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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 15 OCTOBER, 2019

AT 9.30AM

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

THE COMMISSIONER: Right, Ms Wright.

MS WRIGHT: Yes. Commissioner, at the end of the last tranche of hearing dates on 1 August, 2019, it was indicated that the Commission had recently obtained some evidence that had not previously been accessible from a mobile phone. I can indicate that the relevant evidence is in the form of WhatsApp messages stored on a mobile phone seized by the Commission from Stephen Thammiah's residence during a search warrant in October 2018. That material has been made available in recent times to the parties. 10 Just by way of very brief opening, so that the context of the evidence to be called this week is apparent, the new evidence comprises communications via WhatsApp between Samer Soliman and Stephen Thammiah between 24 May, 2017, and 6 July, 2018. That time covers an important period in this inquiry. It's the period shortly after Novation had been appointed as exclusive distributor of portable weigh scales by the Canadian company IRD and after RMS had commenced using Novation as a supplier of spares parts for portable weigh scales. During that period, RMS appointed the Heavy Vehicle Maintenance Panel and, as the evidence adduced in the public hearing has shown, Novation's appointment to that panel facilitated 20 the subsequent award to it of the two scale fleet replacement contracts in 2018 worth \$2 million and \$7.2 million respectively. The communications cover the period of both procurements, being the first procurement of 125 portable weigh scales and the lead-up to the second procurement. It's proposed that Mr Soliman be recalled today and, following completion of his evidence, I propose to recall Stephen Thammiah to complete his evidence.

THE COMMISSIONER: All right. Thank you, Ms Wright. Mr Young, you have returned. 30

MR YOUNG: I have returned, yes.

THE COMMISSIONER: Thank you. Mr Soliman. Mr Young, my view is that the order I made under section 38 still continues. Do you agree with that?

MR YOUNG: I do agree with that, yes.

THE COMMISSIONER: All right. And if we can administer an oath or 40 affirmation. What was it?

MR SOLIMAN: Oath, please.

THE COMMISSIONER: An oath.

MS WRIGHT: Mr Soliman, during your evidence in June this year, over several days, I took you to WhatsApp messages that you exchanged with Mr Thammiah commencing on 6 July, 2018. Do you recall that you were asked about WhatsApp messages?---Yes.

10 Do you recall exchanging messages via WhatsApp with Mr Thammiah also between May 2017 and July 2018?---I would have, yes.

Have you had that opportunity to review those messages in the last week?  
---No, but I did open it just to see what it, what it was.

And how long did you spend looking at it?---A couple of minutes.

That's it, a couple of minutes?---Yep.

20 Do you agree that the messages include very detailed exchanges between you and Mr Thammiah about Novation's business with RMS?---I don't know.

You read some of the messages?---I basically just skimmed it to see what it was. It was just the WhatsApp messages and I knew, I knew were there, yeah.

30 Do you agree that one of the topics you discussed together were the cash payments that you were to receive and did receive from Mr Thammiah?---I don't know but it probably was there because I know that we did talk about it.

And you talked about that via WhatsApp?---Probably, yeah.

And do you agree that during your WhatsApp communications with Mr Thammiah you also discussed the Heavy Vehicle Maintenance Panel?---I'm not sure, but again, probably, yeah.

40 And you discussed with him the fact the panel was going to be established?  
---I'm not sure.

Do you agree that you discussed with him a tender to be issued by RMS for the supply of spare parts?---Probably did, yeah.

Well, you know that you had very detailed discussions with him about all manner of topics concerning Novation's business with RMS, don't you?  
---I don't know if it was in WhatsApp or if we spoke about it verbally, but I mean we spoke about many things obviously, yeah.

You were in day-to-day contact with each other throughout that period, weren't you?---I don't know if it was every, every day, but it was obviously regular, we were best friends, yeah.

And do you agree that when you were using WhatsApp with Mr Thammiah you intended for your communications to remain private between the two of you?

10 MR YOUNG: Well, I object to that. I mean what does that, what does that -- everybody who engages in what would be described as private communications intends that they be private. I mean it's, what's been put that there was something additional to that, that it was going to be permanently inaccessible or something of that, because if it's being suggested that it was nefarious, then that ought to be put.

THE COMMISSIONER: Ms Wright?

20 MS WRIGHT: Is it fair to say, Mr Soliman, that you were using WhatsApp with each other as you believed that if offered secure communications?  
---No.

You told Mr Thammiah in the messages that you sent to him that WhatsApp was encrypted, didn't you?---Hmm, potentially, yeah. That doesn't mean it's not accessible, as we can see.

You told him - - -

30 THE COMMISSIONER: Ms Wright asked you whether you used it because you thought it was secure. Do you agree with that or not?---Just used it because it's the common platform that everyone uses.

So why did you raise with Mr Thammiah that it was encrypted?---I'm not sure what the context of the chat was but it is encrypted as far as I know but yeah, I don't know what the context of that conversation that Ms Wright has brought up was.

40 MS WRIGHT: You told Mr Thammiah that your messages couldn't be read by a third party because it was encrypted, didn't you?---That's what I understood WhatsApp to work, yeah.

Yes. And you knew that the message system on WhatsApp was more secure than say SMS messages, didn't you?---I'm not sure if it is. I don't know.

Well, that's why you used it, didn't you, Mr Soliman?---No.

Because it was an encrypted platform for communicating?---No.

Frequently when you communicated with him via WhatsApp you were at work, weren't you?---Don't know.

Well, you sent him messages using WhatsApp while you were at work. Correct?---Don't know which, I mean there's a year and a half of messages there, I mean some of, some of them may be but again I don't know.

10 And so it would have been risky, I suggest, for you to speak to him in the manner you did on WhatsApp, over the phone, and so you chose to use WhatsApp.---Again, no, it's just the common platform that, you know, 4 billion people use over the world so - - -

Well, you were telling him things in real time that were happening at work, weren't you? For example, "The guys are reviewing your tender now." You were at work when you sent that message, weren't you?---Sorry, which tender?

20 Well, I'll take you to the messages, Mr Soliman. Now, as at late May 2017 you were getting, I suggest, \$8,000 a week from Mr Thammiah. Do you agree with that?---For some of the weeks, yeah.

Yes, and you told Mr Thammiah that you had put in a funding submission to Treasury for portable weigh scales for the 2018 and '19 financial year?---I think it was probably to the Finance team. I think that's what you mean. I'm not sure.

30 Well, I'll take you to the message. If we could have the extraction report, at page 10, please. Do you see the messages in blue, they're your messages? ---Yep.

"By the way, bro, you still on track with 8,000 per week withdrawals?" ---Yep.

"Don't forget, if you're busy or whatever I don't mind taking the card for the short term."---Yep.

And Mr Thammiah answers, "Yeah, no problem."---Yep.

40 And then over the page, you tell him that you're meeting Treasury tomorrow. Do you see that?---Mmm. Yep.

And you're putting in a submission in for scales, for the 2018 and '19 financial year.---Ah hmm.

You see that?---Yep.

And you agree by this time Novation had taken over from ELWC as IRD's distributor?---Yeah, I think they got the licence around this time.

Well, I suggest they got the licence back in November, 2016.----Okay.

And at this stage you had a plan, didn't you, that Novation would be involved in the purchase of scales, using the funding that would be made available through Treasury?---Mmm, I'm not sure what you mean.

10 Well, you had a plan at this stage, May 2017, that Novation would be involved in the future purchase of scales.---I'm not sure what, if I was talking to him about that at this time.

Well, you tell him here that you're meeting with Treasury and putting in a submission for scales.---Mmm.

And what I'm suggesting is, your plan at this stage was that Novation would be involved in that purchase. That's the case, isn't it?---It's very hard for me to say by these messages.

20 Well, you're telling him that you've put in a submission to Treasury for funds, for scales. By this stage, the evidence suggests, Mr Soliman, that Mr Thammiah has issued over 20 invoices for scale parts to RMS in the first half of 2017.---Okay.

You understand that?---Yep.

30 And here your message refers expressly to scales funding. Why would you be telling Mr Thammiah about scales funding, if it wasn't because he had an interest in the purchase of scales?---Mmm, if he had the licence by this point, so, I guess he had an interest, yeah, obviously.

And your plan at this stage was that Novation would be involved in the supply of those scales to RMS in the future, correct?---In, it's hard for me to say if I had a plan in mind at this point or not. I don't know.

And you told him at page 6, if we could go back, that you had booked a meeting with Rish for 9 August, for Rish and Mr Thammiah. Do you see that?---Yep.

40 And Rish is Mr Malhotra of IRD, correct?---Yep.

And the purpose of that meeting was to secure the sole vendor licence for Novation, wasn't it?---I think it was just a meet and greet. I remember the meeting vaguely. I think, I wasn't there for the meeting, but I think they just met around the Parramatta area.

The meeting was not solely a meet and greet, Mr Soliman. I suggest you told Mr Thammiah that he had to secure the sole vendor licence from IRD at that meeting.---I don't recall if that's what I said to him.

Well, we'll come back to that. Can you offer any reason other than it being your plan that Novation be the supplier of scales to RMS that you would be telling Mr Thammiah that you're meeting with Treasury to put in a submission for scales funding?---Sorry. I don't understand the question.

Why are you telling him that you're putting in a submission to Treasury for funds?---I don't know. It's hard to say by those two messages.

10 Well, if we could turn to page 12. You see, you tell Mr Thammiah on 30 May that, "Rish asked me if we can meet with Accuweigh too when he's down here in August. I said no." Do you see that?---Yes.

And you said no to Mr Malhotra about meeting with Accuweigh because Accuweigh was a competitor to Novation, wasn't it?---They were a competitor but I don't know if that's why I said no.

THE COMMISSIONER: Why else would you say no?---Could be lots of reasons. I don't know why.

20

Yes, what are they?---I could have been, I could have been busy. There's lots, lots of things. This is a message almost two and a bit years ago.

MS WRIGHT: And see the next message, Mr Soliman?---Yes.

"But just be aware we have competition".---Yes.

30 Isn't that the reason you told him that you'd informed Mr Malhotra that he could not meet with Accuweigh when he was in Australia in August?---I don't know if I actually told him no. I don't recall.

THE COMMISSIONER: Sorry, told him what?---The message says that I said no, but I don't recall saying that to him.

40 Sorry, Mr Soliman, can you try and be a little bit more helpful in the evidence you're giving? Now, Ms Wright has taken you to a message which was at 1.28.26, where, "Rish asked me if we can meet with Accuweigh too when he's down here in August and I said no," and then about 13 seconds later you send a message, "Just be aware, we have competition." And I think what Ms Wright is putting to you is looking at those two messages, the very short, extremely short period of time between them, the inference that I could draw is that you don't want Rish to meet Accuweigh because they're competition. "We," i.e. you and Mr Thammiah, have competition.---I mean, like, generally when I said we, I mean with Steve, it didn't necessarily mean I or us, it's generally him because we were so close.

Yes. And what about the other point that I am saying to you, the inference that I can draw that you didn't want Rish to meet Accuweigh because they're competitors?---I understand what you're saying, I just, I don't even remember saying no to Rish about that.

MS WRIGHT: But you accept that you told Mr Thammiah that you did?  
---By, by this message obviously I did, yeah.

10 And you would have been telling him the truth here?---I guess so, yeah. I don't remember this, this, this far back.

Now, I suggest that at this stage you were getting cash from Mr Thammiah, who was withdrawing the money from the bank account for you. Do you agree with that?---I'm not sure if he withdrew at that point. It's possible, yeah.

Well, I took you to a message on page 10 where you said, "Are you still on track with the 8,000 per week withdrawals?"---Yeah.

20 And that suggests he's making the withdrawals. Do you agree with that?  
---For that, for that message, yeah.

And page 25, second-last message from the bottom of the page, you say to him, and this is as at June, "Hey, by the way, bring whatever cash you've withdrawn for me, yeah?"---Yeah.

So he was withdrawing the cash for you and giving it to you. Do you agree with that?---That specific time, obviously, yeah.

30 And then you decided to start withdrawing the money yourself in about July I suggest. Do you agree?---If you say so, yeah.

At page 48, middle of the page, you say, "Yeah, I'll come see you, need to talk about several things about business and also pick up the card from you. I'll start withdrawing." Do you see that?---Yeah.

And then you suggest on page 49 that your wife could start withdrawing. Do you see the message at the bottom of the page?---Yeah.

