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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 15 OCTOBER, 2019

AT 2.00PM

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

THE COMMISSIONER: Right. Mr Soliman.

MS WRIGHT: I'd ask for the WhatsApp messages at page 185, please. Mr Soliman, here we have a message sent by you on 27 August, 2017, in which you inform Mr Thammiah, "Forgot to tell you this week, working on some external income sources for us for Novation." And then a few seconds later,
10 "You may get calls from Accuweigh and WeighPack to source spare parts." Now, you were aware that Accuweigh and WeighPack had to get parts for portable weigh scales through Novation at this stage?---I think they could order it from them, yeah.

They had to get parts through Novation at this stage, didn't they, for the PAT brand?---I believe so, yeah.

And when you referred to external income sources, you meant external to RMS. Correct?---Hmm, I'm not sure.
20

Well, RMS was an internal source of income for Novation, wasn't it?
---Internal in which way to Novation?

Well, you've referred to external and you're distinguishing that income source from RMS as an income source for Novation, weren't you?---I'm not sure exactly what that means.

The next message may suggest what you mean, because you refer to Accuweigh and WeighPack sourcing spare parts. Do you see that?---Yes.
30

And that was a reference to them sourcing parts from Novation, wasn't it?
---Must be, yeah, if they won a tender maybe, I'm not sure.

And that would provide another income source for Novation, wouldn't it?
---Not necessarily, because if Accuweigh or WeighPack won a tender then naturally then Novation income would go down.

Novation didn't issue tenders, did it? If Accuweigh and WeighPack wanted to source parts from Novation, they'd just buy them from Novation,
40 wouldn't they?---Yeah, but I think you missed the point, sorry. If you want me to explain I will.

I suggest you missed the point, Mr Soliman.---Okay.

External income source refers to a revenue stream from Accuweigh and WeighPack, doesn't it?---Yeah, but the only way that could happen is if Accuweigh or WeighPack won a tender obviously for the maintenance or the parts.

There's nothing to prevent Accuweigh and WeighPack buying parts off Novation or from Novation.---That's correct, yeah, but there will be no need
- - -

If Accuweigh were to say to Novation, I want PAT brand scale parts, Novation was free to sell them to Accuweigh?---I guess so, yeah.

10 And when you referred to an, "External income source for us for Novation," you were referring to Novation making some income through supplying parts to Accuweigh and/or WeighPack, weren't you?---Hmm, don't think so. That doesn't make sense to me.

What did you mean by "external income source"?---I'm not sure exactly but I'm pretty sure it's not Accuweigh or WeighPack, it doesn't make sense.

20 It does make sense in the way that I put, I suggest, in that those companies could have purchased parts from Novation.---No, it doesn't make sense. There will be no need for them to purchase parts if, if Novation has the, has a licence for the actual parts.

Because it's Novation that has the licence, they don't have a licence with IRD, they can't source them from IRD. You understand?---Yeah.

They can only source parts from Novation, can't they?---Yes.

30 And that would involve Novation earning a revenue stream through the supply of parts to those companies, wouldn't it?---If that were to happen, yes, but that doesn't make sense again.

THE COMMISSIONER: Why wouldn't it make sense? Novation can't do maintenance, can it?---I think that, that's not the maintenance, though, it's the purchase - - -

No, I'm not asking you that. Listen to my question. Novation can't perform the maintenance on the scales, can it?---I think he said - - -

Yes or no, Mr Soliman?---I think he said he didn't want to do it, yeah.

40 So if another entity was going to provide or perform maintenance on the scales and needed spare parts, who would they go to, Mr Soliman? They would go to the company that had the licence to provide the spare parts, wouldn't they?---That's correct. That's not the way it worked, though.

I'm not asking you that. I'm asking you certain questions and if you can listen to the questions and answer them. So if a company is performing maintenance on the scales and needed spare parts, it would have to approach Novation, correct?---Yes.

And in those circumstances it would be an additional revenue stream for Novation, correct?---If that were to happen, yeah.

And it would be an external revenue stream, that is external to RMS, correct?---Yeah, the way you put it, yeah, that's correct. Yes.

10 MS WRIGHT: And so you had in mind at this time that Novation could make some money from those two companies through parts?---Once again, I don't think that's what I'm talking about because that's not the way it worked.

Well, I suggest you just don't want to admit what's plainly obvious from those two messages on page 185.---I don't agree because, again, that's not the way it worked. I mean, there's no need for me to lie.

20 Then if we go to page 219, you refer here to, at the bottom – sorry, 218, I apologise. Bottom of the page and you say to Mr Thammiah at the bottom of the page, “Got to talk about the tender soon by the way. It will be on the public eTender site soon. You need to prepare the tender response to be placed on a panel of successful vendors, then we can procure all we like. No limits and no risk.” Now, that was a reference to the Heavy Vehicle Maintenance Panel tender?---Must be, yep.

And at page 219 you tell Mr Thammiah, “Been working on it for months.” See that?---Yep.

30 At the top of the page. And then the second green message, he says, “Just wanted to let you know, Jason from Accuweigh contacted me today, asked for prices.” Do you see?---Yep.

Over the page at 220. “I said sure, no problem,” and then you respond, “Perfect.” And you say, “He called me today.” That was a reference to Jason of Accuweigh, was it?---Sorry, which one?

You say, “He called me today,” second blue message on page 220.---Yep.

40 That's a reference to Jason of Accuweigh, is that correct?---I'm not sure. Could be, yeah. I think they had some issues.

Well, on page 219, Mr Thammiah's told you that Jason from Accuweigh has contacted him, and then on 220 you say within six minutes, “He called me today to ask if I prefer the maintenance vendor to be same as procurement vendor.” So that was Mr Ferguson of Accuweigh who called you?---I think so, yes. That's the way it reads.

And that you told him that, “It was none of my business. Up to IRD to appoint the vendors.”---Yeah.

I would suggest you were actively misleading Mr Ferguson when you told him that it was none of your business and that it was up to IRD.---It was up to IRD.

But you were working very assiduously to have Mr Malhotra of IRD conclude a sole vendor licence with Novation in 2017.---To the only vendor that could do anything, which was Novation.

10 And you were making that your business, weren't you?---What do you mean?

You were seeking to convey to Mr Ferguson of Accuweigh on this date that you were entirely independent of the process by which IRD would appoint a vendor for procurement, weren't you?---Well, no. I said it's none of my business, it wasn't my choice. I'm not IRD. That's the way it reads to me.

20 And then you told Mr Thammiah to, "Just watch out for Jason, he's a serious snake." And you said, "He's suing Mark Mitchell. If Jason asks anything about me or RMS, say you haven't spoken to me much, et cetera, et cetera. You get the drift." In other words, you were telling Mr Thammiah to lie to Mr Ferguson, because in fact you were speaking very regularly to each other about Novation, weren't you?---I'm not sure why I say that, just say you haven't spoken to me much.

30 THE COMMISSIONER: We're not asking you why you said that. We're getting, Ms Wright is getting you to establish – I'm sorry, I withdraw that. Ms Wright is putting to you that you're not being, you're suggesting to Mr Thammiah that he's not to be truthful in any discussion he's having with Jason. Would you agree with that?---No, I think this means more, don't trust him.

So you don't agree with that. All right.

MS WRIGHT: Then you say, "Are you going to give him" – it says "s-a-e", I suggest you meant "same" – "prices we were using?" Do you see that? ---Yep.

40 Do agree that should say "same prices"?---It's possible, yeah.

And then you send another message with a question mark, and on page 221, you say to Mr Thammiah, "They were exorbitant."---Yep.

See that? And you were referring to the prices Novation was using for parts, scale parts, that is?---Mmm, probably.

So you knew Novation's prices for scale parts at this stage?---I guess he must have told me, yeah.

And you knew that they were exorbitant?---I guess so, yeah, that's the way it reads here.

And you told Mr Thammiah to drop the parts, the pricing, to drop the prices, didn't you?---Did I? I don't know.

10 All right, page 222, you tell him, "Yeah, drop the parts pricing. Half of what we are using now." See that?---Yep.

And Mr Thammiah says, "5X." See that?---Yep.

And you understood that to mean five times the mark-up?---Don't know.

You did know at that time, didn't you, what he meant by "5X"?---Don't know what it means now. "5X".

Because you responded, "Exactly."---(No Audible Reply)

20 See that?---Yep.

So you've told him to use half the, "half of what we are using now".---(No Audible Reply)

You see that?---Yep.

30 And you understood "5X" to mean five times the IRD price, didn't you? ---Don't know about that, what, what exactly he means, but it, the way you're saying it does mean five times something. I'm not, know what exactly.

Because I've taken you to, in the previous hearing, the mark-up which Novation had applied, which was a 10-time, or 1000%, mark-up on IRD's wholesale prices. Do you recall that?---Yes.

And so if something cost US\$737 by way of the wholesale price, all Novation did was to add a zero to most of those wholesale prices. You recall that?---Yes.

40 And here Mr Thammiah, I suggest, has taken onboard what you've said, "Half of what we are using now", and he's suggesting that it be five times the price - - -?---Okay.

- - - for Accuweigh, correct?---Yes.

And you've agreed with that.---Seems like it, yeah.

Then over at page 223, you ask him to call Rish to confirm whether IRD's wholesale pricing is confidential.---(No Audible Reply)

You agree?---Yes.

And you say, "I," and I suggest it should be "don't" instead of d-o-b-t, "want Jason to know the big profit margin. Anyway, chat tomorrow." So you wanted to ensure that IRD's wholesale price was not disclosed to Accuweigh. Correct?---I don't think you could disclose it, yep.

