Novation to be able to resell IRD's portable scales to RMS in Australia. We certainly need to plan for a detailed training session at our factory in Switzerland, once we get into discussions on Novation's servicing and maintaining our portable scales for RMS." Do you see that?---Yes.

20 You had had a discussion with Mr Malhotra, hadn't you, the effect of which is that you conveyed that Novation should be placed in a position where it could resell IRD scales to RMS.---Not should. They asked over a long time and I provided options.

They asked what?---About local vendors that can resell the parts and scales here.

30 And that was in response to you raising concerns about the performance of ELWC?---Yeah, I raised it a couple of years prior to anything happening with Novation.

And you say that IRD then asked for options about who it could distribute its scales through and its other products?---Yes. Yes.

And you put forward some other company names.---Yes.

40 And then ultimately you said to Mr Malhotra that the focus should be on Novation being able to resell its scales.---No, I never forced anyone to do anything. They spoke and they made a deal just like CIC and IRD made a deal.

Looking at this email, Mr Malhotra has told Mr Thammiah that that's what he understands from his discussion with you.---No, that's, that's not correct. That would have been after they've already spoken anyway.

Who's already spoken?---Novation and IRD.

And you were a party to those discussions, were you not?---Towards the end, yes.

You introduced Novation to IRD, Mr Soliman.---Yes.

IRD didn't find Novation of its own initiative.---That's correct.

10 And you persuaded IRD to appoint Novation as its distributor of scales. --- (not transcribable) recommend, I, no, I didn't persuade anyone to do anything. I provided basically all the vendors that we used to work with. Novation were last on the, on the list.

And you misrepresented Novation's capabilities to IRD, didn't you?---How so?

20 THE COMMISSIONER: Do you agree with that or not?---I don't know what I told them. I just said this is, this is a guy that's been doing some scoping studies and work here, and he asked do they sell the competitor product like AccuWeigh, and I said no. Then they began to talk, basically.

MS WRIGHT: And you advised Mr Thammiah about what he should tell Novation about his, or about Novation's capabilities, didn't you?---I told Mr Thammiah?

Yes.---What did I tell him?

30 You advised or assisted Mr Thammiah to formulate assertions about Novation's capabilities to assist him in getting IRD's business.---I think I was with him when he was doing his little one-page document, whatever it's, whatever it's called.

What's it called?---Don't know what he called it but he was at my house when he was, when he was doing it.

What do you call that kind of document, Mr Soliman?---I'm not sure.

A company - - -

40 THE COMMISSIONER: Profile or proposal?---Profile maybe. I don't know. Something like that, yeah.

MS WRIGHT: If we could have volume 18, page 177. Did you call it a business prospectus?---Probably, yeah.

This is your email from your personal email address ducktape.---Yeah.

And you sent that to Mr Thammiah on 14 August, 2016.---Yeah, this would have been when he was at my house.

And the subject line is, "IRD Meeting".---Yeah.

And you've suggested what he can include in Novation's prospectus to be provided to IRD.---He was with me. This is what we were talking about.

THE COMMISSIONER: Yes, we're not asking you whether he's with you. You were being asked about the content.---Yeah, the content isn't just mine. That's what I mean, sorry.

10

MS WRIGHT: Right. By this email you have set out what Mr Thammiah can assert to Novation about – sorry, I withdraw that. You've set out what Mr Thammiah can assert to IRD about Novation's capabilities and experience?---That's not correct.

Who wrote this email?---Mr Thammiah. He was at my house.

THE COMMISSIONER: Sorry, say that again?---Mr Thammiah. He was at my house.

20

MS WRIGHT: Why was he at your house?---He was there very regularly.

Regularly as a friend and to discuss RMS business?---As a friend obviously, you know, he was, like I said, probably my best friend.

This email concerns RMS business, doesn't it?---Yeah, I guess.

Mmm. And so you're discussing both matters to do with your friendship and RMS business when he's at your house?---Yep.

30

And you did that quite commonly throughout this period, didn't you? ---Yeah, we spoke about everything.

And this is an email from your personal email account - - -?---That's right.

- - - being sent to the Novation account.---That's right.

But you say that this was drafted by Mr Thammiah, do you?---That's right. He was there with me.

40

And why is he using your email address?---Because it was there. I mean he needed to send it to his own email obviously.

So these are the ideas of Mr Thammiah?---I would have kind of given him some words maybe, I don't know which ones, but he was the one working on the actual laptop.

Did you dictate these words to him?---Hmm, most of them not, but I remember he was typing - - -

You were the brains behind this scheme, weren't you?---I don't agree with that, no.

So was Mr Thammiah the brains behind this scheme?---Yeah, he was the one typing.

10

Did he come up with the words?---I would assume so. This is a long, a long time ago.

It's not even two years ago. You remember being at your house, you remember the laptop?---Yeah.

So you have a memory of this occasion.---Yep.

Who came up with the word "prospectus?"---I don't recall.

20

You remember specifically that Mr Thammiah was the person who typed this.---Yeah.

"Strategic technology and innovation company based in Sydney focussing in ITS." Did Stephen Thammiah have experience in ITS?---Yeah, he was doing trials at that point I think, yeah.

So the experience he has in ITS comes from the trials he was doing for RMS?---Yeah.

30

Hmm. And where do the words, "Strategic technology and innovation company," come from?---It's common, common wording.

"Procurement, ITS."---Yeah.

What's that a reference to?---Procurement of ITS.

Which procurement?

40

THE COMMISSIONER: By August 2016 what ITS had Novation procured?---I think by that point they had done the under-vehicle cameras, I recall.

Oh, they went on the purchase of the under-vehicle cameras.---Yeah.