40 And you say, "It's close to your home so looks legit."---Ah hmm.

And you're referring to Mr Thammiah's home there. Correct?---Probably, yeah.

"It's close to your home," that's Mr Thammiah's home.---I guess so, yeah.

And you tell him, "It looks legit," because you know that if you were, if it was known that you were withdrawing cash from Novation's accounts your

illegitimate receipt of cash from him would become known.---It's hard to make that out from that specific message.

Well, you knew that your receipt of cash from Mr Thammiah was illegitimate, didn't you?---Not necessarily, I mean - - -

Mr Soliman, that's why you've said, "So it looks legit." In other words, it looks like you, Mr Thammiah, are making the withdrawals, because it's close to your home. That's what you meant, didn't you?---I don't know.

10

Do you really don't know or you're not willing to say?---Don't know what I would have meant back then.

No, but you can see what the words say as you sit there now, Mr Soliman? ---Yes.

And it's obvious, isn't it?---(No Audible Reply)

20 THE COMMISSIONER: Do you agree it's obvious?---It's not very obvious to me.

Not very obvious, but you can't offer another explanation as to what you meant?---If I could recall it, yeah, but I don't.

MS WRIGHT: Mr Soliman, you're not being asked to recall it, you're being asked to look at the message which is in front of you. You don't dispute that you sent this message?---No.

30 And you've suggested that your wife can make withdrawals from Novation's bank account. Do you agree with that?---Yeah, but that never happened.

I'm not asking you whether it happened. You suggested to Mr Thammiah that your wife could make withdrawals from Novation's bank account, didn't you?---Yeah.

And you suggested that it would look legitimate because her withdrawals would be made close to Mr Thammiah's home.---That's the way it reads, yes.

40

Yes. And that's what you meant.---Well, it's possible but I don't know what I was thinking over a couple of years ago.

And if the withdrawals were made close to Mr Thammiah's home it would look like it was Mr Thammiah who was making the withdrawals, rather than your wife, wouldn't it?---Again it's possible, but I don't know what I was thinking a couple of years ago.

And the fact that you were receiving money from Mr Thammiah would not be disclosed to anyone. Correct?---It's possible, yeah.

Because you were trying to keep your receipt of cash from Mr Thammiah a secret, weren't you?---Don't know about that, I mean - - -

Well, you didn't want anyone to know you were getting cash from Novation, did you?---I don't think anyone kind of tells anyone if, about their financial situation.

10

So this was just a normal financial situation, was it, you receiving cash out of Novation's takings from RMS?---That's not what I meant. I mean, it's not something I really thought of much, if I was hiding it or not.

Well, you did here in this message, I suggest, think of it very explicitly. But you don't agree with that?---(No Audible Reply)

MR YOUNG: I'm not sure what the question is, really, if it's suggested he was attempting to convey something, I mean, can that be put? I mean, it's just very nebulous, what's being put here. It's just some sort of generalised, there was something wrong with this message. I mean, if it's - - -

20

MS WRIGHT: No - - -

THE COMMISSIONER: Sorry, I'm – sorry, I shouldn't have done that. Sorry, continue, Mr Young.

MR YOUNG: Well, if that's being put then, I mean, the message speaks for itself, but if it's being put that he was attempting to convey something specific, then that should be put.

30

THE COMMISSIONER: Ms Wright?

MS WRIGHT: No, that wasn't the question. The previous answer was that he never thought of it, he never thought of trying to keep this – his receipt of cash – a secret, that he never thought of it. And so the follow-up question was, well, I suggest you did think of it very explicitly and it's in this message.

40 THE COMMISSIONER: Yes, I'll allow it.

MS WRIGHT: You understand the question, Mr Soliman?---Yep.

And what's your response?---Mmm, as I sit here now, I don't, think, trying to think back to 27 [sic], I don't, didn't really think about it much back then.

Now when you made withdrawals of cash, do you agree that you made them direct from Novation's account?---Oh, he said he gave me his personal card.

And you had an ANZ bank account card, do you agree?---(not transcribable) not sure.

THE COMMISSIONER: Sorry, when you said he said it was from his account, you're saying Mr Thammiah said to you that it was from his personal account, is that your evidence?---Yeah, I'm, yeah, I'm pretty sure that's the, the card he gave me, yeah.

10 But did he say that to you?---Pretty sure, yeah.

MS WRIGHT: Now, you knew that you were making withdrawals from Novation's account, didn't you?---No, I don't, I don't think so.

Well, you had a card, didn't you?---Yep, sometimes, yeah.

And it was a ANZ card.---Mmm - - -

20 You agree?---It was a blue one, I think, I, could have been ANZ, I don't know.

And from time to time you would ask Mr Thammiah to transfer funds into the account for you to withdraw, didn't you?---Nah, if I, if I had the card then I think I asked him, yeah.

And from time to time you would ask him to transfer \$20,000 into the account for you to withdraw, didn't you?---I think so, yeah.

30 And you withdrew the cash in \$2,000 lots at a time?---My ones, yeah, yeah.

And you kept a note of what you withdrew?---Yeah, it was in, yeah.

And you kept that note on your Samsung phone.---It wasn't directly on the phone, it was just on the Wickr, of what I, what I got.

Well, I suggest that you kept a note on your Samsung phone of the withdrawals that you made on the Novation bank account.---I think that was a separate one, just in Notepad.

40 So do you deny making the note on your Samsung phone - - -?---Mmm - - -

- - - the Steve PIN note, which I took you to in June?---No, I, I don't. No.

So that's a note that you made.---Yes.

And you deny that that note records all the cash amounts that you either received from Mr Thammiah or withdrew yourself from Novation's bank

account, is that the case?---Yeah, that's not all the money which I got, basically.

That's not the - - -?---That's not, that's not the total.

THE COMMISSIONER: Mr Soliman, I am having difficulty hearing you. Could you keep your voice up, please?---That's not the total which I, which I actually ended up getting.

10 MS WRIGHT: All right. Because you had an agreement with Mr Thammiah that you would get half of Novation's takings after tax, didn't you?---I don't recall ever saying that.

MS HOGAN-DORAN: Commissioner, just to assist. You may not have heard the previous answer. It was, "That's not all of it," was my note of it.

THE COMMISSIONER: Mine was, sorry, when I asked Mr Soliman to speak up, my note was, "Not the total I ended up getting."

20 MS HOGAN-DORAN: No, but the answer before that when he was asked the question in relation to the money he received, "That's not all the money," I got.

THE COMMISSIONER: All right. Thank you for that.

MS WRIGHT: And is it the case that you had an agreement with Mr Thammiah that you would get half of Novation's takings after tax?---I don't recall talking to him about that.

30 THE COMMISSIONER: So there was no agreement along those lines? ---Not that I can recall, no.

MS WRIGHT: Could I take you to page 50. So you told Mr Thammiah on 12 July in a message, "200K from your payout, 100K from the card." Do you see that?---Yep.

So you were asking Mr Thammiah by this message for \$300,000 in total, weren't you?---I'm not sure. I think this was around the time that his settlement came in from his divorce.

40 You were asking Mr Thammiah for \$300,000 in this message, weren't you? ---I don't think so.

Well, you said "200K from your payout, 100K from the card." That's - - -

MR YOUNG: Well, I object to that. I mean - - -

MS WRIGHT: I haven't asked a question yet.

THE COMMISSIONER: Mr Young, let her ask the question.

MS WRIGHT: You were asking for 200K plus 100K from Mr Thammiah, weren't you?---I don't think so.

10 Well, what did this message mean, Mr Soliman?---This was around the time, I think, of his divorce and he said he was giving me the money from his settlement. So I don't know if it was 100K is half of the 200K from his payout but 300K seems a bit bizarre.

Well, Novation, I suggest, by this time, had earned about \$900,000 from RMS. Do you dispute that or - - -?---No idea.

Do you need me to take you to the material?---I'm, I'm sure it's true, yeah, it's fine.

20 And I suggest you had an agreement that you would get half of Novation's profit?---I don't recall saying that.

And by the end of May 2017 I suggest you'd already received just over \$100,000 in cash from Mr Thammiah.---I don't know. I don't know when the, his settlement came in.

We'll just put that aside, what the source of the money, Mr Soliman, but by late May 2017 I suggest you'd received about \$100,000 in cash from Mr Thammiah. Do you agree that that's possible?---Yeah, it's possible, yeah.

30 And so I suggest you considered that you were owed about \$300,000 of Novation's takings at this stage?---Sorry, no. I don't, don't know how I would know that.

THE COMMISSIONER: Sorry, you don't know how you would know what? You know what their takings are, you're the manager of the unit that is engaging with Novation. You would have some idea of the fees or other money that they're receiving from RMS?---Yes.

40 And you would know at this particular point roughly how much they had earned. Is that correct?---Um - - -

MR LONERGAN: Commissioner, sorry - - -

THE COMMISSIONER: Sorry. Hi, Mr Lonergan.

MR LONERGAN: Hi, Commissioner. I just object to the line of questioning there on the basis that the Counsel Assisting has put that the total gross takings at that point in time was \$900,000 and that Mr Soliman was owed \$400,000 thereabouts from that, however she's asserted that the

agreement was one of a post-tax nature, so there's an inherent inconsistency in the line of questioning.

MS WRIGHT: I'm not talking about objective facts, Commissioner, I'm talking about what he considered he was owed, and my question was what he considered he was owed, and it's in reference to the - - -

THE COMMISSIONER: A particular message.

10 MS WRIGHT: - - - particular message that I've taken him to. So we can have mathematical calculations but it's - - -

THE COMMISSIONER: Mr Lonergan, on the basis that Ms Wright has indicated, she's really asking some questions based on that message and concentrating on Mr Soliman's understanding of if he was owed anything and what he was owed. I'll allow it on that basis.

MR LONERGAN: Yes, Commissioner.

20 MS WRIGHT: So, Mr Soliman, coming back to the message at page 50, what do you say you meant by this message, "200 from your payout and 100 from the card?"---My best guess is maybe half of his payout, which potentially went into his card. I don't know really.

You wanted money from him, didn't you?---I wanted, what do you mean?

Well, you're asking him for money in this message.---Yeah.

30 And you're asking him for \$200,000 from his payout - - -

MR YOUNG: Well, I object to that. I object to that. I mean there's nothing in there that says anything about wanting money.

THE COMMISSIONER: Sorry, Mr Young, go on.

40 MR YOUNG: Well, it's been put as if it is said in that that he wants that amount of money. That is not what it says. It simply says, "\$200,000, \$100,000 from the card." Now, I accept it's capable of being a request or demand, whatever you want to call it, for money. It could be one of a number of figures. I mean the figure of \$300,000 is simply putting A plus B and saying that's what it equals. It could be a request for \$100,000. I mean it's capable of a number of meanings and he's been asked what he recalls and he says he doesn't know, and then it's put as if it's a demand for \$300,000.

THE COMMISSIONER: Well, he agreed it was - Ms Wright put to him he wanted money.

MR YOUNG: Yes.

THE COMMISSIONER: Then she said, "You're asking him for money." And my note was that he agreed with that, and then I think from that answer that Mr Soliman agreed that he was asking Mr Thammiah for money, she then was exploring in the context of that answer that message.

MR YOUNG: And he was asked specifically if he recalled what he meant by that message and his answer was no.

10

THE COMMISSIONER: Well, she has a right to explore it - - -

MR YOUNG: Oh, I accept that.

THE COMMISSIONER: - - - in the hope that Mr Soliman's memory might improve.

MR YOUNG: That's certainly, that's certainly so, but she cannot now proceed on the basis that that is a request for \$300,000 when that is anything but clear on the basis of that message.

20

THE COMMISSIONER: Ms Wright, I thought you were just exploring it?

MS WRIGHT: Yes, I was, and that last question didn't in fact ask him about \$300,000, but - - -

THE COMMISSIONER: Can you start again?

MS WRIGHT: Yes.

30

THE COMMISSIONER: We've established that Mr Soliman agrees that he was asking Mr Thammiah for money and we've got this message with, "200K from your payout, 100K from the card."

MS WRIGHT: Mr Soliman, when you said, "200K from your payout," were you asking Mr Thammiah for \$200,000 out of his property settlement? ---It's very hard to say just by looking at this message.

And when you asked him for \$100,000 from the card, you were asking him for \$100,000 from Novation's bank account, weren't you? ---Don't agree with that. I mean, didn't say Novation at all in that message.