10

Because it would be patently obvious to Accuweigh that Novation's pricing was exorbitant, as it was to you, Mr Soliman.---I think so, yeah.

And you were involved in overcharging RMS for the supply of spare parts by Novation, weren't you?---Don't agree with that.

You facilitated it by authorising the purchase orders at RMS.---I don't agree with that, but obviously I did help him, I didn't, I don't think I even knew what the parts prices were until he told me.

20

Well, these messages suggest that at least as at September 2017 you were well aware of the big profit margin that Novation had applied.---Sounds like it, yep.

Because you even suggest it should be half of what is being used.---Yep.

And those purchase orders which you authorised enabled Novation to issue its invoices for spare parts, didn't it?---Yeah.

30 And to your knowledge, Novation was issuing invoices in which it charged 10 times the wholesale price for a number of spare parts for which it invoiced RMS.---I know that now, yeah.

To your knowledge at the time, Mr Soliman, in 2017 Novation was issuing invoices to RMS in which it charged 10 times the wholesale price for certain spare parts. Correct?---I know that now, yeah.

40 And you knew that to be exorbitant at the time and you fully facilitated that in your position as manager of the Heavy Vehicles Program.---Not necessarily. I mean once again they were his, his prices. I remember even talking with, with, with him at the time about it.

If we go back to page 113 you even told Mr Thammiah at times, including on 28 July, 2017, what the value of the purchase orders was.---Okay.

See here you've said, "By the way, I checked all the PO values, total is about 1.26 million?"---Yep.

You were telling him how much funding RMS had authorised for Novation to use up, weren't you?---Sounds like just they're the previous POs' values.

THE COMMISSIONER: Well, you weren't asked that, you were asked that you were telling him how much RMS had authorised for Novation to use it all up. Do you agree with that or not, that's what you were doing in that message?---No.

Okay.

10

MS WRIGHT: And while we're on this page, you went on to tell him about a tender for parts. You see the second-last message on the page in blue? ---Yep.

Tender for parts will be for a five plus two plus two term. See?---Yeah.

And at that stage you were referring to the Heavy Vehicle Maintenance Program tender, weren't you, in that message?---It must be, yeah.

20

Because at that stage you intended to use that panel for the supply of parts for portable weigh scales?---No, I didn't intend for it. Other people in the team managed the tender.

All right. But you understood that one of the purposes of the panel was to supply parts?---Yes.

THE COMMISSIONER: And you thought that was a good idea?---I didn't know until - - -

30

No, I'm not asking you that. Did you think it was a good idea?---I didn't see an issue with it at, at the time, so yeah.

MS WRIGHT: And just going back up to the second message on page 113. Do you see how you tell Mr Thammiah, "We're in a much better position than we thought, especially because you didn't take into consideration that the income, approximately 300K, is an expense to business so we'll pay much less business tax"?---Yep.

40

And by that were you referring to the \$300,000 which would be derived by you as an income?---No, I don't think so.

Derived by anyone?---Must be - - -

Which would be used as a business expense for tax purposes?---Sound like that's income that he might have set for his business.

And you were telling him that the 300,000 could be a business expense for tax purposes?---Yeah. That's what it reads, yeah.

And that was a reference to his income?---Sounds like it, yeah.

And your income, which was to the tune of 50/50 with Mr Thammiah, was similarly at that stage considered to be \$300,000, wasn't it?---Sorry, I don't know what you mean. Are you saying that I got 300,000?

I've taken you to a number of messages in which you refer to "my half". Do you recall?---Yep, yep.

10

And I think your evidence is that you deny that you were taking half of Novation's takings after tax?---That's correct, yeah.

And I put to you that a message in which you referred to getting 200,000 from his payout and 100,000 from the card meant that at that stage you considered you were owed about \$300,000.---That's not what I said actually, no.

20

So do you agree that you were at that stage, in 2017, owed about, or that you thought you were owed about \$300,000?---No. I didn't see I was owed anything.

You didn't think you were owed anything from Novation's business?---Yep.

And yet you talk about making \$2 million "for us", for Novation?---Once again, the wording I used is because we were so close, like brothers, like the same wording you would use with anyone that's very close to you.

30

You were getting money off Mr Thammiah on a regular basis into Novation's account from which you were withdrawing, Mr Soliman. ---Yeah. I've already, yeah. I didn't know it was from his business card but
- - -

And talking about Novation's tax position with him at length. And yet you say you didn't think the source of the money you were getting was Novation. Is that your evidence?---I don't recall talking to him about that, yeah. I just knew it was his personal funds and I had no reason to question it.

40

Now, you told – I'm sorry. Just before we move off spare parts. You gave evidence in June that you did not know the mark-up and I'll just take you to that briefly. It's at page 1425. 11 June, 2019. Last three lines of that page, question, "You were aware of the fact that he had been invoicing RMS on multiple occasions by this stage for spare parts for PAT scales," and answer, "I knew of obviously the purchase order. I wasn't talking to him about any invoices." Question, "Did you not know what the mark-up being applied by Mr Thammiah was on these spare parts that he was sourcing from IRD and then invoicing RMS for?" Answer, "Don't recall him telling me what the

cost was.” Question, “Did you know what he was applying” – I withdraw that. “Did you know that he was applying a mark-up?” Answer, “I was assuming he was, yeah.” Question, “Did you know that it was a significant mark-up?” Answer, “I don’t recall him telling me what the cost to him was.” Question, “I’m not asking you about the precise amounts. Did you, do you deny being aware that he was applying a significant mark-up to his cost price?” Answer, “I didn’t know the costs, I mean, I wasn’t aware what his mark-up was, so - - -” Question, “Is that your answer?” Answer, “Yeah. I don’t recall him ever telling me what his mark-up was, yeah.” Question, 10 “Were you aware as at November, 2017, that Mr Thammiah was applying a significant mark-up to the cost of spare parts that he was invoicing RMS for, not the precise amount, but that it was a significant mark-up?” Answer, “I don’t think so, no.” And then the Commissioner asks you if you maintained your answer, and you said, “I maintain that I don’t recall him telling me what the cost or the mark-up was.” So your evidence today is that you did know what the mark-up was. Do you agree with that?---At the time of the message, yes.

And so your evidence on 11 June, which I’ve just read to you, was not 20 correct?---I don’t agree with that at all. I mean, I’m trying to remember something that happened years ago.

But the evidence you gave to the Commission on 11 June was that you did not know what the mark-up was, and you did not know that Novation was applying a significant mark-up.---Yep.

And you’ve said today, and correct me if I’m wrong, Mr Soliman, that you did know that Novation was applying a significant mark-up.---At the time that the messages happened, well, the messages read that I did know, yeah. 30

And so you must have known at the time I asked you about on 11 June. ---Well, okay, no, that’s a couple years later.

No, I asked you about November, 2017.---Yep.

And these messages were sent in July and August of 2017, weren’t they?---I think so, yep.

So if you knew about the mark-up then, you must have known about the 40 mark-up at November, 2017. Correct?---No, I don’t agree.

And when you gave that evidence to the Commission, you weren’t telling the truth, were you?---I don’t agree.

Because you had very specific interactions with Mr Thammiah about the pricing of spare parts by Novation in 2017, didn’t you?---I still sit here, I don’t remember talking to him about it.

Well, you didn't forget that when you gave evidence in June, did you? You knew that you had had detailed conversations with Mr Thammiah about his pricing.---(No Audible Reply)

Correct?---Once again, I still don't remember when we spoke about that.

And the pricing was so significantly marked up that you called it "exorbitant".---(No Audible Reply)

10 Didn't you?---Yes.

And so you would not have forgotten that, I suggest, and it's only when the Commission has discovered additional evidence showing a detailed discussion in which you tell him specifically to half his prices that you are willing to acknowledge that you were aware of a significant mark-up by Novation. That's the case, isn't it?---It's not what I said, though. I, I've said, at the time of the message, it sounds like I knew there was a mark-up, at the time of the evidence - - -

20 THE COMMISSIONER: You said, "The messages read that I did know." ---Yes.

And you'd have to admit that you did know.---At the time it sounds like I did, just reading these, the messages.

MS WRIGHT: And I'm not sure if we're still there, but page 113, you go on to tell Mr Thammiah that, Mr Thammiah tells you that he'll let you know whatever Tan says, "He's the man." And you say, "Yeah, exactly, we're just playing games, we're just playing guessing games. LOL. Will review the books once Tan is done." By that you were referring to the tax payable by Novation which Tan would confirm?---Which message, sorry?

30

Middle of the page.---Yeah.

"Yeah, exactly, we're just playing guessing games."---Yep.

That is you were guessing what Novation's profit was at that point until you heard from the tax accountant.---I don't know. I can't tell by that message.

40 Well, Tan is the tax accountant, isn't he?---That's what you've said, yeah.

Well, you knew that.

THE COMMISSIONER: Well, you agreed with that.---I'm pretty sure it was but I forgot his actual name but it sounds like everyone, the messages are talking about him like he is, so he must be.

MS WRIGHT: And he's working out Novation's tax, and when you say guessing games, you're referring to Novation's net position.---I don't know. I don't know what that means.

And you say, "Still full steam ahead for our plan regardless of current balance." Correct?---Yeah.

And current balance means Novation's balance?---No idea.

10 And I've taken you to the last two messages on that page, and then over the page, 114, "I will specify that the tenderers must have a licence from IRD for New South Wales procurement."---Yep.