That's their procurement of ITS.---That could be what it's referring to. I'm not sure.

MS WRIGHT: Is there anything else you can think of by way of procurement of ITS experience that Novation had at this point?
---I don't know what else.

And then it refers to, "Development, Fabrication, ITS technology trials, Engineering." What fabrication and engineering had Novation been involved in?---Don't know. You'll need to ask Mr, Mr Thammiah.

10 So it's not your content. Is that your evidence?---I just said I don't recall doing this, no. He was there with me.

It's not your content. That's your evidence? It's his content?---Looks like most of it is, I mean, but I'm sure he would have kind of been pushing ideas off me when I was there.

His ideas, when we looked at the WhatsApp, seemed to be fairly limited, don't they?

20 THE COMMISSIONER: You've broken the microphone.

MS WRIGHT: Just at 4.30.

THE WITNESS: I'm not sure what you mean, limited.

30 MS WRIGHT: Well, we've is just spent the better part of two days going through WhatsApp and you seem to be directing things in the relationship with Mr Thammiah, Mr Soliman. Are you sure this is not your content?
---Like I said I don't recall doing this but I know that he was there with me and he was probably pushing idea off me, seeing what I, what I think.

And then it refers to, "Maintenance, local 24/7 hardware support across Australia and expanding to Queensland and contracts with third-party fabricators and engineers." Do you agree that that is all false?---The 24/7 support and hardware, I think wasn't there something in the contract for the under vehicle's cameras for that? Expanding to Queensland, I don't know what that's about.

40 That part's false, you agree?---Well, from my point of view he never told me anything about that but contracts with third-party fabricators and engineers, I don't know what contracts he had.

You knew his only client was RMS, didn't you?---That's all that he told me.

So expanding to Queensland would be false if his only client was RMS, wouldn't it?---Well, that suggests expanding into the future. That's what that word means to me.

It doesn't say anything about the future, it just says expanding - - -

MR YOUNG: Well, I object. The word expanding necessarily involves the future.

MS WRIGHT: If RMS was his only client, to say Novation's expanding to Queensland would be a false statement, would it not, Mr Soliman?---No.

And 24/7 hardware support across Australia. That is false?

10 THE COMMISSIONER: Only client, RMS.---Australia, Australia, I don't think he had any other work in any other state but he was probably referring to the under-vehicle camera 24/7 support.

MS WRIGHT: Weren't these cameras, these under-vehicle cameras a complete failure?---I believe from memory the inspectors didn't like them after they got them.

And this is well before August 2016?---I'm not sure when, when it was tested.

20

And do you think that saying on a quote that he will provide lifetime user support for some under-vehicle cameras that he hasn't manufactured justifies a statement that he can provide local 24/7 hardware support across Australia? Does that make it a true statement in your view?---I mean, again, I didn't write this part definitely. I mean - - -

I'm asking about your view now.---Well, he was supporting the, the hardware so in a sense it's true.

30 THE COMMISSIONER: What hardware?---The under, under-vehicle cameras.

MS WRIGHT: Which weren't in use.---They were for a short period of time, obviously.

And they're not in use anywhere outside New South Wales.---No, I don't think so.

40 And do you think that that fact, that they may have been in use somewhere in New South Wales, makes the statement "Local 24/7 hardware support across Australia" a true statement?---Not across Australia. That's not true.

Do you think it makes the statement "Local 24/7 hardware support" a true statement in a business prospectus?---Well, yeah. He was doing it.

THE COMMISSIONER: He wasn't. What was he doing?---Well, he went out to the actual sites, as far as he told me, and he was providing support to their users.

How?---I don't know how exactly but that's, I didn't go with, with him.

We've seen those under-vehicle cameras.---Yeah.

The inspectors basically put them under a truck.---Yeah. And there's, obviously there was like a, a testing phase I guess you would call it, a trial phase, whatever you want to call it.

10 MS WRIGHT: And who prepared the manual to help inspectors with the operation of the cameras?---A manual?

Do you know about that, Mr Soliman?---Mmm, mmm, no.

Legal certification? Do you agree that's a false statement?---It's a bit confusing that line. Legal certification. I don't think he done anything with ADR certification. He done a trial on the vehicles I mentioned, scanner. He done a trial with under-vehicle cameras, but the legal certification comment doesn't make sense. The word, the phrase doesn't make sense.

20

It's making the company sound like it's doing something important and significant, isn't it?---I guess.

Certifying matters for legal purposes, including in relation to vehicle dimension scanners, ADR certification and under-vehicle cameras.---Yeah, I'm not sure what the term legal certification means in this context.

You knew that Novation was doing nothing of the sort.---Again, this is the first time I've actually seen this email.

30

This was intended to mislead IRD, this information, wasn't it?---Don't know. I mean - - -

THE COMMISSIONER: What else could it be?---Maybe he was just kind of making it look good, as anyone does in kind of like a résumé, but, yeah, I don't think this is all completely true.

40 You try and look good, Mr Soliman. You don't tell falsehoods. And this would seem to have many lies in it, do you agree with that?---Some embellishments. I don't see any outright lies except the ADR certification. I don't recall him saying he done anything with ADR certification except one of, he did work on a trial to test the laptop units that would be certified into the vehicles, so unless he's referring to that.

MS WRIGHT: Shall I continue, Commissioner? It's past 4.30.

THE COMMISSIONER: You've been on your feet all day.

MS WRIGHT: Well, I'm just conscious of all the parties and - - -

THE COMMISSIONER: All right. We'll adjourn and we will resume tomorrow morning at 9.30.

THE WITNESS STOOD DOWN **[4.38pm]**

10 **AT 4.38PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[4.38pm]