40

You had been using a card to withdraw money by this stage, hadn't you? ---Sometimes, yeah.

And when you referred to the card, you were referring to the card which you had used on occasion to withdraw cash, weren't you?---Don't know.

Well, there's no other card, I suggest, that you've referred to in these messages, other than a card that you've used to withdraw cash.---Don't know.

THE COMMISSIONER: The blue card. The blue card that you gave evidence about. Must be a reference to that, mustn't it?---Very hard to say. I mean, I don't know what I've said a couple of years ago.

10 MS WRIGHT: There's no other card, I suggest, that you were talking to Mr Thammiah about, other than the card you were using to withdraw cash.---I don't know.

Well, I suggest it's obvious, Mr Soliman, but you're not willing to acknowledge the truth.---Oh, I'm not willing to speculate, to be honest.

All right. Well, then if we turn over to page 51, Mr Thammiah tells you not to involve anyone else. Do you see that, middle of the page?---Yeah.

20 And you say, "I can withdraw from The Ponds and Parramatta."---Yep.

And over at page 52, he says, "I'll withdraw the money."---Yep.

And you say, "No, you're too busy." And over at page 53, he asks you, "You want 200K now?" You understood that to mean \$200,000, correct? --- (No Audible Reply)

Mr Soliman?---Yep.

30 You understood "200K" to mean \$200,000, didn't you?---I'm just reading the message, it just came up now.

THE COMMISSIONER: And your answer?--- (No Audible Reply)

"You want 200K now?", and you were asked, "200K refers to \$200,000," do you agree with that?---That was Steve's message, yeah.

Well, you received it, when you received it, did you think "200K" referred to \$200,000?---Well, that's what the message says, yeah.

40 MS WRIGHT: And your response to the message is, "Yeah, I'm coming, LOL." Do you see that?---Yeah.

And by that response you confirmed to Mr Thammiah that you did want \$200,000 now, didn't you?---I don't think so.

Did you answer, "I think so"?

THE COMMISSIONER: I think he said, "I don't think so."

THE WITNESS: I don't, I don't think so, because my message sounds like, as in, "I'm coming over now," something like that. The two messages don't really relate to each other, for some reason.

MS WRIGHT: You were asking him for \$200,000, Mr Soliman. Do you deny that?---I don't know if I asked him for two, \$200,000. I don't remember saying that to him.

10 No, well, he said it to you, and you've answered, "Yeah." Haven't you?  
---Mmm, no, that's not the way the messages read to me.

And this is just after you've said on page 48, which I've taken you to, "I need to pick up card from you, I'll start withdrawing." Isn't it?---Okay.

And on page 67, down the bottom of the page, you say, "Going to withdraw now. You transferred \$, yeah?"---Yep.

20 So you were asking him whether he transferred money onto the account.  
---Sounds like it, yep.

Yes. And you withdrew \$2,000 from the account on that very day, being 13 July, 2017, didn't you?---It's likely.

Well, it is the case. It's more than likely, isn't it?

MR YOUNG: Well, I mean, if he's being asked to assume that, that's fine but, I mean, otherwise there's no basis on which he can say yes truthfully.

30 THE COMMISSIONER: I suppose we could take him to the bank records.

MR YOUNG: Well, I mean if he's asked to assume it, we're to assume it but he doesn't want to speculate.

MS WRIGHT: The bank records show, volume 20 at page 218, on 13 July a withdrawal of \$2,000. Do you see that?---Yes.

And you see it's Novation Engineering's account?---Yes.

40 You agree? The account ending 6-9-8-6. And you had suggested to Mr Thammiah that your wife could do it and he objected to that, you agree? I took you to those messages.---Yes.

And so you were withdrawing from Novation's account, weren't you?  
---Yeah, but I didn't realise it was the Novation card.

THE COMMISSIONER: You didn't – I'm having difficulty hearing you, Mr Soliman.---I didn't realise back then it was the Novation card.

MS WRIGHT: And at page 100 - - -

MR YOUNG: Just on that. Could I just ask, is the card the ANZ card in evidence?

THE COMMISSIONER: I don't think it's in evidence.

MS WRIGHT: The actual card?

10

MR YOUNG: Yes.

MS WRIGHT: No.

THE COMMISSIONER: No.

MR YOUNG: I mean, it just seems something might turn on that.

MS WRIGHT: Page 100, please. Halfway down the page, Mr Soliman, you see you tell Mr Thammiah on 26 July, 2017, "You're going to withdraw your half from the current balance." Do you see that?---Yes.

20

And page 106, again, halfway down the page you say, "Let's just find the balance from Tan. We'll review the balance and I'm going to clear my half." You see that?---Yes.

And Tan was an accountant, correct?---I think so. I think, yeah.

And when you said you were going to clear your half, you were referring to your half of Novation's profit, weren't you?---I don't think so, no.

30

What were you referring to by "my half"?---Could be half of his settlement if that's what we spoke about.

Well, I'm not asking you to speculate. When you say, "If that's what we spoke about," what were you referring to when you said "my half"?  
---That's the only thing that I can think that it would have been about.

We'll go back to page 100. See, you say here, "I'm going to withdraw my half from the current balance. So if you can help me get it faster from your settlement for the house, that would help me heaps obviously, but at the same time if you're not comfortable with that, that's your call but it'll just take me longer to get the cash out, which is a mission." You see that?  
---Yep.

40

So your half is not a half from any settlement I suggest, is it?---Don't know what you're referring to, though. The message says, "From your settlement."

You were suggesting in this message to Mr Thammiah that he could give you money out of his settlement as a way for you to get the money faster. Isn't that what you meant?---The message reads a bit different to me.

THE COMMISSIONER: Well, the message distinguishes between money coming from a current balance and money coming from Mr Thammiah's settlement, doesn't it?---(No Audible Reply)

10 You can see that clearly from the first sentence. Do you agree with that, Mr Soliman?---Yeah, but the context is a little bit different.

Right. Just, so let's take it step by step. So the first sentence distinguishes between you withdrawing "My half from the current balance," so we've got that little pocket of, bucket of money, and then we've got Mr Thammiah being able to access money, probably faster from his settlement for the house, don't we?---(No Audible Reply)

20 That's how it reads, Mr Soliman.---I don't know about that.

Well, "I'm going to withdraw my half from the," in capitals, "current balance. So if you can help me get it faster from your settlement for the house, that would help me heaps obviously." So reading that sentence, number 1, you're keen to get some money from Mr Thammiah. Do you agree with that?---Yep.

30 Number 2, one way of getting it that you say at the beginning of the sentence is, "I'm going to withdraw my half from the current balance, but if you can help me faster, get it faster from your," Mr Thammiah's, "Settlement for the house, that would help me heaps obviously." So there's two sources of the money that you're going to get from Mr Thammiah, the current balance, or Mr Thammiah's settlement for the house. Correct? ---Sorry, I just don't see it that way.

All right.

40 MS WRIGHT: I'll take you back, Mr Soliman, to page 91. It might assist if you see all the messages in context. All right. Perhaps page 90, sorry. Mr Soliman, Mr Thammiah told you he was trying to sort out the tax at the moment. Do you see that?---Yep.

And that was Novation's tax you understood?---Yeah.

And you ask him, "Tax for Novation?" And then you say, "Feels like it's all just business now between us. It sucks." See that?---Yep.

So by that you were conveying your friendship had diminished and you were now just doing business with each other. That's what you meant?  
---Sounds like it, yeah.

And he says, "I prefer to keep it separate." Do you see that?---Yeah.

And over the page, page 91, he says, "You're building your own wealth and a house." Do you see that?---Yeah.

10 "I've got to do something for myself." Do you see that?---Yeah.

And so you understood that you were – I'll come back to that. If we go over to page 92. Mr Thammiah says, "No, I'm fine but I'm committed to doing something my way, your commitment to your own way." Can you see that?---Yep.

Page 93. "I'm just making sure all the books are sorted and we can each do what we want." And you understood by "the books" that he was referring to Novation's accounts, didn't you?---Don't know.

20

You understand by "the books" he was referring to accounts, didn't you?  
---I, I don't know.

What else could he be referring to by "the books"?---I think this is, again, around the time of his, the divorce and the settlement so that's another possibility.

All right. And in the divorce, did you understand him to have books?  
---Sorry?

30

Did you understand him to have books in his divorce?

THE COMMISSIONER: What are you talking about? Novels, first editions or, "Books sorted," as in books of account?---Looks like books of account.

And usually in a marriage breakup you don't talk about books of accounts. Books of accounts are business based, aren't they, something that Novation would have? That must be what the reference is.---They were going  
40 through a settlement, that's what I, what I meant, a financial settlement.

MS WRIGHT: Your messages, Mr Soliman, were about doing business together, the messages I've just taken you to, where you said, "Feels like it's all just business now between us." Do you recall that message?---Yep.

And when you're referring to, "Business between us," you're referring to Novation's business, weren't you?---Yeah, probably, yeah.

And so in context where you're referring to Novation's business, it's likely, isn't it, that when he says he's making sure all the books are sorted he's referring to Novation's books?---I don't know.

All right. And then you tell him to drop off the cash. Do you see on page 93?---Yep.

And he says, "No cash. I'll explain when I see you." See that?---Yep.

10 At page 94, he says, "The numbers are in and they look fucked." Do you see that?---Yep.

And he says, "Basically tax is bad for business," in two messages at the bottom of that page?---Yep.

So he's referring to tax in Novation's business and you understood that? ---Reading this now, that's the way it looks, yeah.

20 Yes. So you understood that he was not referring to his property settlement from his marriage, didn't you?---I mean, that's the way it looks. Just sitting here, the way you're talking about it.

And he says at page 95, "But anyway, you will have to take what you need from my private stash once we work out numbers." Do you see?---Yep.

And you ask him why he can't withdraw from his account.---Yep.

30 And at the bottom of the page you ask him if he's still committed to moving forward. Do you see that?---Yep.

And you say, "Because I have a plan." Do you see?---Yep.

And that's a plan to do with Novation, correct?---I'm not sure.

40 Well, over the page at 96, you ask him. "Are you still interested to work together beyond the scales? It's okay if you want to do it on your own. I'm committed to supporting your plans. I can simply focus on increasing revenue from scales in New South Wales and nationally. You focus on the app. Let me know so we seriously start doing everything we need." Do you see that?---Yep.

So the topic of the conversation is Novation, isn't it, Mr Soliman?---I'm just reading it. It looks like it, yeah.

And he asks you, "What's your plan?" Do you see in the middle of page 96?---Yep.

And at page 97 you tell him you've looked into hemp growth verse [sic] the market. Do you see that?---Yep.

And in the third message down, you say you've looked into cannabis growing.---Yep.

And you tell him, the fifth message down on that page, on 26 July, 2017, that, "\$2 million capital should be our goal."---Yep.

10 And then you say, "Now ... the plan, I think we should focus on the scales business as primary, so I'm committed to growing this business here and nationally over the next six months. I just need you to meet the managers in each state once I sell the idea." You see that?---Yep.

So as at 26 July, you were intending to make a profit from RMS's portable weigh scales business, do you agree with that?---I don't know exactly what I was thinking back then.

20 You tell him, "We should focus on the scales business as primary." So is it not clear that you were thinking that you and Mr Thammiah should focus on making a profit from RMS's scales business?---Mmm, not necessarily. I mean, the language is a bit skewed, the way we spoke, but I definitely, I definitely helped him, I've already said that previously.

And then over at page 98, you tell him that the rest of the work is "Mine to do for scales. Basically my goal is to earn \$2 million for Novation."  
---Okay.

30 You agree that you said that?---I can see it here, yep.

And Mr Thammiah agrees with you, he says, "Yeah, I agree but remember"?---Yep.

And he tells you that "The margins we make won't be anywhere near New South Wales."---Yep.

40 And you understood he was referring to the margins to be made nationally compared to the margins available from RMS business in New South Wales?---Mmm, I'm not sure, but it's possible.

Well, you answered him, "Oh, they will be, if I have my way. Leave that to me." You see that?---Yep.

And then you immediately say, "Remember, I'll soon be leading this program nationally."---(No Audible Reply)

You see that?---No.

Sorry, page 99. You see that now, Mr Soliman?---Yep.

See, isn't it the case that you were intending - - -

MR YOUNG: Well, I object to the – I'm just wondering whether this is within the purview of the Commission, in relation to this inquiry, it's New South Wales focused and in relation to the RMS. I'm not sure that this matter falls within that.