You see that, which essentially leaves just Novation.---Yeah.

See that. So your criterion of having a licence from IRD would eliminate any competitors.---No, not, not necessarily. I mean that wasn't a mandatory thing, that's not the way a tender works.

20 You've said, "Which essentially just leaves Novation." And what you meant by that was, would eliminate other competitor suppliers.---Don't think so, because I know that's not the way a tender works, it's based on scoring.

What else can it mean?---Just reading this it looks like just leave Novation with the one with the licence.

Yes, that was the ultimate goal, wasn't it?

30 THE COMMISSIONER: It was the ultimate goal, and as you say in the message at the beginning of that page, "I will specify that the tenderers must have a licence."---Yep.

I.e, that's a prerequisite for them being successful. If you don't have a licence you can't successfully tender, which as you conclude in your second message, "Which essentially just leaves Novation."---Yep.

MS WRIGHT: You say, "I'm going for the real substantial contracts."---Yep.

40 "These multiple 200K contracts don't get us where we need to be fast enough." Do you see that?---Yeah.

So this has nothing to do with a loan for you from Mr Thammiyah, does it?---This message isn't about a loan, no.

No. Because “Where we need to be,” is a reference to all of the money that you will make from the really substantial contracts.---I don’t see where you, how you got that, sorry.

Mr Soliman, you’ve referred to, “Multiple 200K contracts.” Do you see that?---Yeah.

10 And by that stage you had issued multiple purchase orders in the amount of about \$220,000 for spare parts in favour of Novation, hadn’t you?---Yeah, I think there was a few, yeah.

And the ultimate goal was to get Novation the really substantial contracts, in the millions, wasn’t it?---That wasn’t my goal or my point.

I suggest it’s clearly laid out in black and white in these messages. You said it, “I’m going to specify tenderers must have a licence, essentially just leaves Novation. I’m going for the real substantial contracts. These multiple 200K contracts don’t get us where we need to be fast enough.”
20 The overarching goal was for Novation to replace the 600 scales as part of the plan.---Well, the goal was for me to replace the scales quickly. So, I think that’s what it means by, “Where we need to be fast enough.”

All right. And then you tell him, second last message on that page, “I’ll be the tender selection panel. So really, all we need to bank on is you getting the sole vendor licence from Rish and we’re golden.” And what you meant by that is Novation is guaranteed to be selected as you will be doing the selecting.---No, I didn’t select them.

30 See, you lost all objectivity in your role at RMS, didn’t you?---I don’t agree with that.

Mr Soliman, how is it that you do not agree with that when you are here telling a potential tenderer, “I’ll be the tender selection panel. So all we need to do is get the sole vendor licence and we’re golden,” for real substantial contracts. You weren’t impartial at all, were you?---I was too close to him as I have come to learn now, yeah, obviously.

40 So do you agree with me that you had lost all objectivity in your role as manager at RMS?---No. The goal still stood that we had to change these scales because the death toll was going up because no one acted for years.

And so you maintain that you’re acting in the public interest in ensuring a contract for a friend - - -?---I didn’t say that, sorry.

THE COMMISSIONER: Sorry, you didn’t say that. Is that what your answer was?---Yep.

You weren't being asked whether you said that. You were being asked whether you agree with that proposition or not. You don't agree with it?
---No.

MS WRIGHT: Then if we go back to the series of messages about spare parts prices at page 223. Just to remind you where we're up to. Where you say, "I don't want Jason to know the big profit margin. Anyway, chat tomorrow." And Mr Thammiah says, "Cool. Spoke to Rish today too." And over the page, and you tell him, "Couple of things you need to do.
10 One, call Rish to confirm their pricing in confidential so Accuweigh or WeighPack can't find out the mark-up. Two, assuming it's confidential, drop the prices to three times. That's a 300 per cent mark-up. We can't charge more than that. Too risky. We may lose the sole licence somehow. Also, whoever wins the maintenance tender has been advised that RMS will be restarting a refurbishment project for scales so we will be needing heaps of parts. So we will still be making a lot of profit. The maintenance tender close date is tomorrow so you'll need to price it for Accuweigh like now. The plan is after we complete the refurb we start buying scales." Do you see that series of messages?---Yep.

20

And it's the purchase of scales which would give you the real substantial contracts. Do you agree with that?---I mean, at the time I didn't think about that, no.

And then if we go over to 232, you ask Mr Thammiah whether he sent Accuweigh the price list for parts. See that?---Yep.

And then you say, at the bottom of the page, that you called Mark. That was Mark Mitchell, correct?---Yep.

30

And over at 233, Mr Thammiah says to you in the second green message, "I'll give him the same list I gave Jason," and you respond, "Yeah, must have same prices." So you thought it was important that both WeighPack and Accuweigh would receive the same prices from Novation?---Mmm, must be, yeah.

And over at 234, you say, "Three or four X," meaning "times". Correct?
---I think so, yeah.

40 "Whatever looks reasonable to you." You were referring to Novation's parts pricing?---(No Audible Reply)

You see that?---It must be, yeah, it must be.

And he says, "Three likely," and you say, "Sweet." And so you agreed at that stage that that would be the pricing for WeighPack, do you agree?---No, it was up to, up to him.

By "sweet" you were agreeing with three times the price, weren't you?
---Not necessarily, I mean - - -

You weren't disagreeing, were you?---No.

And you suggested three or four times, he came up with three, and you said, "Sweet." There was agreement, wasn't there?---Don't think so, I mean, at the end of the day, it's not up to, up to me.

10 All right. And then at page 235, you tell Mr Thammiah, "We've just secured an external income source," and you were referring to the revenue stream from selling parts to Accuweigh and WeighPack, weren't you?
---Don't know.

And you said, "Zero risk of RMS audits." You see that?---Yep.

You were very concerned about an audit of Novation at this time, weren't you?---Mmm, mmm - - -

20 By RMS.---I'm not sure, yeah.

If we could just go back to page 195. Some parts went missing, didn't they?---Sorry?

Some parts went missing around August, 2017, do you recall that?---Yeah, I recall parts went to Accuweigh or WeighPack and then they said some parts weren't there.

30 And at page 195, you tell Mr Thammiah what the options are. You tell him, "1, IRD resend missing parts, whether Novation pays irrelevant, or 2, David's state manager raises an alert with Procurement that Novation hasn't delivered." You agree you sent those messages?---Sorry, I can't see that message.

I'm sorry. It needs to go over the page. I apologise. Page 196. You agree you sent those messages, setting out two options to Mr Thammiah?---I don't know if they're options. I think this is the consequences if he doesn't fix it.

40 Well, you've said, "options are".---Yep.

Either IRD resends the missing parts, or David's state manager raises an alert with Procurement that Novation hasn't delivered.---Yep.

There had been an order which hadn't been fulfilled. Do you agree?---No.

There had been an order of parts, and some went missing, didn't they?
---Mmm, oh, as far as I know, the parts were ordered, and they went missing between Novation and, I don't know if it was Accuweigh or WeighPack.

Okay, let's be clear, I'm not asking you who was at fault. But the two options that you had in mind at this stage were that IRD could just resend what was missing, or there was a risk that an alert would be raised with the procurement people within RMS that Novation hadn't delivered. That's what you've told him here, isn't it?---Yep.

And you said that, "This is literally about to blow up in our faces," in a message three from the bottom.---Yep.

10

On 30 August, 2017 you were concerned that Procurement would commence an audit on all of Novation's orders as a result of this incident of missing parts, weren't you?---Seems like it, yeah.

And that could lead to it being revealed that Novation had been overcharging RMS.---Don't know about that, obviously there's a risk if the parts didn't go to the end user.

20

And an audit may reveal that in some circumstances Novation had invoiced RMS and no parts were delivered. Isn't that the case?---No, I still don't agree with that. The parts, as far as I know anyway, the ones that were, that were needed were ordered.

Well, you tell him it's, "Literally about to blow up in our faces and there could be an audit on all orders." You were concerned about all orders, weren't you?---Yes, seems like it, yeah.

30

You were concerned that there be an audit of all of the other orders Novation had made by invoicing RMS when you knew that some of those invoices were not legitimate.---That's not correct, I didn't. I never knew any of that.

If we go over to page 197 – well, Mr Soliman, you say you didn't know any of that but you knew that the pricing was exorbitant, didn't you?---In the messages I must have known in 2017 but again I could be wrong.

40

So you knew there had been overcharging, significant overcharging by Novation.---Not necessarily. I don't know exactly what their costs were, but you know, I'm just talking about, it seems like I'm talking about from the wholesale price to his price but I don't know what the costs were, what his profit was.

And you were concerned that an audit might reveal that overcharging, which was exorbitant?---No.

At page 197 you tell Mr Thammiah, "We can settle this quickly, just go see David today then order the missing parts. Even if we pay it's okay." And

by “we” you meant our company, Novation, didn’t you?---Sorry, where did you read that?

The top of the page.---Yep. Which, which part of it, sorry?

“We can settle this quickly, just go see David today then order the missing parts. Even if we pay it’s okay.” By “we” you meant our company, Novation, didn’t you?---No.

- 10 You said, “We secure our business with them. The longer we wait higher chances are that they will go HAENNI come the tender.” HAENNI was a reference to another scale?---Yes.

And an audit could jeopardise Novation being selected as supplier in the upcoming tender, couldn’t it?---Don’t see how, no.

Well, you’ve said here, “Higher chances are they will go with HAENNI come the tender.---Yeah.