10 THE COMMISSIONER: I'm sorry, Ms Wright?

MS WRIGHT: Commissioner, the messages are relevant to Mr Soliman's state of mind. There's no inquiry into what occurred nationally. But the messages as to his intentions at this time are relevant, and there's an inference to be drawn from the messages, and there can be submissions about what his state of mind was, but I submit it's highly relevant.

20 THE COMMISSIONER: And it also speaks to his relationship with Mr Thammiah and whether their relationship as Mr Soliman keeps on repeating is just as best friends or whether there's – well, your questions suggest a business arrangement between them.

MS WRIGHT: Yes.

THE COMMISSIONER: So on that basis, I'm not inquiring into ultimately what happens where heavy vehicle regulation becomes a national concern. But it's relevant to this inquiry, so I'll allow the question.

30 MS WRIGHT: Mr Soliman, do you see the message on page 99, where you told Mr Thammiah, "I'll soon be leading this program nationally"?---Yep.

And you were referring there, weren't you, to a program relating to portable weigh scales?---I don't think so, no.

What program were you referring to?---The only thing I can think of around that couple of year period that we're talking about, merging with the NHVR.

40 And that's the national regulator?---Yeah.

And what program were you referring to when you said, "I'll soon be leading this program nationally"?---Hmm, I'm not sure which specific program though I'm talking about here.

Wasn't it a program to do with scales?---Probably not because I mean I don't think there was a national scales program. I don't know.

All right. And Mr Thammiah responds, "Okay, but competitive scales makes it hard." Do you see that?---Yeah.

And you reply, "Yeah, still a huge market here."---Yeah.

And by that you meant in New South Wales, didn't you?---Looks like it, yeah.

And then you told him, "Replace all 600 scales."---Yeah.

10

"Anyway, that's my target." Do you see that?

MS HOGAN-DORAN: Commissioner, could I just interrupt. I've just received a message from my instructing solicitor that on the live stream Mr Soliman and Counsel Assisting can't be heard or can't be heard adequately.

THE COMMISSIONER: Sorry, who can't be heard, Counsel Assisting and Mr - - -

20

MS HOGAN-DORAN: And Mr Soliman.

THE COMMISSIONER: All right. Thank you for that. Can I just make inquiries, is that IT or is that something we can press a button?

MS WRIGHT: I'm told all the microphones are on and my instructing solicitor will ask IT to come in, Commissioner. Would you wish to pause or proceed?

30

THE COMMISSIONER: Look, I think we - - -

MS WRIGHT: Perhaps if I just, I don't know if that makes a difference, but Mr Soliman is speaking very softly.

THE COMMISSIONER: Maybe could I ask, maybe if we continue for five, about five minutes. Counsel Assisting shifted her microphone. If we can ask Mr Soliman to please keep his voice up and maybe if you can get some more intelligence about whether through the live streaming we can, Counsel Assisting and Mr Soliman can be heard.

40

MS HOGAN-DORAN: I will do so, Commissioner. I was just trying, I was just moving to see if I could see whether or not Mr Soliman's microphone can be put any closer to him.

THE WITNESS: I just did, yeah.

MS HOGAN-DORAN: It is very difficult even for us to hear and we're only in the second row.

THE COMMISSIONER: All right.

MS HOGAN-DORAN: And, Mr Soliman, despite your requests, has not been speaking up.

THE WITNESS: Yeah, I'm close, yeah.

THE COMMISSIONER: All right. Let's try it for five minutes and I'll then ask for a report.

10

MS WRIGHT: I'll keep my voice up. Mr Soliman, when you told Mr Thammiah that there's a huge market in New South Wales to replace all 600 scales, you had in mind that Novation could be the supplier of those scales in New South Wales, didn't you?---Yeah, because that had the licence by this point I'm pretty sure.

20

And you had in mind that Novation could make – I withdraw that. You were intending to use your position at this time to have RMS procure the scales through Novation, weren't you?---Well, we needed the scales and he had the licence so - - -

So you're agreeing with me that you were intending to use your position to have RMS procure the scales through Novation?---Not necessarily. I mean he was my friend and we were too close and I was happy if he won it, but my main goal I guess was to replace the scales.

And you say, "That's my target".---Yep, correct.

30

But you were telling Mr Thammiah this because you were going to use your position to help Novation be involved in the replacement of the scales, weren't you?---I mean, I've already said that I helped him in general but I don't know about this specific message. I mean, my main goal was to replace the scales.

Well, you're not just telling Mr Thammiah a piece of information about your work, are you? You're telling him because he has an interest in this. ---Yeah, because he had the licence for the preferred scale that, that the users wanted.

40

And you were reassuring him that you would do everything you could in your position to promote Novation, weren't you?---I don't know if that's the way the messages read.

And he agrees with you at the bottom of page 99, doesn't he?---Sorry?

He agreed with you, bottom of page 99?---He says he agrees.

Well, he says, "Agreed," doesn't he?---Yeah. What was your question, sorry?

Mr Thammiah agreed with you? That's the question.---With, with what?

Well, he said "Agreed," didn't he? I'm sorry, if Mr Young has something to say, perhaps he could raise (not transcribable) - - -

10 MR YOUNG: Mr Soliman just said he agreed. He meant Mr Thammiah agreed. He said that. You'll see that on the transcript.

THE COMMISSIONER: All right.

MS WRIGHT: And then if we turn to – I'm asked to turn to the microphone. I'm not sure if that's going to make a difference.

THE COMMISSIONER: I might pause. And if - - -

20 MS HOGAN-DORAN: I'm told that it had improved but I know for my own part I still am finding it difficult from time to time to hear Mr Soliman because he drops his voice during the course of his answers. Usually there's a connection between what he's saying but we can't hear it all.

THE COMMISSIONER: All right. And if we can just pause for a second. All right. And can I just indicate to everybody, if you can't hear Mr Soliman, please speak up immediately and we'll get him to repeat his answer. Right, Ms Wright.

30 MS WRIGHT: So if we can have page 100. Mr Soliman, do you see here you tell Mr Thammiah that in the short term a few things need to happen? ---Yep.

And then you listed three things that needed to happen in the next message. Do you agree?---Yep.

And you said, "See Tan to get the final balance".---Yep.

40 By that you were referring to the final balance of moneys that Novation had received from RMS less tax, weren't you?---I can't say from this message. I don't, I don't think so.

And you say, "I need a quote from you for the parts so I can start drafting the RFT, request for tender. This takes a while so sooner I get the quote the better so I know what the tender value is".---Yeah, I see it.

And you agree that you were supposed to issue an RFT before you receive any quotes, weren't you?---For the parts or - - -

Well, do you agree that in your job you were supposed to issue an RFT before you received quotes, weren't you?---I believe so. I'm not sure what the exact process was.

Well, getting the quote first and then drafting the RFT on the basis of the quote could give the company providing the quote an unfair advantage, couldn't it?---Hmm, it's possible, yeah.

10 And you knew that at the time, didn't you?---Don't know what the exact process is now.

THE COMMISSIONER: No, not now, at the time. And it's obvious, isn't it? You put out your RFT and then you get your quotes. The suggesting there is perverting the whole system, isn't it?---Hmm, not necessarily when there's only one vendor that has the parts.

MS WRIGHT: And you've told him, "The sooner I get the quote the better so I know what the tender value is."

20 THE COMMISSIONER: So you're using the quote to determine the value for the tender. It's not a matter of selection, it's a matter of the value. ---There's only one vendor.

Yeah, we know that.---Yeah.

30 Concentrate on the question. What you're doing is, you're perverting the process because you're getting an indication of what the tender value will be from a quote from the person who's going to benefit from the tender. That must be a perversion of the process.---Not necessarily when there's only one vendor that can provide the services.

So you say to the vendor, how much is the value of the request for tender, that you're the only one who's going to be able to tender for?---Mmm, that's a very (not transcribable) that's a very common thing that happens.

MS WRIGHT: Mr Soliman, you never issued a tender for spare parts to only one company, did you?---(No Audible Reply)

40 You never issued a request for tender to only one company?---I think it was just part of the process.

I suggest your answer is totally disingenuous because you never issued a request for tender to only one company.---Well, are, are you asking if I, if I sent a tender personally or - - -

Mr Soliman, you were suggesting by this message to Mr Thammiah that you used the procurement process at RMS for Novation's benefit, weren't you? ---Don't think so, no.

And then you told him as a third point that he needed to get the sole vendor licence from Rish ASP, "We can't raise POs without it."---Yep.

And then you said, "The rest is up to me. I'll make this happen."---Yep.

In other words, you would use your position to make sure that Novation won RMS contracts for portable weigh scales and parts. That's what you meant, didn't you?---I don't know.

10

"I'll make this happen." Isn't it clear?---Depends on what's happening at work during that time, maybe the parts needed were urgent.

And you were suggesting that Novation would be the supplier of the parts because you'd make it happen.---No. I mean they had the licence, they were the supplier anyway, with or without me.

20

And then when you told him, "I'm going to withdraw my half from the current balance," it was "My half" of Novation's balance, wasn't it?---Once again I don't remember ever speaking to him about that so I don't see that's the way it reads.

THE COMMISSIONER: Sorry, you don't remember speaking to him about what?---About what Ms Wright has been saying, that half of the balance was mine.

30

Well, "the balance" refers to the balance that Novation's getting, isn't it? ---Well, that's what I'm saying. I mean, I don't remember ever speaking to him - - -

So you don't agree with that, or you don't recall it, or what?---I don't remember ever speaking to him about that, so what I'm saying is, I don't agree with what she's saying about this message.

Yes, but it's your message. You're saying "my half from the current balance". You're saying that you don't agree with the proposition that Ms Wright's put to you, that it reads, in the context of all the other messages dealing with the business, that it's Novation's current balance.---No - - -

40

No, you don't agree with that, is that your evidence?---Mmm. Yeah, I don't really agree. I, I don't think we ever spoke about that.

All right. Okay, well, you're the one speaking about it in the message. What's "current balance"?---Maybe it's, the only thing I can think of, either it's his settlement, or - - -

No, I don't want you to think up something, and I don't want you to say maybe something.---Mmm.

It's your message. You wrote it. What are you referring to when you say "my half from the current balance"?---I'm trying to recall, and the best answer I can give you from what I recall is whatever, whatever agreement we had at, had at the time, that's the balance that he was going to give me. Whether it be his settlement or whatever it was.

MS WRIGHT: And is it possible that whatever it was, was from Novation's income from RMS?---I don't think so.

10

Do you agree that's a possibility?---Well, I don't remember ever speaking to him about that, so – I don't think so, no.

I'll just take you to another example. If we could go to page 282. Do you see here on 5 October, you said, "I just withdrew today. Haven't checked balance since last week, but I'm sure it must be close to zero. Can you transfer another 20K?"---Yep.

20 And by that you meant, transfer into the account \$20,000, do you agree?  
---Yes.

And then if we go to volume 20, page 265 – 263, I think. Do you see three quarters of the way down the page, 5 October, there's a transfer of \$20,000, in the Credits column?---Yes.

And that's on 5 October, 2017?---Yes.

And that's to Novation Engineering's bank account?---Yes.

30 And the transfer is from an account ending in 8-7-2-5, you can see that towards the middle of the page?---Yeah.

And I suggest that's the account into which RMS was paying or remitting funds to Novation.---No idea.

Well, I'm telling you that's what the evidence indicates, Mr Soliman. And so you've asked, on 5 October, in the message I just took to at page 282, for a transfer of 20,000.---Yep.

40 And on the same day, there is a transfer from Mr Thammiah's account ending 8-7-2-5 of \$20,000 into Novation's account.---(No Audible Reply)

Okay?---Yep.

And then if we go back to page 282, Mr Thammiah tells you, "That's the last of half by the way." Do you see that?---Yep.

And he says, "100 total for this year".---Yep.

And then over the page you ask him, "Did you get the balance from Tan or do the sums yourself for the half?" Do you see that?---Yep.

And Tan, you agreed, is the tax accountant for Novation. Do you agree?  
---Probably. Yeah, I think, I think so.

10 Well, you knew who Tan was because you referred to him. Do you agree with that?---In this message, I did, yeah.

Well, not just this message. There are other references to Tan and I've already taken you to at least one.

THE COMMISSIONER: And you agreed earlier today that he was the accountant.---Yeah. I'm pretty sure he was. I don't, I'm not a hundred per cent sure but probably.

20 MS WRIGHT: And you understood that he was working out a balance for Mr Thammiah, didn't you?---Yeah. Some sort of balance, yeah.

And you understand that was a balance of Novation's net position after tax, didn't you?---Again, I'm not sure what the word balance here means. It could have been the settlement from his, the divorce. I'm not exactly sure.

But you've just asked Mr Thammiah to transfer money into an account from which you were withdrawing.---Okay.

30 And are you suggesting that you thought that the source of those funds might have been his property settlement?---Could have been his private savings. He said he had quite a bit of savings too.

And Mr Thammiah tells you, "I have just halved what was left after tax." Do you see that?---Yep.

And how is it that halving after tax could relate to savings?---I don't know what - - -

40 MR YOUNG: Well, I object to that. That relates to a calculation, not to - that relates to a calculation by Mr Thammiah, it doesn't relate to source of anything. That's how he's saying that he has worked out a calculation.

THE COMMISSIONER: No, Mr Young. I'm not with you. I'll allow the question.

MS WRIGHT: Mr Soliman, you suggested that you thought it could have been from his savings.---It's possible, yeah.

And what you're referring to is personal savings from a source other than Novation. Is that what you're suggesting?---Look, it's possible, yeah. I don't know.

And Mr Thammiah's told you here that he's halved what was left after tax. You understood that to be related to what Tan has told him to be Novation's tax position, didn't you?---One again, I don't know. These messages are far too old for me to know the context of what we were speaking about.

10 And then if we go back to page 100, you've told him, "I'm going to withdraw my half."

MR YOUNG: "Of the current balance."

MS WRIGHT: "My half."

MR YOUNG: "From the current balance."

20 MS WRIGHT: That's a reference not to his savings, is it?---Once again, I don't recall what this actually meant. I mean, it's two and a bit years ago.

You're clearly having a discussion about Novation in these messages, Mr Soliman, aren't you?---It doesn't read that way to me. I would have, I mean, if I said, if I meant like Novation I would have said Novation's balance.

30 It's very likely, isn't it, that you were referring to your half of Novation's current balance after tax?---No, it's not likely. I mean, like I said, I don't, I don't remember talking about that with him so - - -

And you knew Mr Thammiah had no other source of income other than Novation at this time, didn't you?---Just the settlement and he said he had savings but I don't know exactly how much.

40 And you made a suggestion to him that he could give you some money out of his settlement while you were both waiting for Tan, the accountant, to work out Novation's tax position, didn't you?---No. I mean, sorry, there's too many things that you've just kind of asserted, I mean I don't think it's fair.

THE COMMISSIONER: Well, your counsel hasn't objected. I thought the proposition was being put quite clearly to you that what – sorry, I withdraw that – about what the current balance refers to.---Yeah. As I said, I don't recall exactly what that means, but obviously whatever the agreement we had at that specific time for what he was going to loan me, then that's what it was.

MS WRIGHT: You keep saying that you don't remember specifically what the agreement was at the time, but these messages, do you agree, indicate what your agreement was?

MR YOUNG: Well, I object to that because the message on 6 October, 2017 from Mr Thammiah suggests the opposite of that. It does not suggest that that was pursuant to an agreement but rather a basis of a calculation that he had made. That was one of the, that was one of the matters put to him.

10 THE COMMISSIONER: Sorry - - -

MR LONERGAN: Just a slightly different objection, but the use of terminology such as "very likely" and "may have been" and words to that effect are of no evidential value, so putting a proposition to a witness saying it's very likely that this occurred, isn't it, is, well, any answer to that is one of probability, not of an assertion of fact. So it's, to be fair to the witness, confusing when he's being asked to assign probability to the occurrence of events.

20 THE COMMISSIONER: All right. Ms Wright?

MS WRIGHT: Commissioner, in the face of a denial from a witness there's nothing objectionable about putting or asking the witness to agree if a certain state of affairs is likely, based on the evidence, in my submission.

30 THE COMMISSIONER: Look, my view of that is, his evidence at the moment is just this, he sits and ponders and then will just say, don't remember, don't remember. In that context for Counsel Assisting to try and explore, well, is it likely or is this a possibility, my view is in the context of that it's permissible. It may prompt some recollection that it may mean that he can say, look, it's, I now deny it for this reason, or no, it may be consistent or might prompt some memory, because at the moment Mr Soliman is just, his evidence, I'll be quite frank with you, is just not helping me at all. So to allow Counsel Assisting to probe in that way I'm hoping it might help his memory. Mr Young's objection, Ms Wright, which I think was something about it was inconsistent with a subsequent message that Mr Thammiah made.

40 MR YOUNG: Yes, on 6 October I think it was, yes.

MS WRIGHT: Commissioner, I no longer recall the question, but the particular answers I'm obtaining from the witness are to the effect of "I don't remember what we agreed" and my question was along the lines of to challenge his asserted lack of memory by putting to him that the messages may reflect what the agreement was and seeing whether he will agree with that proposition.

THE COMMISSIONER: All right. I'll allow that.

MS WRIGHT: Yes. So, Mr Soliman, you've given a number of answers where you've stated that you don't recall what you agreed with Mr Thammiah, what you agreed at the time with Mr Thammiah. But do you agree that the messages I'm taking you to reflect what your agreement at the time was or was likely to be?

10 MR YOUNG: I object to that. That's a meaningless question, with great respect. I mean, that your messages at the time reflect what your agreement was, I mean, what does that mean?

MS WRIGHT: Well, the messages often say, "This is the plan," with the response, "I agree."

MR YOUNG: But the agreement with relation to what?

THE COMMISSIONER: Getting all this money.

20 MR YOUNG: Yeah, look, if, if, if that, if what is going to be put, that this was a specific agreement as basically was pleaded from the start, that it was an agreement involving a (not transcribable) calculation, then that ought to be put but if it said that the messages reflect that, then that can be put because the submission will be made later, and I'm making this quite clear now, that they say something quite different.

THE COMMISSIONER: So that's going to be your submission, that they say something quite different?

30 MR YOUNG: Indeed.

THE COMMISSIONER: All right. Well, Ms Wright - - -

MS HOGAN-DORAN: Commissioner, in light of what - - -

THE COMMISSIONER: I'm sorry.

40 MS HOGAN-DORAN: Commissioner, in light of what Mr Young has said, perhaps you would be better assisted by Ms Wright identifying elements of the agreement as disclosed by the written documents, putting to Mr Soliman whether he denies that reflects the agreement, whether he has any alternative explanation for what the terms of the agreement may have been. He doesn't deny there was an agreement so what elements of it are also denied?

THE COMMISSIONER: Look, I think the upshot is that, especially in light of Mr Young indicating that he anticipates there's going to be a submission that there's a particular I suppose analysis of these messages that is contrary to the submission he anticipates Counsel Assisting would be making, I think in those circumstances, Ms Wright, you should be continuing the questions

that you're putting. That the inference I'm drawing from your questions is that you will ultimately make or you've got in your mind presently that you've got in your mind a particular agreement. Please explore that further in detail.

MS WRIGHT: Now, Mr Soliman, you said to Mr Thammiah at page 95, and I've taken you that, "I have a plan." Do you recall that message? Bottom of page 95.---I can see it here, yeah.

10 And then you told him on page 96 you want to focus on increasing revenue from scales in New South Wales and nationally. Correct?---Yeah.

And he asked, "What's your plan?" Then over the page at page 97 you told him, "2 million capital should be our goal." Do you see that, halfway down the page?---Yeah.

Do you see that?---Yes.

20 And you said, "Now the plan."---Yes.

"I think we should focus on the scales business as primary." Do you see that?---Yes.

At page 98 and you say, "For scales basically my goal is to earn \$2 million for Novation." Do you see that?---Yes.

30 So your plan involved making money through Novation, didn't it?---Not necessarily. I mean, like I said previously, I mean, yes, I have helped him and the lines were crossed but the language I use here is a bit skewed. I mean, we were very close friends and we and I and you were not used in the normal sense.

And he answered, "I agree." Do you see that?---Yeah.

And you understood that he agreed with your plan to earn \$2 million for Novation by indicating that he agreed?---I don't know.

40 And then he took issue with the margins to be made outside of New South Wales and I've taken you to that. And then on page 99 you tell him that there's a huge market to replace all 600 scales in New South Wales. You see that?---Yep.

And he answers, "Agreed".---Okay.

See that?---Okay.

And then over the page you set out the three points that had to be attended to.---Okay.

And an important element in that, I suggest, is the need for him to get the sole vendor licence from Rish ASAP.---Okay.

Do you agree that was an important part of the plan that you had in place?  
---Sorry, I'm kind of lost with what the question was.

Do you see at point 3 in the second message on page 100?---Yeah, I see it, yeah.

10

“You need to get the sole vendor licence from Rish ASAP. We can't raise POs without it.”---Yeah, I've already see it, yeah.

Because your plan was that you would raise money for Novation by raising purchase orders internally at Roads and Maritime service, wasn't it?---I don't know but I think around this time, if I recall, there was only a one-year licence and I think Rish said it had to be renewed.

20

Yes. So you understood that it was important that Mr Thammiah got a renewal of the sole vendor licence from IRD, didn't you?---I think I was more worried that there may be no one that we can get these parts from.

You were very keen to ensure that any competitors to Novation did not themselves get a vendor licence from IRD, weren't you?---I don't remember thinking about that back then.

Well, that's why you told Mr Thammiah on page 12, which I took you to, that you had told Rish that he couldn't meet with Accuweigh?

30

THE COMMISSIONER: Where you said you didn't agree with Rish to meet with Accuweigh and, “Just be aware we have competition”.---Yeah.

MS WRIGHT: So it was a very important part of the plan that Novation renew its sole vendor licence with IRD, wasn't it?---I don't think that's the context of my earlier message. I think I was more worried that there may be no one to procure these parts off.

40

Well, if we go to page 23. You said to Mr Thammiah, “To confirm to we have the same story for Rish, I have placed orders for parts with Novation for the coming financial year. Novation will place orders to IRD in a few months. Also I'm going to mention there's very little funding for new scales for the coming financial year so changing distributors has little benefit to me except that it disrupts my business.” So you were telling Mr Thammiah here that you would tell Mr Malhotra some things to dissuade him from switching distributors, weren't you?---Not really. I mean, I just said that there's little, little benefit and it disrupts the business obviously if you have a different agenda year to year.

And then you tell Mr Thammiah that Rish has just called. You see that?  
---Yep.

So it's the case that you spoke to Mr Malhotra on the phone?---Must be,  
yeah.

And you did tell him in that conversation that there was very little funding  
for new scales for the coming financial year?---Which was true, yeah.

10 And you told him that changing distributors would have little benefit to you  
except that it disrupts RMS business. You told Mr Malhotra that in that  
conversation, didn't you?---Don't recall what I, what we spoke about over  
the phone.

Well, you've told Mr Thammiah in this WhatsApp message that that's what  
you are going to mention to Mr Malhotra, and on this very same day, you've  
spoken to Mr Malhotra.---(No Audible Reply)

20 Do you agree?---Yes.

So isn't it likely you've told him what you'd said to Mr Thammiah that you  
would be telling him?---I don't recall what we spoke about over the phone.

I understand you say you don't recall, but given that you have a message  
that you sent, on the same day as you spoke to Mr Malhotra, setting out  
what you said you were going to tell him, do you agree it's likely that's  
what you did tell him?---It's possible, but I'm not going to speculate about  
what we could have spoken about a couple of years ago.

30 All right. Well, if we go back to page 23, you tell Mr Thammiah, "He  
confirmed they aren't thinking about changing for New South Wales."---Oh.

You see that?---Yeah.

That was the all-important information you got from that conversation with  
Mr Malhotra, wasn't it?---(No Audible Reply)

40 Namely that IRD aren't thinking about changing distributors for New South  
Wales. That was the important thing, wasn't it?---Well, he must have told  
me that, that's why I said it.

THE COMMISSIONER: Well, no, you're not being asked that, Mr  
Soliman. Of course he told you that and that's why you've put it there.  
What Ms Wright was saying to you is you've told Mr Thammiah that  
because it was important. It's in the context of that it was part of the plan  
that they should have, or Novation should have the sole licence with IRD.  
---(No Audible Reply)

Now, do you agree with what she put to you, that you're telling Mr Thammiah that because it's important?---It probably was back then. Why else would I have said it, you know?