- 20 Do you see that?---Yeah, I’m not sure why though, yeah.

Because there’s a problem with Novation delivering on an order and you’re extremely concerned about an audit and RMS staff raising a problem with Novation and selecting the HAENNI scale over the PAT scale at the time of the tender. That’s the situation, isn’t it?---It’s possible but again I don’t know exactly.

- 30 And then at the bottom of the page you say that your job’s literally on the line because this scheme you have with Mr Thammiah could literally blow up in your faces, that is, be revealed due to this incident of missing parts. ---I think it was more so that the users needed parts and if I couldn’t make it happen somehow then obviously it’s not a good thing.

Now, in relation to the Heavy Vehicle Maintenance Panel, page 172, you informed Mr Thammiah that you had met with the director and one of them, you say, “One of them being the scales tender. He gave it the green light.” Do you see that?---Yep,

- 40 And then on the page following, Mr Thammiah says, “Sweet.” And you say, “So we’re good from all sides for the next three financial years.” And so you were referring to the director giving the green light for a tender process for the Heavy Vehicle Maintenance Panel. Do you agree with that? ---Sorry, can you go back to the message.

Yes, 172.---That’s the only one that would have been happening at that time but I think it was already finished by that time. I’m not sure.

I suggest it wasn’t finished in August 2017.---Okay, well I’m not sure.

Novation signed its agreement to be a member of that panel on 30 October, 2017.---Okay.

So you agree this is a reference, this must be a reference to the Heavy Vehicle Maintenance Panel?---Yep.

10 And you say on 173 at the bottom of the page, "For the tender I'm speaking to other managers that are better to deal with once the time comes." Can you see that?---Yep.

Because Mr Thammiah has referred to some of the inspectors as pricks. Do you see that?---Yep.

And so you're referring to the possibility that he can deal with some other people once the time comes, when he is selected on a more ongoing basis pursuant to the tender?---I think so, yeah. I'm not, I'm not sure.

20 And then you say, on page, if we just skip back over to page 218, I believe I've already taken you to this but you tell him that you have to talk to him about the tender soon. "It will be on the public eTender site soon." That's at the bottom of the page. And you say, "Then we can procure all we like. No limits and no risk." Do you see that?---Yep.

And so you envisaged that the panel would facilitate the much more substantial contracts for Novation, didn't you?---Not necessarily. I mean, there was no funding at this point for me to, no.

30 You would use the panel not only for scales but for scale parts, in large purchase order contracts? That was the intention, wasn't it?---Well, it wasn't my intention, I didn't run the panel. But it made sense for the parts to be in there, definitely.

And it wasn't just parts, it was scales and parts because you had funding submissions in for scales, did you?---Yeah. For the past four or five years but they were knocked back or they weren't read. I don't know.

40 And so you fully intended that the panel could be used for very large contracts for Novation for the supply of both parts and scales, didn't you? ---Didn't intend that personally. I didn't run a tender or create the tender.

And at page 219 you tell Mr Thammiah that you've been working on it for months. Do you see that?---Yeah.

You'd been planning Novation's role in the tender for months as well, hadn't you?---That's not true. The team were working on it. I really had no part to do with it.

And you gave evidence in the Commission in June that you had no part in the panel, didn't you?---Yeah.

And is that still your position?---Yeah, definitely, I wasn't, I wasn't there.

When you say you weren't there, you gave evidence that you were – sorry, I withdraw that. When you say you weren't there, what do you mean by that? ---I wasn't in the panel committee for that tender. It was a few other guys in the team.

10

At page 239 you say to Mr Soliman [sic] at the bottom of the page, "What's happening, bro? More info on this tender." And over the page, 240, "Keep 2 to 6 October free, yeah? We'll have a full-time job for a few days submitting the Novation tender response." So you were planning to prepare Novation's submission for the tender for the Heavy Vehicle Maintenance Panel.---No, I didn't work on that. I don't think I ever even saw that.

At this time in these messages you were planning to prepare Novation's tender response with Mr Thammiah, weren't you?---No, I don't think so.

20

You say, "We'll have a full-time job for a few days submitting the Novation tender response." You ask him to keep four days free.---Once again that's probably him, you know, again the words we and I are used in different ways.

They're plain English words, aren't they, we and I? I means I and we is a plural for us, isn't it?---It depends. I don't always use it that way. I just found when I'm so close to someone and use it in different terms.

30

THE COMMISSIONER: But see, your next message you don't say, "For now we need ASAP to register on the NSW Government eTender," you distinguish between "I need you".---Yep.

So the "we" disappears, doesn't it?---That wouldn't make sense, though, we need you - - -

40

Yes, it does, it makes exactly the same sense as the one before, "We'll have a full-time job," given your explanation. If you make no distinction when you use "we" between when you're actually referring to Mr Thammiah there would be no need to use "I need you," in the next message. What I want to suggest to you is your explanation of when "we" is used, that we, you're either referring to Mr Thammiah, isn't correct, it's false.---So I don't really, all I, all I can say is that's the way we kind of spoke to each other like you speak to anyone who's close with you.

Except you don't do it in the third message. You pick and choose, do you? ---I'm just looking at it. If I put "we" in the second one it wouldn't read correctly.

Yes, it does, it could. "For now we need to register as soon as possible for the NSW Government's eTender website."---I could have wrote that, yeah.

MS WRIGHT: And over at 241 there's the same distinction that the Commissioner's referred to. You say, "I know about Bluetooth." See that? ---Yep.

10 You know how to distinguish between "I" and "you" and "we", Mr Soliman, in your messages.

THE COMMISSIONER: And down the bottom of 241, "Oh, and about registration, can you double-check," "You check," "You can log in," et cetera.

MS WRIGHT: And over the page, 242, "We only get one shot at this panel contract." Because this was just as much your tender as Mr Thammiah's, albeit you had to be a hidden participant in the tender on behalf of Novation. Isn't that the situation?---Don't agree, no.

20

And then over at 256 you've told Mr Thammiah about him being in an excellent position for this upcoming tender and at page 257 you tell him, "The tender goes live next Monday." Do you see that?---Yep.

And you ask him to confirm whether he can log in?---Yep.

And is registered for scales tenders to be sent to him?---Yep.

30 And at page 259 – sorry, just go back to 258. "We've got a lot of documentation ahead of us for this."---Yep.

And that's a reference to your intention to be involved in the drafting of Novation's tender submission, isn't it?---No. Because I know I didn't, I didn't even, I don't even think I saw the submission.

And then over at page 259 you tell him, "A little work now and Novation secured for the long term." Do you see that?---Yep.

40 And you say, "Can you email me the current sole vendor licence?" So you intended by Novation's appointment to this panel that it would secure Novation for the supply of some very large contracts in the future, didn't you?---At this point, it was just the parts that I guess we were thinking about.

And page 260, you tell him that the tender is up online and you ask him, "Can you find it and start working on the response." You tell him, "Tender closes in week or so. Work is full-on. Unsure if I can take a day off to work on it with you but it's very self-explanatory once you read it.

Essentially you need to prove you've worked for RMS in the heavy vehicle space, which Novation has. Also attach the sole vendor licence and we're in." And then you ask him to, "Draft the response and let me know so I can review et cetera." Having read those message, Mr Soliman, do you maintain that you weren't intending to be involved in preparing Novation's tender response?---Yeah. I mean, once again, I don't even remember seeing it. So - - -

10 Well, I'm not asking you that, I'm asking you whether you intended to be involved in the response?---No. I didn't really want to be, obviously.

But you've asked him to let you review it. SO you wanted to be, didn't you?---That's just if he needs any help. I mean, again, we were very, very close friends.

And over at page 262, you sent him a message with an attachment. Do you see that?---Yep.

20 If we could just flick to 693. The extraction of data indicates that what you sent him was this document. Now, that is the category B criteria as set out on RMS's tender document. Do you recognise that?---Yep.

Do you recognise that?---Yep.

And then going back to page 262. I'm sorry, it was Mr Thammiah who sent you that. I'm not sure if I suggested that you had sent it but that's a message from Mr Thammiah.---Okay.

30 And he tells you that he can't bid because of the maintenance aspect. Do you see the message below the attachment?---Yep.

And he says, "Weighbridges, brake testing." So you understood he was suggesting he couldn't bid because the tender deals with equipment other than portable weigh scales. Do you agree?---I don't know sorry, no.

Well, he's referring to weighbridges and brake testing equipment. He was not involved in that equipment, was he?---No.

40 And he's saying, "I can't bid for it, it's maintenance of weigh-in-motion too."---Yeah, I don't know what he meant. That doesn't make sense.

And you tell him on page 265, "You just need to respond to category B for scales."---Mmm.

Do you see that?---Yep.

And you say, “Don’t worry about maintenance, too much pressure on that now.” And also the second message at the top of that page, you tell him that Novation would only do scales.---Yep.

And so in other words, you were conveying that he should put in a submission which relates to procurement of scales only, weren’t you?
---Mmm, I think for the scales part of the category B, I’m guessing.

10 Yes, so you were telling Mr Thammiah that he should put in a submission which responds to the procurement side of things and only for scales, weren’t you?---Well, there’s obviously parts involved also, scales and parts kind of used hand in hand.

But with that qualification, you agree with what I’m putting?---No.

No?---Yeah, I mean, it was for obviously, scales means basically the maintenance of the scales including parts on scales if they’re needed.

20 All right, I understand that point. But subject to that, that scales would include also the provision of parts, you were informing Mr Thammiah that he should put in a tender by which Novation indicates its ability to procure scales.---No.

Not to worry about maintenance, and not to worry about other items of equipment that might be of interest to RMS in this panel appointment.---No.

But he has indicated to you that he, a concern that he can’t bid, hasn’t he?
---Yeah, he must have missed the scales part, obviously.

30 And he’s sent you the criteria and said, look, it refers to maintenance, and it refers to weighbridges and brake testing, it’s – and he says on page 263, “I’d say it’s a no go.” See that? Top of the page.---Yep.

And the previous message I took you to, he said, “I can’t bid for it.”---Yep.

And then you, at page 265, you say, “Novation would only do scales. You just need to respond to category B for scales. Nah, don’t worry about maintenance.”---Yep.

40 Yep. So you were telling him to put in a tender for scales for procurement, aren’t you?---No, again, I think you’re misreading - - -

All right, tell me how I’m misreading it, then.---From what I remember, the category B had several pieces of hardware, so scales and weighbridges, but obviously “scales” means basically maintenance and parts for those scales, and also I think there was an option there, there’s a potential for procurement of new scales. So “scales” is just, I guess, a banner.

I think we're in furious agreement about that, Mr Soliman. But what I'm suggesting is you were allaying Mr Thammiah's concerns about whether he could bid for something that was broader than scales and parts and procurement, and you were informing him that he could and should put in a tender for scales, including parts, and just for procurement and not to worry about maintenance.---Yeah, that's right, he could, yeah.

10 And then at page 266, you say to him, "I just want Novation on this panel so we can continue procuring." And again, you refer to the company in the plural, being a company that you consider your own, that "we" can continue procuring.---No, that's, that's definitely not what that message means, though.

Well, you're not leaving it up to him, are you? He suggested he can't tender and you're saying "I", "I want Novation on this panel."---Yeah, it's, the message to me reads quite clearly. So "we", as in Roads and Maritime, can continue getting the parts that were urgently needed.

20 THE COMMISSIONER: So "we" is now RMS, not your best friend?
---Yeah, well, it depends on context about what you're talking about.

And so why isn't it, if we're using "we" for RMS there, why isn't it "We just want Novation on the panel"? Why does it suddenly become "I"?
---Well, "I" as the person who needs these parts, you know, for - - -

Well, that's RMS. That's "we". That's the new "we". See, you pick and choose. You use "I", you use "you".---I don't agree with that.

30 And then we move suddenly to "we".---Don't agree. It makes sense to me, the way I'm reading it. I mean, "We can continue to procure hardware," it wouldn't make sense for me to be saying that about Novation. Why would Novation procure?

40 No, no, no, no. You're missing the point. You've said "we" in that context is RMS. What I'm saying to you is if that's your view, it should be "We just want Novation on this panel so we can continue procuring." My point is your evidence, when you're confronted by a "we", is that "Oh, look, it means my best friend, and when you're close to somebody that's how you respond." But again it's an illustration that in certain messages you use the singular, you use "I" or you use "you".---Yeah, I mean, again - - -

And that your overall explanation of "I'm only using it in the sense of it means somebody I'm close to that you do with your friends and your family" really doesn't have any credibility.

MR YOUNG: Well, I object to that. I mean, that's not his evidence. These things are contextual. Everything depends on context. What he said was in relation to particular ones that "we" meant he and Mr Thammiah. Now, I

mean, if it's being put that that "we" there means he and Mr Thammiah, well, let it be put. But - - -

THE COMMISSIONER: All right. Thanks, Mr Young. So you don't agree with my proposition?---No, I don't.

Okay.

10 MS WRIGHT: And you did mean Novation when you said, "We can continue procuring," didn't you?---No. That doesn't make sense at all.

Mr Thammiah went on, on page 266, if we could have that back, to suggest at the bottom of the page that you switch to Wickr. You see?---Yeah.

And over at page 267 he says, "Better for anonymity." And then over the page, though just before we get there, you tell him, "Don't worry. I drafted this tender with my team especially for Novation." You see that?---Yep.

20 You were involved, weren't you, in drafting the criteria for the Heavy Vehicle Maintenance Panel to fit Novation's capabilities, weren't you?
---No, I, I only saw it right at the end after everything was basically finalised.

Novation's only capability was procuring portable weigh scales, wasn't it?
---Yeah, parts, yeah.

30 Did you ensure that the description of works in the tender document which I took you to, which Mr Thammiah sent you as an attachment, with respect to portable weigh scales, included procurement?---Don't recall even seeing a document until it was basically finished, so, no, I don't think so.

THE COMMISSIONER: So you never suggested to anybody that procurement should be added to the tender terms?---It's possible. I'm sure the guys would have - - -

No, no, no. So, you're saying it's possible that you did suggest to the people involved in formulating this tender that procurement be added to the terms of the tender?---Yeah, for parts, yeah, I think.

40 Well, it's not confined to parts. It just says, "Procurement and maintenance," doesn't it?---Yep.

So you're saying it's possible?---Yeah, it's possible.

Do you have a recollection of having a word with somebody about it? You're under oath.---I know. Only, only at the very end when, I don't know if it was Alex or Craig showed me - - -

I'm sorry?---It was right at the, right at the end. I don't know if it was Alex or Craig or Nathan who showed me the document. Then I got a chance to kind of see it for the first time, but I don't know if I made, recommended any changes or additions.

Well, you said it was possible that you asked for procurement to be added. Do you think, if it is possible, it occurred right at the end where you had a word with, was it, Nathan or Craig or somebody else?---Or Alex, yeah.

10 Alex.---They were working on it, yeah.

And when you say right at the end, are you referring to just before the document was finalised to be put out for tenders to be submitted? Because that wouldn't make sense, You'd have to get it amended before it went out.---I think I saw it before, after they, they basically finished the draft but I didn't, I didn't work with them. I just - - -

20 No, no, no, no. You didn't – so they finished the draft, you looked at it and suggested procurement be placed on it or included in it?---Yeah, I don't know if I suggested anything, but I know that I definitely saw it towards the end or until it basically finished.

But you said it was possible that you added procurement?---I said it's, I said it's possible that I recommended some changes. I don't know if it was procurement because I saw it. So generally when you're talking to someone - - -

30 Well, I put to you before that, did you recommend the addition of the work procurement and you answered it was possible. That's what I'm interested in.---Yeah, it's possible.

How that word procurement got there. Not whether you looked at it and, or made some suggestions. I'm focussing on the inclusion of the word procurement. Your evidence before was that it was possible that you did make that recommendation right at the end to either Nathan Craig or Alex. ---Yeah. It's possible but I don't remember doing it.

And sorry, can you remind me. Nathan, is that Nathan Chehoud?

40 MR YOUNG: I don't think he mentioned Nathan, with respect, Commissioner. I think you mentioned Nathan.

THE COMMISSIONER: No, no, no. My notes was, sorry, I don't know if anybody else had got a note. I said, "Right at the end," and then I had a note of Nathan, Craig and then I missed the third name.

MS WRIGHT: I understand he said Alex or Craig. But - - -

THE COMMISSIONER: Oh, okay. I did add – I apologise then. I did write down Nathan at the time but anyway. So you think it was, sorry, you think it was possible you recommended to Craig or Alex, is it?---And Nathan potentially because that’s when I first met him, yeah.

MS WRIGHT: Just going back to page 267. So you said here to Mr Thammiah, third message from the bottom, “I drafted this tender with my team especially for Novation.” So that suggests that the possibility is more like a likelihood, isn’t it, that you did have involvement in drafting the tender criteria?---No.

Well, you’ve told your best friend, Mr Thammiah, that you did, Mr Soliman.---Yeah, I’m not sure what that message means or why I said it but I know I didn’t draft it or work on the actual tender.

It’s very clear. “I drafted this tender with my team especially for Novation.” What other possible meaning could it have other than that you drafted it?

MR YOUNG: If I could just object. I think those three, I note there’s a “LOL” immediately after that but I do think it has to be read with the bottom one on the page because that is almost simultaneous, “And a couple of other vendors,” that’s nine seconds after the one, “Especially for Novation.” So I think fairly it reads, “For Novation and a couple of other vendors.”

THE COMMISSIONER: But I’m still interested in him saying, “Bro, don’t worry, I drafted this tender with my team.” I think that’s the more interesting aspect of it. That would include, that would cover your evidence of that possibility of making a recommendation that procurement be included, wouldn’t it?---Not necessarily?

Why not?---I mean if I read this now it reads that I needed someone to get the parts off.

No, no, no. We’re focussing on in your words, your message, “Bro, don’t worry, I drafted this tender with my team.”---Yep. I didn’t, I didn’t do that, I didn’t draft it, I didn’t work on it with them.

All right. So that message isn’t true?---I’m not sure. I’m not sure what I meant by that or why I said it, but I know for a fact I didn’t work on that tender.

MS WRIGHT: Is what you meant, I was involved in setting the tender criteria with my team, especially for Novation? A couple of other vendors, but I’m not interest in a couple of other vendors at this point, you’ve said, “Especially for Novation.” Is that what you meant, I had some involvement?---No, if it means anything it means that I needed obviously someone that we could purchase parts from on this panel.

THE COMMISSIONER: No, what we're focussing on is you saying in a message that you drafted that you've had some involvement with drafting the tender. Now, you've said, no, I didn't draft it, but you've also referred to the possibility of making a recommendation about the inclusion of a word. And I think Ms Wright is suggesting to you, if you're denying that you were involved in drafting the tender, you've put this in a message, is it covering your involvement that you looked at a draft and made some recommendations to Craig, Alex or Nathan about a word or certain words that should be included?---That's very, very possible obviously, if I did see it and if I realised for example that there was something missing I would have made a recommendation. What that was I'm not sure. If, if I did at all, I'm not sure.