MS WRIGHT: And then you told Mr Thammiah on page 24 to call Mr Malhotra in a couple of weeks.---Oh. Ah hmm.

And you agree that you told him that?---Yep.

10 And you said, "Not right now, otherwise it looks suss"?---(No Audible Reply)

You see?---Yep.

And you meant suspicious?---Mmm, yes, I think so.

And because it would look suspicious, in your view, because you'd just spoken to Mr Malhotra, hadn't you?---Well, yeah, whenever that phone, phone call was.

20

And you had just discussed with Mr Malhotra who he would be using as IRD's distributor in New South Wales.---And I think he told me that he's giving it to Novation.

And you conveyed in that conversation to Mr Malhotra that IRD should stay with Novation, didn't you?---Don't recall what we said over the phone exactly.

30

Well, you knew that if Mr Thammiah telephoned Mr Malhotra straight away after you'd just spoken to him yourself, it would like you and Mr Thammiah were collaborating to have Novation remain in place as distributor.---Mmm, yeah, I don't know exactly what I meant by that message.

Well, you've said it would look "suss", so you were clearly concerned that it would look like you and Mr Thammiah were working together, weren't you?---Not necessarily, I mean, Rish, Rish knew that we were, like he was a vendor to the Roads and Maritime. So I'm not sure what "suss" means exactly.

40

Well, I suggest you do know, Mr Soliman. You're just not willing to acknowledge what I suggest is very obvious from these messages, that you were concerned that your independence may be called into question if Mr Thammiah were to call him straight after you had spoken to him about who was going to be IRD's distributor.---Surely it depends what we spoke about over the phone. I'm not, I'm not sure.

And then if you look at the last message on page 24, and in fact before that, “You’ve just got to get that sole vendor Land Council by August when he comes.” Do you see that?---Yep.

And so the August meeting with Mr Malhotra was not just a meet and greet, was it?---Yeah. I don’t think I was there at all. I just, I know they had a meeting in Parramatta somewhere.

10 But you understood that the purpose of the meeting, from your perspective, was that Novation be secured as sole vendor for IRD? That was the purpose of the August meeting, wasn’t it?---I really don’t know.

How is it you say you don’t know when you have written a message, that’s in front of you, which says, “You’ve just got to get that sole vendor licence by August when he comes”?---Yeah. It says - - -

It’s pretty clear, isn’t it?---It says, really this message is saying he should get the licence before he comes, by August.

20 When he comes.---Yeah, by August when he comes. That suggests he should have it before. That’s the way it reads to me.

So you thought were conveying that Mr Thammiah had to get the sole vendor licence from IRD by August?---That’s the way that message reads to me.

And that was a very important part of your overall plan for Novation, wasn’t it?---No. We just needed parts.

30 You’ve told him, “You’ve just got to get that sole vendor licence”?---Yeah, okay.

That was an important part of your plan, Mr Soliman, wasn’t it?---I just needed somewhere to get the parts from.

And it was important that it be Novation?---Like I said, I’ve already, yeah, I don’t know. I’ve helped him and I crossed, crossed a line obviously but at that time I didn’t really think about it that way. I just needed to get somewhere that I could get these parts.

40 Well, what you’re referring to here is not just parts, it’s scales, isn’t it?---I don’t know. I think at this time there was no funding for scales so probably only parts.

And you told Mr Thammiah in May that you were having a meeting with Treasury to get funding for scales in the ’18-’19 financial year, didn’t you? ---I think I said that, yeah.

And so you knew that funding for procurement of scales was likely in the future?---No, I didn't know that.

Well, you were seeking funding for scales for the '18-'19 financial year, weren't you?---We had been seeking for four or five years.

And you knew that if Mr Thammiah or his company, Novation, had a sole vendor licence with IRD, Novation would be well placed to supply scales should funding become available?---Yep.

10

And you tell him on page 24 that you can't – you say, "Remember I can't open large POs without the licence. All I can do is heaps of 30K POs and that raises alarms." Do you see that?---Yeah.

And by POs you meant purchase orders?---Yep.

20

You didn't want to raise any alarms internally at RMS through raising multiple small purchase orders, did you?---I think there was some sort of rule that once it goes over a certain value the process changes. I'm not sure exactly what it was but.

And you didn't want to raise alarms with any colleagues at RMS by raising multiple purchase orders for Novation, did you?---Again I'm not sure.

Because you were giving work to a friend's company and you knew that was wrong or illegitimate, didn't you?---I realise that now obviously but at the time, I mean the main thing was to get someone that can actually get these parts.

30

Well, the reason you've referred to raising alarms is because you didn't want your, you were seeking to ensure that your giving work to a friend was not disclosed to RMS, weren't you?---I don't know.

Now, you knew that you were entitled to raise \$30,000 purchase orders without having to do any tender process, didn't you?---I think it was 30,000, yeah.

40

And by this stage you had received a large number of invoices for spare parts from Novation, all around \$30,000, hadn't you?---I think you said that at the previous hearing dates, but I mean the invoices don't come to me so I think that was the first time I heard about that.

And when you said here, "All I can do is heaps of 30K POs," I suggest you knew full well that you had authorised invoices for Novation around \$30,000 by this time.---No, I mean the invoices don't come to me, it's whoever manages the piece of work.

THE COMMISSIONER: But you're not being asked that. You're being asked about what you've put in that message and what that indicates about your knowledge.---Okay. The way this message reads is that you can't do heaps of 30K POs, purchase orders.

"All I can do is heaps - - -"

10 MR YOUNG: Well, I think the whole sentence has to be read, with respect, Commissioner, because what the second part of it suggest is that that should not be done.

THE COMMISSIONER: Yes, because you're going to get caught.

MR YOUNG: Well - - -

THE COMMISSIONER: No, look, I take your point. It says, "All I can do." What I was emphasising - - -

20 MR YOUNG: I, I mean - - -

THE COMMISSIONER: - - - was that Mr Soliman was again removing himself from the equation and we're looking at his message where he says, "All I can do is heaps of 30K POs and that raise alarms." So I'll put the whole sentence to you, but you're using there the word, "All I can do," not that all that whoever is dealing with purchase orders can do, "All I can do." Do you understand the point I'm making?---Yeah, I, yeah. My answer remains the same. I mean, the, the way this reads to me is that, I mean, all we can do as a team, or as Roads, Roads and Maritime Services, you can't, mmm, do that kind of thing. You can't, as far as I know, you can't raise  
30 heaps of 30K POs.

And in the language in your message, you don't say "all we can do", or "all my team can do", or "all my employees that I manage can do". You use the word "all I can do".---That's correct, yeah.

40 But again, you're saying to me, is that what you meant to say was "the team", or somebody else. Is that what you're saying?---Yeah. Yeah, I mean, I don't raise purchase orders, the invoices don't come to me, so all that sounds like is, all that Roads and Maritime, or the team - - -

Is that an appropriate time?

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: All right. We'll adjourn for morning tea and resume at 12 o'clock.

**SHORT ADJOURNMENT**

**[11.45am]**

MS WRIGHT: Mr Soliman, you gave evidence in June of this year that the money you got from Mr Thammiah was a loan from him to you. Do you recall giving that evidence?---Yes.

And I suggest to you that it wasn't a loan. Do you maintain your evidence that it was a loan?---Yes.

10

When you said to Mr Thammiah that your goal was to make \$2 million for Novation, and I've taken you to that message, you said nothing about expecting any reimbursement from, or making any reimbursement to him, did you?---Sorry, I can't see the message.

Page 98, top of the page, "Basically my goal is to earn \$2 million for Novation." Do you see that?---Yep.

20

And we go back a page. In the middle of the page, "\$2 million capital should be our goal." See that?---Yep.

And you've referred on that page to cannabis growing.---Yep.

See at this time wasn't it your intention to seek \$2 million capital in order to possibly start a hemp-growing business with Mr Thammiah?---No. He was talking about doing that on his own.

30

And you've said you've looked into hemp growth. Do you see that?---Yes, yeah.

And you tell him that you've looked into cannabis growing briefly?---Yep.

And that you'll keep looking?---Yep.

And you said, "I think that's the best idea."---Yep.

And you're referring to cannabis growing being the best idea?---Probably, yeah. I'm not sure.

40

So it was your intention to build funds in order to possibly start some sort of cannabis growing business with each other, wasn't it?---That wasn't my intention. I know he was thinking about doing that. I don't know if he ever did do it. Yeah, that's what he was talking about with me.

All right. And at this particular stage, being end of July 2017, you appear to be agreeing with that proposal in these messages. Were you agreeing?  
---Which proposal?

To start a business together that involved cannabis growing?---No.

Was the idea that it be for a medical market?---I think that's what he was talking about, yeah.

And when you say, "That's the best idea," didn't you mean that it was a good idea, something to look into?---I mean, depends what he was telling me about his thoughts, you know? I don't know what these ideas were.

10 These are your messages, Mr Soliman.---Yeah, but we had obviously been talking about it.

You'd been talking about it and you tell him that you've looked into it. "We'll keep looking," and, "That's the best idea".---Okay.

You're interested in this idea, aren't you, of hemp growing or cannabis growing?---(No Audible Reply)

20 THE COMMISSIONER: Do you agree with that or not? You were interested in it?---Interested in what?

MR YOUNG: Well, I object to that because – no, well Commissioner, I - -

THE COMMISSIONER: Please state your objection, Mr Young.

MR YOUNG: Yes, I'm about to.

30 THE COMMISSIONER: I'm getting very frustrated. A question is asked of this witness and he takes about five minutes to answer it. It's getting quite ridiculous. Now if you've got an objection, please state it.

MR YOUNG: The word "interested". It's clear on the face of these messages that he is giving, he is interested in the sense of conveying information to Mr Thammiah. If it's put that he is interested in personally becoming involved in the business, then it should be put.

40 THE COMMISSIONER: Please sit down, Mr Young. Were you interested in the proposal? Yes or no, Mr Soliman.---In starting a business with him?

Were you interested in the cannabis growing project? Yes or no, Mr Soliman?---I was curious about the idea of it. I mean, not to start a business. I don't think we ever spoke about that.

So your evidence is you were not interested in establishing a cannabis growing business with Mr Thammiah? Yes or no?---Well, I don't, I don't think we ever spoke about that.

No, that's not my question, Mr Soliman. Mr Soliman, the way we're going, we're going to be here until Christmas with you sitting back and taking about five minutes, and I don't know whether you're pondering what answer can I give or should I just answer, "I don't remember," but it's getting terribly frustrating. Now, I asked you a question, yes or no, were you interested in entering into a cannabis growing business with Mr Thammiah? Were you or weren't you? Yes or no?---As I sit here now trying to recall two and a half years back - - -

10 Yes, we know all that, you say it practically every second question.---Yeah, well, I mean - - -

Yes or no, Mr Soliman?---I don't think that's fair. I don't think that's fair.

Were you interested? It's a very simple question, Mr Soliman. Were you interested, when you were sending these emails to Mr Thammiah, were you interested in entering into a cannabis growing business with him?---As I sit here now, now, no. I don't think we ever spoke about that.

20 Right, no. Okay, Ms Wright. At this time, he wasn't interested in entering into a cannabis growing business.

MS WRIGHT: Well, I suggest that's false, Mr Soliman. You've said in these messages that you've looked into it and you'll keep looking and that, "I think that's the best idea." I suggest you were interested, generally, in looking into this project. Do you deny that?---Well, I had seen that, what it could do to cure cancer and things like that so I was curious on the subject.

30 Yes, and "curious" can mean interested, can't it?---(No Audible Reply)

If you don't agree with me, just say so.---I don't agree at all.

THE COMMISSIONER: Okay, good.

MS WRIGHT: All right.---Don't agree.

And you've said in the messages that you could, that the goal should be to make \$2 million.---(No Audible Reply)

40 You agree with that, "2 million capital should be our goal"?---That's what it says here, yep.

And over the page, "\$2 million for Novation." And I suggest that those messages had nothing to do with a loan of money from Mr Thammiah to you.---Yeah, it's a different context.

THE COMMISSIONER: So you agree, it's nothing to do with a loan from you, from Mr Thammiah to you?---This message has nothing to do with a loan, yeah.

Good.

MS WRIGHT: No. So your goal was to build revenue by Novation, wasn't it?---Not necessarily. It depends what the context was at that, at the time that point, again.