And from what you've been saying, if something was missing such as the word of procurement, you would have suggested that that, or recommended that that be included?---Again, if I - - -

Because you spoke about that you thought procurement of parts and procurement of scales was important?---Of the parts, yeah, definitely. There was no other way to purchase parts really.

MS WRIGHT: At page 268 I suggest you respond to Mr Thammiah's suggestion of switching to Wickr with your statement which I took you to at the start of your examination this morning, that, "WhatsApp uses encrypted messages so they can't be read by third party like a telco et cetera." See that there?---Yep.

And then at the top of the page 268 you ask him to review, to complete a first draft of the response and to let you know when it's done so you can come over and review it. You agree you said that?---Yep.

At 275 you asked Mr Thammiah to buzz you if he needs help and he says, "I think I got them all, I'll send you the summary page 1." And there are various other messages about the tender. Do you agree with that?---Yep.

And page 277 you ask him if you can help with anything from here, and you're referring to the tender.---Yep.

And over the page at 278 he tells you, "It's really straightforward since we're not going into maintenance." And at the bottom of the page you ask him to send to your Gmail the tender submission of Novation, don't you? ---I think so, yeah.

And you didn't want him to be sending that to your work email obviously. ---Not necessarily, I mean just send it to my Gmail, it's - - -

Well, Mr Soliman, you didn't want it to be known that you were looking at Novation's tender submission for the Heavy Vehicle Maintenance Panel, did you?---I don't think that's the point. Maybe I wasn't home. I mean - - -

You didn't want anyone other than Mr Thammiah to know that you were looking at Novation's tender submission, did you?---Didn't think about it then, obviously.

10 You knew you had a duty to act impartially and that this was not acting impartially.---Well, yeah, we were too, too close as, I know, yeah.

And that's why you've asked him to send it to your Gmail, isn't it?
---Probably not. Probably I wasn't, I wasn't home at that time.

20 Then page 280. He tells you you can review it tomorrow and you tell him, "Let me know when you send to my Gmail. I'll review it ASAP." At page 282 you tell him you've withdrawn money that day, and you tell him you're sure it must be close to zero, "Can you transfer another 20,000." You see that?---Yep.

And I suggest the evidence shows that 20,000 was transferred into Novation's account.---Okay.

And you had access to that account by way of a credit or ATM card at that stage.---Sometimes, yeah.

And he tells you, "That's the last of the half, 100 total for this year," and I've taken you to that message before.---Ah hmm.

30 At page 283, these are the messages where you asked him whether he got the balance from Tan or did he do the sums himself, and he says he's halved what was left after tax, and then you tell him to "Go for it. Submit this thing." Over the page at 284 he tells you, "140 each. That's why 100, 40 per cent tax," and he refers to the company tax being "the killer". And so that is a reference to what you are withdrawing at page 282. Do you see that sequence of messages I've just taken you to - - -?---Yep.

40 - - - where you've asked him to transfer money in the amount of 20,000 and he says, "That's the last of the half" and then he refers to "the half after tax and what Tan has calculated". You see that? So you knew full well that what you were withdrawing was derived from Novation's taking from RMS, didn't you?---I don't agree with that, no.

Well, it's clear, Mr Soliman. You've asked him to transfer because the balance is close to zero, and he tells you "that is the last of the half".
---Okay.

And then at page 283 he tells you, “I just halved what was left after tax.” And then over the page at 284, “140 each, that’s why 100. 40 per cent tax. Tan hasn’t told me whether I owe tax for last year. I’m just presuming I don’t. The company tax was the killer.” These messages all are referable to “the last of the half” which Mr Thammiah has told you he will transfer into the account for you to withdraw.---Okay.

10 So will you acknowledge in your evidence that you knew that the money you were withdrawing was derived from Novation’s takings from RMS?---I didn’t know. I still don’t really agree with that, no.

Then at page 287 to 288, you exchange messages with Mr Thammiah when he’s actually dropping off Novation’s tender to RMS.---Yep.

And at page 288 you ask him if he’s dropped it in the box. And at page 289, second from the bottom, once it’s done you say, “Welcome to the RMS panel of government-approved vendors.” You see that?---Yep.

20 And so you were sure that he would be appointed, at that stage?---No, I think it was a joke. I think it was a joke.

Well, it was tongue-in-cheek, but it conveyed your intention that Novation would be included on the panel, didn’t it?---No, it wasn’t part of the committee or the panel.

That’s why you reviewed his submission.---No.

30 That’s why you gave him information about the tender, isn’t it?---(No Audible Reply)

And at page 290, you told him that, “The tender results” – this is the second message – “will be finalised the week of the 23rd, so keep Wednesday that week free to come into Parra, think you’ll need to sign the docs.” You were absolutely sure of Novation’s appointment to the panel even prior to the selection, weren’t you?---No.

You even told him he’d have to come to Parramatta to sign.---Well, that’s, obviously if he was part of it.

40 Then you say, “By the way, the contract will be a 2 million max contract every year.” “Will be”. So you had no doubt at all that Novation was going to be selected as a panel member.---That’s not what that means, actually.

What does it mean?---I remember, was either Nathan or Alex saying that the maximum value of that panel was two, 2 million, \$2 million, basically.

And you go on and tell Mr Thammiah that, "So from October till June, going to be a busy year for us. LOL." Do you see that in the middle of the page?---Yep. Yep.

And then you tell him that, "The media found out that RMS isn't renewing the aged fleet of scales, after Transport releases a media statement about safety first, blah, blah, blah. It's blown up bigtime, RMS for negligence. This is likely going to lead to immediate funding."---Yep.

10 And so this was again a reference by you to your ultimate plan that funding would allow Novation to be the supplier to RMS of scales.---No. I mean, probably said we needed the parts or, or scales, and - - -

You were getting the parts. This was a reference to funding for scales. ---Yep. We needed both.

Well, why would you be telling Mr Thammiah that there's going to be immediate funding because of a scandal about an aged fleet of scales?
20 ---Because generally when, when you ask for, when you kind of raise the red, red flag and say, "There's a problem here, there's a safety issue," and then when they don't read it, then they don't do anything about it, then people die.

And you were telling Mr Thammiah because Novation was well-placed to provide the scales.---Yes, he was.

That's why you were telling him.---Probably but he was well, well-placed, yeah.

30 And at page 293, you were aware when the tenders were being reviewed for the Heavy Vehicle Maintenance Panel, correct?---No, I vaguely remember at least a few guys going into one of the meeting rooms.

And you were aware at the time of the meeting how many responses there were, because you've told Mr Thammiah here, "There are 12 responses."
---Yeah, someone would have told me, I guess.

Yes, you were not on the committee, were you?---No. No.

40 You weren't supposed to have that information, were you?---I didn't ask for it, I mean, someone said it, obviously.

I'm not asking you that. But you weren't supposed to have the information.
---About how many vendors - - -

Reponses there were.---Don't know, I don't know, what's wrong with that?

Well, you see, you've sent that message at that time of the review of the tenders, haven't you?---Sounds like it, yeah.

Yes, because you've said to Mr Thammiah, "The guys are reviewing your tender now, by the way." And 10 seconds later, "Only 12 responses total." ---Yeah.

10 The Tender Evaluation Committee's meeting is supposed to be only attended by committee members, isn't it?---Yep.

And so you were not supposed to have that information.---I don't understand why you say that. It's not kind of private information.

Well, I suggest you - - -

THE COMMISSIONER: So you disagree with the proposition that Ms Wright made to you?---Yes.

20 MS WRIGHT: And then at page 294, Mr Thammiah says, "12 dumb arses," and you respond, "Haha. Well, six of them are Alex's and Craig's guys." What did you mean by that?---They generally had the builders that they worked with that done most of, most of their work.

THE COMMISSIONER: Sorry, which work? For RMS?---Yeah. They manage all the maintenance the builds for Safe-T-Cam and the point-to-point.

30 MS WRIGHT: And then you refer to, at page 295, "We're a shoo-in." Do you see that?---Yep.

And again at page 297, you tell him that you're expecting funding. Do you see that? "Watch them give me finding in a heartbeat now".---Yep.

And at page 298, you say, "\$4.5 million for parts looks very likely and 2.25 million this financial year".---Yep.

40 And you knew that, or you intended that Novation would get those contracts?---No. I think that's when the kind of urgency got raised quickly, potentially to hide what the senior management had ignored for years.

And you intended that Novation would get those contracts.---No. We were now forced to do something extremely quickly.

And at page 303, Mr Thammiah tells you that he's seen a tender for technology trials by Jai and he asks you, "What's up with that?" Was that a reference to the PSC panel, the Professional Services Contract panel?---I'm not sure, maybe.

And at page 304, you tell Mr Thammiah not to bother with that particular tender saying, "Generally each trial only pays about \$5,000".---Yep.

And then Mr Thammiah says to you that he's tripled the price and gave it to Mark. You understood he was referring to the price of a scale, didn't you?

---No but the next message, I guess, clarifies it, yeah.

Yes. And you understood that was a reference to Mark Mitchell?---Yeah. Probably, yeah.

10

Who Mr Thammiah says had written back saying, "Are you sure that's the right price? Because Rish and Fernando told me it was \$5,000 per scale".

---Yep.

And Mr Thammiah says he's forwarded it to them and said, "They are making it hard to do business." Do you see that?---Yep.

And yet you understood Mr Thammiah had tripled IRD's wholesale price by these messages?---That's what he message says, yeah.

20

And at page 305, you told Mr Thammiah that Novation had been successful and that's the third message from the bottom. "By the way, signing tender docs tomorrow. Novation has been successful." Do you see that?---Yep.

And that was successful in the Heavy Vehicle Maintenance Panel tender? ---Must be, yeah.

30

And at page 308-309, if we could just perhaps go to 309, Mr Thammiah tells you what I suggest you already know, and that is that any vendors located in New South Wales deal with him, that is Novation. Do you see that?---Yep.

THE COMMISSIONER: Can you remind me, who's Fernando?---The kind of offsider to Rish for IRD.

Okay, from IRD.---Yeah.

40

MS WRIGHT: At page 319, 312 rather, you informed Mr Thammiah that there was a tender in South Australia soon for procurement of scales. Do you see that?---Yep.

And you say, "I included you in an email today, I referred Novation." ---Yep.

And he replies that, "We don't have a licence for South Australia, but all good, we can do this." And you tell him at 313, "Yeah, I know, just starting the connections with all states for us." See that?---Yep.

“And I’m going back to Brisbane 7 November to push the National Mass Program. So you had in mind at this time that Novation could expand its business beyond New South Wales?---That wasn’t my thought. I remember I got a call from someone and they were asking who, which scale that, that we have now and if they could have the number.

So you say that someone happened to contact you - - -?---Yeah.

10 - - - about scales?---From a different state, yeah, some other regulator, I don’t know.

See at 312 you’ve told Mr Thammiah, “There is a tender in South Australia soon for procurement of scales. I included you in an email today. I referred Novation.”---Yeah.

That’s not consistent with what you’ve just said, I suggest.---It is I think.

20 So you say coincidentally at the time of a tender that someone has called you - - -?---Yeah.

- - - and asked you what?---They were just asking which scales we, we use here and what the contact was.

Then page 314 you tell Mr Thammiah that you’ve secured funding for some programs, “So they need us now. Can’t really sack us for the next three years. I’m expecting scales funding to be approved any day now too.” Do you see that?---Yeah.

30 And you intended that Novation would benefit from that funding ultimately as the supplier of scales, didn’t you?---Didn’t intend for that, again I just needed someone to procure off.

316. “Big things happening for Novation this year.”---Yep.

Do you see that?---Yeah.

40 You didn’t just need someone, you wanted it to be Novation and you worked towards that in a very determined fashion over a long period of time from at least the middle of 2016, Mr Soliman. That’s the case, isn’t it?
---Not really. I mean he was doing a good job and I was happy for him, also that he was doing a good job so unfortunately we were too, too close so - - -

And when you say you were happy for him, are you suggesting that you were opportunistically happy for him but not yourself working towards that goal?---I wasn’t thinking about that, no.

And at 321 you say to Mr Thammiah, “Remember the trial we ran ages ago for portable weigh scales?” Do you see that?---Yep.

And this is on 14 November, 2017. You ask him, "Can you send me the report?"---Yep.

And he says, "Yeah, yeah, cool." And you say, "Sweet. Can you send it now? Working on a procurement plan for scales."---Yeah.

And could I just take you to that at volume 1, page 230. Is that the report that you were referring to?---I'm not sure.

10

Dated 4 May, 2016?---Don't know.

There was only one portable weigh scales scoping study that Novation was said to be involved in or paid for?---Don't think that's what I was referring to in the message. I'm not sure.

When you said in the message, "Remember the trial we ran ages ago for portable weigh scales," what were you referring to?---I think I was talking about some financial thing. I'm pretty sure I already had this. I'm not too sure.

20

Okay.

THE COMMISSIONER: Sorry, so what's the financial thing?---I think I was trying to get some sort of estimate of time or finances. I'm not sure exactly.

But you refer to the "Trial we ran ages ago for the portable weigh scales." That suggests it was something that Novation had a role in.---Yeah, must be.

30

And so other than the scoping study that was just up on the screen, what else could it be?---I'm not sure but it doesn't make sense because I think I was just asking for, I had to put a plan or something in like that.

So you were going to put a plan together now?---I think that's what the message said, isn't it?

Right. And you ask for a report which was as a result of , "The trial we ran ages ago for portable weigh scales?"---Yeah.

40

So I'm still confused as to what that could possibly be other than the scoping study.---Yeah, me too, I mean because the scoping study doesn't give me any way to plan anything I guess. I'm not sure, sorry.

All right. So you've got no idea what you were referring to?---No.

MS WRIGHT: Okay, well, I'll just leave that for the moment. Now, around this time you issued a request for quote for a scales trial for the

purpose of AZH's contracts with RMS. Do you agree with that?---I think so, yeah.

At volume 4, at page 60, do you see here the RMS request for quotation dated 7 December, 2017, for a field trial and report for modern portable weigh scales?---Yep.

10 And turning to the next page, it involves procurement of three brand-new world-leading modern portable weigh scale models. You see that?---Yep.

And over at page 66, you're named as the RFQ manager.---Yep.

And then at page 68, there is a quote by AZH for this trial in the amount of \$219,250 and GST.---Yep.

And the total figure on their quote, under AZH letterhead at page 70, is \$241,175.---Yep.

20 And do you agree that at page 72, RMS also received quotes from JYW Consulting?---Yep.

That was in the amount of \$245,575, excluding GST. And there was also a quote, page 74, from SGS Australia Pty Ltd, for \$745,405.---Yep.

For this particular request for quote process. And AZH's quote was the lowest in value, wasn't it?---I think so, yeah.

30 Now, if I could take you to – oh, just before I do that, did you submit the quote on behalf of AZH, Mr Soliman?---Did I submit it? What do, what do you mean, sorry?

Did you prepare – oh, withdraw that. Did you submit the quote by AZH for this request for tender?---As in, did I send it for him, or – I don't know what you mean.

Did you submit it?---I don't know what you, what you mean. This may have been - - -

40 What do you understand by "submit"?---Well, I mean, do you mean this, I mean, was I at his desk when I sent it, or – this may have been one of the ones that I sent him a template - - -

THE COMMISSIONER: No, no, no, not - - -

MS WRIGHT: Did you send it anywhere? Did you submit it in any fashion whatsoever?

THE COMMISSIONER: You know what the word “submit” means.
---Yeah.

Right. Okay. Ms Wright’s just asked you, in any way, did you submit this quote on, that AZH is making?---Oh, this may have been one of the ones that I gave him a draft for, the template. So potentially.

So you gave him a template?---Yeah.

10 And is that the extent of your involvement?---I, no, I don’t know if it was this one, or which one I helped him with, but I know there was a couple where I did help him with a template of the scope and everything.

All right, so when you say you helped him with the template, was that to make some suggestions about what he should put in the various sections of the quote?---Yeah, pretty much.

20 Did you have any other involvement other than that? You’ve given him the template. You’ve suggested to him that, in filling out certain of the fields in the quote response form, that he answer in this way, or includes this answer. Was that it?---I think so, from what I can remember, yeah.

MS WRIGHT: Did you receive the JYW and SGS quotes, take heed of the amounts quoted, and then suggest a lower quote by AZH?---I don’t think so.

If I take you to an extraction report. I have a hard copy which has two sides to the page. This is some data which was extracted from your mobile phone, Mr Soliman.---Ah hmm.

30 And you see item 3, dated 15 December, 2017, your phone contained a note, “Submit quite for scales trial after received other quotes”?---Ah hmm.

You would have made that note on your phone, would you agree?---It looks like it, yep.

40 And this is around the time or indeed the very day of the quotes being submitted by the three companies who responded to this particular request for tender, or sorry, request for quotation that I’ve taken you to for a report for modern portable weigh scales trial.---It looks like it, yep.

And this note suggests that you submitted the quote for - - -?---Potentially that means I sent it. I sent the, the template to Ali, I guessing.

So whom?---To Ali.

To Ali. And what you said here is, “Submit quote for scales trial after received other quotes.” So when you said, “Submit quote,” you’re referring to the AZH quote?---I’m not sure.

And didn't you deliberately seek to have AZH undercut the other quotes for this particular trial to that AZH would win that RFQ?---No, I don't think so. I don't remember that far back but I don't think so.

Well, why would you be noting to yourself that the quote should be submitted after receiving other quotes?---I'm just not sure if this is talking about AZH or, it's not clear to me if this is specifically talking about AZH.

10 THE COMMISSIONER: Well, you don't submit quotes, do you?---Well if I was - - -

Do you?---Yeah, of course I do. Yeah. If I'm - - -

You do?---Well, yeah. I'm, if you're the, the person in the actual tender obviously then they come to you, then you submit the quotes, obviously.

Sorry, say that again.---So basically whoever gets the quotations has to submit the quotes with the forms to the proper party. So - - -
20

Who's the proper party?---The Procurement or Finance. It depends who was actually putting it in.

Well, that's not here is it? Because you're saying, "Submit quote for scales trial after received other quotes."---Yep. Yeah, I'm not sure.

What that is saying, and it all coincides with the 15 December, 2017, you're helping Mr Hamidi, as Ms Wright said, to undercut the other quotes that you've received. That's the only reading of it, isn't it?---I don't think so because, I mean, he generally just priced it on his, on his own anyway.
30

"Submit quote for scale trial," in capitals, "after received other quotes." It's the only construction one can put on that message, isn't it? Given your friendship with Mr Hamidi, your involvement with giving him templates, suggesting how he fills in a quote. And coincidentally on 15 December we have a quote from SGS which is just over 700,000, a quote from JYW for – and I've lost it – it's about 245,000, and then suddenly a quote from AZH, the lowest of all three at 219,000.---Yep.