10

Well, the context was that you wanted to build \$2 million for Novation through its scales business.---I - - -

That's the context, isn't it? You say so on page 98.---That's not what I meant, no.

When you said "four scales", page 98, please, "Basically my goal is to earn \$2 million for Novation."---Yeah.

20

What you meant by that was that you would seek to raise \$2 million through Novation from the portable weigh scales business.---(No Audible Reply)

Do you agree with that?---Could mean that, but again, I mean, I don't remember that, that far back to know exactly what we were talking about.

Well, what other possible meaning could that message have, Mr Soliman? ---I'm not sure, yeah.

30

There is no other possible meaning, is there?---Again, I don't know. I can't remember that, that far back.

I'm not asking you to remember. I'm asking you to look at a message that you sent at the time, which you sent, and to indicate whether there's any other possible meaning other than you having an intention at the time to earn \$2 million through Novation from its portable weigh scales business. ---Mmm.

There's no other possible meaning, is there, Mr Soliman?

40

MR LONERGAN: Commissioner, sorry, I object on that question, because the use of the term "through" versus "for", I think, is very important in that, and Counsel Assisting is saying, "You will earn \$2 million through Novation," I think is a misrepresentation of what is said in the quote, or in the WhatsApp message itself, and I think it's an important distinction is to be clarified.

THE COMMISSIONER: All right. Ms Wright?

MS WRIGHT: Do you wish me to rephrase the question, or to be heard on the objection?

THE COMMISSIONER: Yes, just rephrase the - - -

MS WRIGHT: Mr Soliman, you've suggested by your answer, a few answers ago, that that message at the top of page 98 might have another meaning, other than the one that I've put.---Yep.

10 And what I'm asking you is, what could you possibly have meant other than a plan or an intention to earn \$2 million through or for Novation, through its portable weigh scales business?---Just don't know what we were thinking about back then. Maybe that's what he said he wants to earn, I don't know exactly.

All right, then if we go back to page 91, Mr Thammiah tells you that, "You're building your own wealth in a house, I've got to do something for myself." Now those messages, you might recall I took you through before, came in the context of a discussion where you were talking about tax for  
20 Novation. You see on page 90, if we could just go back to remind you, Mr Thammiah tells you he's trying to sort out tax, and you ask him, "Tax for Novation, feels like it's all just business between us." You see that?---Yep.

And the only business you were actually doing at that point was through Novation, wasn't it, or concerned Novation?---Yep.

And when he says to you on the next page within a few minutes, page 91, "You're building your own wealth in a house," he said nothing about any loan to you, did he?---In that message there's no word loan, yeah.  
30

Because you were at this stage putting money into your house building project, weren't you?---I think around this time, yeah.

Yes. You were paying carpenters and tradespeople and the like, weren't you?---I think so, yeah.

And you were building – you understood that Mr Thammiah was telling you in this message that you were building your own wealth and he wanted to do something with his part of the money.---Sorry, I – where do you see that?  
40

He says, "I've got to do something for myself," doesn't he?---Yep.

And he said that just after saying, "You're building your own wealth in a house." See that?---Yep.

And so you understood that he meant that he had to do something for himself with the money.---He hasn't mentioned money there, I mean, and I didn't even say anything about that message afterwards.

I suggest nowhere in this WhatsApp material did you and Mr Thammiah refer to any loan to you from him.---Yeah, I don't know if it's in here or not.

And Stephen Thammiah was not expecting reimbursement from you, was he?---No, he was.

And that's why he says, "You're building your own wealth."---In a, in a house, yeah. I was building a house.

10

And you weren't going to pay him back anything, were you?---That's not true.

There was no agreement that you would be borrowing money from him and then paying him back, was there?---There was.

And the evidence you gave to the Commission in June of this year that you were getting a loan from Mr Thammiah from his property settlement I suggest was false.---Don't agree, I mean like I said already.

20

Now, around this time in June/July 2017, you sent yourself Novation's business prospectus, and I've taken you to that, but I'll just remind you of that. Volume 6, page 50. That's an email which you sent to yourself from your personal email address to your RMS email address on 22 June, 2017. ---Yep.

And then if we could turn to the next page, the subject line was Novation Engineering Prospectus and here is a one-page document. Do you recall this document?---Ah, yep.

30

And you gave evidence about that in June, and your evidence was that Mr Thammiah had prepared that document at your house. Do you recall giving that evidence?---Don't recall it, but yeah, he was there with me, yeah.

All right. I'm just asking you whether you recall giving evidence that he had prepared the document at your house?---Don't recall the specific evidence, no.

40

All right. Could we have the evidence, page 1306 on 7 June, 2019. You can see some line numbers down the left-hand side of the page, Mr Soliman?---Yep.

And then the subject matter is the prospectus and you gave an answer at about line 6 to 7, "Yeah, he done it at my house." And at line 12, "And did you prepare the document at all?" Answer, "No." And then skipping down a few lines, "So you recognise it?" "Yeah, I read it, I think, back then." And then skipping down to line 28, "Well, you did realise your name would be on there, didn't you?" "I didn't see it previously, no." "I asked you just

before whether your name was on the prospectus and you agreed that it was.” Answer, “No. I think I said that he done it at my house.” And then just skipping down to line 41, “And he has sent himself, this is your evidence, that email from and using your personal email address?” Answer, “Yeah. When he was at my house.” Question, “And you’ve given evidence that you knew that he would send this to IRD as a Novation business prospectus.” “Yep. I didn’t have any specific issue with him sending it.” Do you agree the effect of your evidence is that Mr Thammiyah prepared that prospectus?---That’s what it reads, yep.

10

Is that still your evidence?---Well, I know he was there with me but, I mean, I think I used that as my résumé actually, so, I think he was curious about that one, one page format.

Did you say that you used it as your résumé?---Yeah, I think I showed him, I was just working in a résumé using that one page format. I don’t know if I sent him my one but he was curious about it so I know he, he done it at, at my house.

20

Novation’s prospectus or résumé that I have shown you just a few moments ago, did you prepare that document?---Not that I can recall, but I know he was there.

So you were together when the document was prepared?---Yeah, yeah. He was there but, no, I don’t remember him, exactly the words he was putting but he at my house doing it.

Was it prepared on your computer?---Yeah. There was only one, yeah.

30

Who was on the computer when the document was typed up?---He would have been but, you know, I’m sure I would have been talking about it because he was curious about my résumé format also.

So you gave him your own personal résumé?---I don’t know if I gave it to him, I, but I know that he was it and he was curious about the one page kind of format that you see there.

And you had a one page résumé yourself, did you?---I think, yeah. It would have been either on the work computer or home.

40

And you think you gave it for him to use as a template of some sort in order to prepare Novation’s résumé or prospectus. Is that right?---I don’t recall if I gave it to him but I remember he was curious about the format.

Do you maintain your evidence that he prepared the Novation document? ---Look, I mean, I think so but did I kind of, was he asking me question, I don’t know, I don’t know but - - -

Well, your evidence in June was quite clear that he was person who prepared it.---Yep.

Why do you now have doubt about that?---Because I'm trying to think back, you know, what time of day it was. I don't remember exactly what, what happened but I know that he was working on it. I think I sent it to him so that's why I'm doubting - - -

10 THE COMMISSIONER: Sorry, you think you sent what to him?---Either my own résumé template or that one there.

MS WRIGHT: So the email I took you to a moment ago from your personal email address to your RMS address, was that an email that you sent?---I don't recall.

Now, have you seen in these new WhatsApp messages that have become available to the Commission a message in which you refer to this document?---No.

20

If we could have page 577. You see some messages here where you tell Mr Thammiah that you've heard chatter in the office, "Other companies are keen to sell the fibre-optic WIMs from Cross."---Yeah.

See that. And you say, "Get in there first."---Yep.

And this is in April of 2018.---Yeah.

30 Is it the case you saw an opportunity for Novation to get involved in fibre-optic weigh-in-motion equipment?---Hmm, potentially, but I remember Steve was asking me about this, about the technology.

And he says, "All right, I'll jump on it today." And then over the page at 578 you say, "Send that one-page résumé I made for Novation."---Yep.

You were referring to the prospectus document I took you to a moment ago? ---Hmm, probably, yeah.

40 And you've said here that you prepared it in this message in April 2018. Do you agree with that?---No, I don't think I did prepare it but - - -

Well, you've told Mr Thammiah here, "Send that one-page résumé I made for Novation," haven't you?---Yeah.

You said, "We used it for Rish ages ago."---Yep.

Do you recall that was sent to IRD by Mr Thammiah?---Ah, yep.

So when you said that it was a résumé “I made,” you were referring to yourself, weren’t you?---Well, I know I made my own one, I still don’t think - - -

It says, “For Novation,” Mr Soliman. It’s not referring to your own personal résumé, is it?---Maybe I’m talking about the template that I sent him based on my résumé.

10 That’s not true, Mr Soliman. You’re not being candid in your evidence this morning. It’s very clear, isn’t it, that it’s a résumé that you sent and that you made?---I still don’t, I still don’t believe that I made it. I mean it’s not - - -

Why would you be telling Mr Thammiah that you made it?---The only thing I think about is he was asking me about my own résumé, maybe I sent him that one or the template for it, maybe he was working on it there.

20 But you wouldn’t have said, “For Novation,” if it was your own résumé, would you? It’s obvious, isn’t it?---It depends again. I mean did I send him the template, did I send him my résumé?

You were the only two people involved in preparing that résumé, weren’t you?---(No Audible Reply)

There was no one else involved?---That’s correct, yeah.

He would know whether you made it or not, wouldn’t you, wouldn’t he, and you knew that?---(No Audible Reply)

30 You were stating a fact in this message, “The résumé I made,” weren’t you? ---I still don’t believe that I made it. I mean it could be seen a different way.

All right. Now, just coming back, Mr Soliman, to your overall plan. I suggest part of your plan in 2017 was to ensure that IRD did not switch distributors in New South Wales from Novation. Do you agree with that? ---Sorry, when, when was this?

40 In 2017 part of your plan was to ensure that IRD did not switch distributors, did not change from Novation to another company.---I think again that wasn’t my primary plan or anything, I mean I just had to have someone that could procure the parts that we couldn’t previously.

I suggest that you worked assiduously to ensure that IRD did not change from Novation.

THE COMMISSIONER: Do you agree with that or not?---Don’t think so, no, but I know I helped him.

MS WRIGHT: At page 34 of the WhatsApp messages, being the new messages, you told Mr Thammiah on 27 June that “IRD’s going to give Mark Mitchell a licence to distribute to the private sector in New South Wales.”---Yep.

And you told him that Mark had just called you to see if you were okay with that?---Yep.

10 You also told him that Accuweigh were pushing for public and private sector licences, you see that?---Yeah.

And that Rish was going to have to choose between Novation and Accuweigh when he was here in August?---Yep.

And you said to Mr Thammiah again that, “We need to place an order before he gets here, so he can’t change distributors.”---Yep.

20 So it couldn’t be clearer, could it, that your intent was to ensure he can’t change distributors, as you’ve said here on page 34.---(No Audible Reply)

Do you agree that was your intention?---Not necessarily, that wasn’t the only thing at the front of my mind. Changing vendors, there’s a lot of risk, obviously, as we found out.

Could you say that again more loudly, please? I can’t hear.---Changing, changing vendors is a lot of risk, you might not be able to procure the parts. That’s what happened with the previous vendor.

30 And you told Mr Thammiah that “Rish might cut our grass.”---(No Audible Reply)

Do you recall that?---No.

At page 42, but perhaps if we go to page 41 to show you the context. “It’ll take me a long time to get things rolling for any POs now. Fuckers made it so hard now.” By “fuckers”, you’re referring to your employer?---There’s probably a few people, but I’m not, I’m not sure which one.

40 THE COMMISSIONER: But somebody at RMS?---Yep.

MS WRIGHT: Had made it harder to get purchase orders?---(No Audible Reply)

Correct?---(No Audible Reply)

THE COMMISSIONER: That’s what you’re saying? Yes or no?---Mmm, I think so, I’m not, I’m not sure exactly.

Right.

MS WRIGHT: Okay. And then you say to Mr Thammiah that “WeighPack has called you and offered to sell you scales as parts, so they definitely have a licence from IRD now.”---Oh.

See that?---Yep.

10 And you were very concerned about that, weren't you?---Mmm, in which regard, sorry?

THE COMMISSIONER: Were you concerned that after the call from WeighPack, it was revealed that they definitely have a licence from IRD now? Yes or no?---Guess so, yeah.

Good.

20 MS WRIGHT: And you were concerned it was not just a licence to sell to the private sector.---(No Audible Reply)

In other words, they could sell to a public agency such as RMS.---Don't think that's a concern, no. Yeah.

You were very worried about that, weren't you, Mr Soliman?---Oh, I don't think so, no.

30 At page 42, “Bastard Rish, L-O-L, he's cut our grass.” And what you meant by that was he's impinging on Novation's business potentially.---Mmm. Again, I'm not sure exactly what the “grass” part means. I think Steve already had the licence.

It's a colloquial expression that you've used, “cut our grass”.---Yeah, I know.

You know perfectly well what that means, don't you?---I know, I know what the phrase means, but what “grass”, because Novation already had the licence.

40 “Our grass”. That was a reference to Novation's business, wasn't it?  
---Yeah, it's probably, yeah.

And page 44, you tell Mr Thammiah, “Let's wait until the meeting with Rish in August. I'm aiming to have a PO open before Rish comes to Novation is locked in.” You see that?---Yep.

So your plan was that in August, Mr Thammiah would confirm with IRD his sole distributor licence, wasn't it?---Again, I'm not sure. I just know

that I needed parts. Novation was, at that point in time, the best and the only option, I think.

You could have got parts through a number of other entities, couldn't you?  
---Not as quickly as that.

As quickly as what?---I think at that point, Novation had the licence.

10 When you say couldn't have got parts as quickly as that, as quickly as what?---As Novation could and did.

It's just a matter of making an order, isn't it, Mr Soliman?---No.

Well, could you please explain why you say another company could get products from IRD more quickly?---I think there was a legal process to change licences. I don't know exactly what the process was but it's not a quick thing obviously.

20 You wanted to keep other competitors out of IRD's business, didn't you?  
---That wasn't the first thing on my mind. I just needed parts quickly because these scales were failing year after year.

You were getting parts - - -

THE COMMISSIONER: All right. Was it one of the things that was on your mind, keeping competitors out of IRD's business?---(No Audible Reply)

30 Yes or no?---I don't think that's what the point of these, of the messages were, yeah.

No, no. But was that one of your concerns, to keep competitors out of IRD business around this time that you were exchanging these messages with Mr Thammiyah?---I don't think so, no.

MS WRIGHT: In the first half of 2017 Novation had been invoicing RMS for parts, hadn't it?---Okay.

40 You had raised a number of purchase orders to allow Novation to raise invoices for parts, hadn't you? You've been taken to those in this public hearing.---I know the purchase orders that you're talking about, yeah, but I didn't raise them.

THE COMMISSIONER: But you knew about them?---Yeah, of course, yeah.

And so the point Ms Wright is making is that you keep on talking about, oh, it was my concern, I needed parts urgently, you're getting parts from

Novation, purchase orders are being raised for parts.---If I recall, his licence was about to end, which is why there was an urgency around that middle 2017, late 2017 period. So there was a chance there would be no one that could get - - -

Well, the chance was there would be somebody else that wasn't Novation that would have the licence to provide the spare parts. That was the problem from your perspective, wasn't it?---That wasn't the main problem. I mean, what I was thinking about, I believe, was that changing vendors at that point means you have several months or longer where you can't purchase parts during that change.

Was it one of your concerns that Novation would no longer have that revenue stream of providing the parts?---Is that right it was a concern but, I mean - - -

All right. Not a concern. Go on, Ms Wright.

MS WRIGHT: There's no month or two delay in changing distributors. Where did you get that idea?---It took several months for the legal process to occur from what Steve told me. So I have to assume it will be the same for any other vendor.

Now, you told Mr Thammiah, page 64, that you wanted to keep Mark out of new scales. See that?---Yep.

So it wasn't just limited to parts, you also wanted to keep all other competitors out of the supply of scales to RMS, didn't you?---No, I don't know. I think that's when he had the legal issue.

And at this stage you didn't have funding for new scales?---Don't think it came yet, no.

So there was no concern applying to new scales arising out of a change of distributor, was there, because you didn't even have funding at that point? ---Sorry, I don't understand the question.

Well, see, you've sent a message here that you want to keep Mark out of new scales, and your preceding answers to the Commission are that you were concerned about a delay caused in a change of distributor.---Yep.

But you weren't receiving, you weren't being supplied with new scales at this time, were you?---Hmm, don't think we got any at that point. Maybe a couple of demos, I'm not sure.

And you wanted to keep WeighPack out of new scales because you wanted to ensure that Novation's revenue stream, from which you were benefitting, would continue. That's the true position, isn't it?---No, I don't agree with

that. There's several other things happening with that, with that, with the company, WeighPack, at that time.

And your intention was to force Mr Malhotra to choose Novation for procurement at this stage, wasn't it?---Sorry, to choose Novation for, what do you mean?

Procurement.---My intention was to get the fastest option here which at that time was Novation.

10

Page 72. You said to Mr Thammiah, "I'll make him choose Novation for procurement and WeighPack for maintenance." Do you see that?---Yep.

You had separate companies to maintain and procure at this stage. Do you agree with that?---Ah, yeah.

And at page 73 you tell Mr Thammiah you want sole vendor licence for both and you say, "Anyway, just checking if you called him so it doesn't look weird." See that?---Yep.

20

Again you don't want to raise any suspicions by both you and Mr Thammiah speaking to Mr Malhotra about Novation's business.---I'm not sure.

"Doesn't look weird." You're saying you don't want it to look weird. You're referring to Mr Thammiah calling Mr Malhotra, aren't you? ---It looks like it but I don't see why that's weird. They were in contact always.

30

It's your contact which would look weird, isn't it, because you were doing Novation's bidding.---No, I don't agree with that.

Well, why else would you be telling Mr Thammiah, "So it doesn't look weird"?---I'm not sure.

It's because there is no other reason I suggest, other than you being fully aware of the fact that you lack independence in your dealings with IRD. You were fully aware of that at the time.---Well, I know I was very close, close to him and, yeah.

40

Now, you then tell Mr Thammiah on page 75, "All sorted. He guaranteed he will have a sole vendor licence for New South Wales for procurement and maintenance. He will renew ours for procurement." By "ours" you meant Novation?---Yeah, I think it meant Steve, yeah.

By "ours" you meant a company with which you aligned yourself, didn't you?---I was friends with him but not aligned in the sense that you mean, no.

You considered Novation to be your business concern just as much as Mr Thammiah's, didn't you?---No. Not necessarily.

Not necessarily or no?---In I was happy for him and he was doing a, a good job also. So, yeah.

10 But you refer in these messages to "our business", "We need to make an order," "We need to make \$2 million for Novation," "our goal", indeed "my goal" sometimes you say, and that's because it was in fact your business just as much as Mr Thammiah's, albeit you had to remain a hidden principal of the company, didn't you?---No. That's not true.

And you made decisions about what tenders to put in, didn't you?---What do you mean?

20 Well, Mr Thammiah – Mr Soliman, I'm sorry, I can take you to all the messages, but you tell Mr Thammiah throughout these WhatsApp messages to register for eTender, to send you Novation's tenders, to do a number of things that involve the company's business.---Okay.

Page 35, for example. "Did you register for the eTender?" See that? ---Yeah.

And then over the page at 36 after the second blue message, "I'm thinking we should check out other tenders to see what else we can bid for." That's your idea, isn't it, it's not Mr Thammiah's?---Yeah, it's my, my message but I think it was asking about other tenders for trials and stuff like that.

30 Yes. So you're not just happy for Mr Thammiah, you're actually driving the decisions about what the company may do in terms of its business, aren't you?---No. That's, that's not true.

You agree this is your idea, checking out other tenders, "To see what else we can bid for."---It was just a comment. I mean, at the end of the day he did what he thought was right for his, for his own life and, life and business.

40 Is that a serious answer, Mr Soliman, that Mr Thammiah did what he wanted?---Yeah.

Are you seeking to minimise your own involvement?---No, I'm just telling the truth as I see it.

THE COMMISSIONER: So you're not seeking to minimise your involvement?---No. I don't, I don't I see - - -

Okay.

MS WRIGHT: I suggest you were in fact driving this plan, a plan that you set out on black and white in the messages that I took you to before the break.---I don't agree with that. I mean - - -

“Our primary focus should be the scales business from RMS.”---Okay.

And as it turned out the scales business was the primary focus for Novation, wasn't it?---Yeah. It was always that way.

10 It did ultimately have success in winning two major RMS contracts for scales, didn't it?---Yeah. They had the best scale.

And so your plan came to fruition, didn't it?---No, I don't agree with what you're saying there.

Now, going back then to page 75. You've told Mr Thammiah that all is sorted, and then down the bottom of the page you tell him you've got to see him to pick up cash. See that?---Yep.

20 And that was cash as a reward for the favours you were doing for Novation, wasn't it?---No.

And at page 76 you confirm to him that, “Wishful update, the Novation sole vendor licence all sorted. You'll just need to finalise it when you meet him in a couple of weeks.” That was a reference to the August meeting. Correct?---Must be, yeah.

30 And you were seeking to ensure that Mr Thammiah did what he had to because you could not sign the licence, could you?---Well, course not.

But you were very much behind Mr Thammiah in his signing of the licence. ---Yeah, I thought it's the best thing to have him on board to get the licence renewed.

At page 77 you said, “I made it clear to Rish.” See that?---Yeah.

You got an assurance from Mr Malhotra that he would renew Novation for procurement as its sole vendor, didn't you?---I'm not sure what that means.

40 Well, you effectively forced Mr Malhotra to choose Novation.---That's not true at all.

And you told Mr Thammiah that.---No, he didn't want to sell to any other vendor that had a competitor's product so - - -

Page 139, you told Mr Thammiah about his meeting with Mr Malhotra. “I'll leave it up to you to do whatever it takes to get the sole vendor licence.” And then at the bottom of the page you say, “I guess I just keep

hassling him until Novation gets the licence.” Do you see that?---At the bottom, yeah.

And it is the case that you did keep hassling Mr Malhotra until he got the licence, didn't you?---Well, I think you've misread that last message. “So I guess just keep hassling him,” so you keep hassling him.

10 And then at page 220 you refer to Mr Malhotra calling you to ask if you prefer the maintenance vendor to be the same as the procurement vendor.  
---Yep.

And you told Mr Thammiah, “I said that's none of my business, up to IRD to appoint the vendors.”---Yep.

Now, you had told Mr Malhotra that he couldn't meet with Accuweigh, hadn't you?---I don't think I ever said that to him.

20 You told Mr Thammiah that you did, and I've taken you to that message.  
---Yeah, well, obviously something happened, and I don't recall ever saying that to him.

Well, you wouldn't have told Mr Thammiah something that wasn't correct, would you?---Well, maybe it was correct at the time, but obviously, oh, things, things happen, things change.

30 And you told Mr Thammiah that you had to keep the contract, at page 20. I've taken you to that. And you said you had to have the same story for Rish. “They're looking for options in other states. Rish is meeting with Accuweigh and WeighPack. All good for Novation.” You tell him,  
“You've got to get that sole vendor licence,” to keep hassling until Novation gets the licence.---Yeah, I thought it was the best option.

And then you tell Mr Malhotra that it's none of your business, and that's it up to IRD.---Yep.

See, weren't you actively misleading both your competitors and IRD about your independence from Novation?---Well, they never asked me, so I don't say I was misleading.

40 You say - - -

THE COMMISSIONER: Sorry, what did you expect them to ask you? “Are you assisting Novation?” “Are you getting financial benefit from Novation?” What did you mean by the answer, “They never asked me”?  
---I didn't expect anything. I'm just saying they never asked me (not transcribable)

But asked you what? That's what I don't understand.---If I was, if I was misleading them, or - - -

Oh, so you – sorry, continue with your answer. They never asked you whether you were misleading them?---Yeah.

Did you have an expectation that they would ask you that?---No, because I didn't think I was misleading anyone.

10 MS WRIGHT: I note the time, should I keep going?

THE COMMISSIONER: Is that an appropriate point? I didn't want to stop you.

MS WRIGHT: Yes, yes, yes.

THE COMMISSIONER: All right. We'll adjourn for lunch, and we will resume at just after 2 o'clock.

20

**LUNCHEON ADJOURNMENT**

**[1.08pm]**