40 Looking at that, looking at all the circumstances, can you see an inference to be drawn from that message is that you wanted to see what the other quotes were so that AZH could put in the lowest quote.---I can - - -

Can you see how somebody could infer that?---I mean, I can see what you're saying but, I mean - - -

So tell me why I shouldn't make that inference ultimately.---The other two quotes were much, much higher, so - - -

Yes?--- - - - if I was thinking about the price and if you, I could have put it at 700,000.

No, because isn't the other quote 245?---No.

MS WRIGHT: Excluding GST.---There was another part to it, like 400, 500,000, so I think the total would have been 700,000.

10 THE COMMISSIONER: So I shouldn't draw that inference because you could have put, you could have suggested a higher price to AZH?---If you're, if - - -

Is that what – no, I'm just trying to work out your explanation.---Yeah, I mean, if that's what you're saying and I tried to undercut - - -

No, no, no. I'm asking you.---Well, yeah, that, it doesn't make sense, Commissioner, sorry, yeah.

20 But you can't offer me any other explanation as to that message or whatever it was on your extraction report?---The only thing I can think of is that - - -

“Submit after receiving,” in capitals, “the other quotes.”---Yeah. The only things I can think of is after you get all the quotes, you submit them, or potentially I sent the template of the quote to Ali with the, with the scope of it. But I don't think I ever touched the quote, the, the actual price. I don't remember ever touching that.

30 MS WRIGHT: I tender that two-page document, which is an extraction report. Mr Soliman has the copy.

THE COMMISSIONER: Could I just have a look at it for a minute.

MS WRIGHT: Yes.

THE COMMISSIONER: Could you retrieve it for Mr Soliman.

40 MS HOGAN-DORAN: And could I ask a query about this, if we might be assisted. Are these calendar entries? They appear as if they're notations, perhaps, in a home calendar on the phone.

THE COMMISSIONER: The extraction report is from the section Calendar Content.

MS HOGAN-DORAN: It is, thank you.

THE COMMISSIONER: Sorry, Content is the section, calendar. And it's a start time, which has got 15 December, 2017. All right. So the calendar

content part of the extraction report, including entry number 3 for 15 December, 2017, will be Exhibit 62.

MS WRIGHT: Thank you, Commissioner. Just to be clear, the tender is all of the entries, which is 1 to 6 on the - - -

THE COMMISSIONER: Oh, yes, sorry, I was trying to - - -

MS WRIGHT: There are six calendar entries.

10

THE COMMISSIONER: No, no, I was just trying to kind of – so the extraction report was created on 28 August, 2019.

MS WRIGHT: Yes. Yes. Which is, yes, the second row on the first page, yes.

THE COMMISSIONER: Yes. So the extraction report created on 28 August, 2019, which contains six entries from the calendar content of Mr Soliman’s phone will be Exhibit 62.

20

#EXH-062 – EXTRACTION REPORT CREATED ON 28 AUGUST 2019 CONTAINING SIX ENTRIES OF THE CALENDAR ENTRY FROM SAMER SOLIMAN’S PHONE

MS WRIGHT: Mr Soliman, after Novation’s appointment to the Heavy Vehicle Maintenance Panel, you continued to communicate with him via WhatsApp in relation to the subsequent procurement tender for the 125 scales.---Probably.

30

And you told him that funding had been approved to purchase scales?---Probably, yeah, I think so.

Page 326. See the last blue message?---Yeah.

And at page 327 you told him immediately that you would set strict requirement for size of the scales to ensure that only the PAT scales meet the criterion.---Yep.

40

You then went ahead and did that, didn’t you, you set the requirements for the tender?---They weren’t from me still, they were from the users.

Well, you’ve told Mr Thammiah here that you would be, “Going to an open tender with strict requirements for the size of the scales to fit into the current slots and we know only the PAT scales fit.”---Yeah, that’s, the dimensions were what the users gave.

Your intention was to ensure that only the PAT scales would fit the tender requirements, wasn't it?---Not necessarily, no.

And then you told him at page 329 that, "What a mission this has been for me, two years' worth of lobbying."---Yeah.

And you asked him which scale he should recommend, the 10C or the 10A. ---Yeah.

10 And you went on to also tell Mr Thammiah how many scales RMS would purchase in that procurement.---Sorry, where's that?

Well, I'll take you to that in a moment, but if we just move over to page 330, you told him you didn't want to recommend the 10C, "If we make much less profit."---Yeah.

And over at page 331 he tells you that, "The profit margin is up to us." And down the bottom of the page you tell him, "We can't charge more than the 10A price I think."---Yeah.

20 So at this stage it's got nothing to do with you just needing scales, it's all about you making profit from the contract, isn't it?---Not necessarily. Well, not, not me.

Well, you've said to him, page 330, "I don't want to recommend the 10C if we make much less profit."---Yep.

So it's all about you and him making profit, isn't it?---That's not the way that I saw it.

30 All right. So you take issue with the interpretation of the word we and you say it's all about him making profit, is it?---Well, yeah.

And you used your position to ensure that he would make as much profit as possible.---No.

Do you agree with that?---No, that's not the way it worked, no.

40 Well, you're telling him here that you don't want to recommend a particular model of scale if it means making much less profit.---Yep.

So it's not a big leap, Mr Soliman, to infer that your intention was to ensure that Mr Thammiah would be making as much profit as possible.---I don't know about as much profit but I mean like I said, I was, I was happy for him that he made, he had a successful business so - - -

All right. So would you agree that your intention here is to ensure that Mr Thammiah makes a profit from this particular contract?---It reads that way here but I don't know what I was thinking back then.

And you told him that you'd rigged the tender to ensure Novation wins, page 336. I'm sorry, I'll just find that reference.

THE COMMISSIONER: It's the one, "We'll need to see how many scales can be bought for 2 million so I can set the tender to suit us"?

10

MS WRIGHT: Well, yes, but you actually use the word rig but I'll find that in a moment. Sorry, it's page 340. So you tell him, "I'll rig it accordingly"?---Yep.

And that's what you did do, didn't you, you rigged the tender?---What do you mean, sorry? No.

Well, you understand what rig means, it's your word.---Set, yeah, establish.

20

Well it means more than set or establish, doesn't it?---What, what do you mean?

Mr Soliman, I'm asking the questions. You have sent a message saying, "I'll rig it." You're referring to the tender, aren't you?---I, I don't think so. I mean, I, at this point, we were getting pushed very hard to, like I said, basically hide the fact that this has been ignored for years and now it's on me.

30

This is as clear as it could be, Mr Soliman. "I'll rig it." "I'll rig it." They're your words. That's what you intended to do and that's what you did do.---I don't think I did, no.

You told him that you had set the size requirements so that only Novation's scale could satisfy the tender criteria. "I'll rig it".---That's not the whole picture.

And then you say - - -

40

THE COMMISSIONER: Sorry, what did you say? That was - - -?---That's not the whole picture, though.

All right.

MS WRIGHT: "Will need to see how many scales can be bought for 2 million so I can set the tender to suit us." That's what you say at 336. ---Yep.

And there were size requirements in this tender, weren't there?---I think so.

Now, you gave evidence in June that you did not tell Mr Thammiah how much funding was available for this particular tender. Do you recall giving that evidence?---No.

And you said you were on leave during this procurement process or rather the tender. You said you were on leave.---During the committee, yeah.

10 And you were referring to being on leave after your wedding.---Yeah. I was in the Philippines, yeah.

And you gave evidence that when you got back from leave you wondered whether you'd let slip out what he budget was for this tender. Do you recall giving that evidence?---Vaguely, yeah.

And you said you were surprised because Mr Thammiah's quote was for around \$2 million and RMS budget was about \$2 million and you wondered when you got back from leave, "Did I let it slip out?"---Okay.

20 That was your evidence.---Okay.

See at page 336, on 20 November, 2017, you say to Mr Thammiah, "We'll need to see how many scales can be bought for \$2 million this financial year"?---(No Audible Reply)

You see that?---Yep.

30 And do you were telling him RMS budget, weren't you?---I don't think we had the budget then but, yeah. Maybe the number was - - -

It was a budget for around \$2 million, wasn't it?---Yeah. But we didn't have the finding then, I think, but yeah, maybe I let it slip out.

All right, page 345. Second message, "It's a big tender, \$2 million."---Yep.

"So you need to keep in mind I can't protect you if something happens this time 'cause scales haven't arrived or whatever." Again you're telling him what RMS budget for this tender is, aren't you?---Yeah, I must have, yeah.

40 So you've told him twice what the budget is, \$2 million.---Yeah, I must have let it slip out, yeah.

And when you gave that evidence to the Commission back in June, you said, you were wondering when you got back from leave did you let it slip out, that was a very specific memory of getting back from leave and wondering if you'd let the budget slip out, wasn't it?---Yeah, I guess, yeah.

And yet you knew you were given, you'd had very detailed discussions with Mr Thammiah via WhatsApp about this tender, didn't you?---At that time I didn't know I told him that, no.

Well, you didn't forget when you gave evidence that you'd been liaising by encrypted messages throughout 2017, did you?---Sorry? I don't understand the question.

10 Well, when you gave those answers in the public hearing a few months ago, you knew full well that you'd been involved in very detailed day-to-day discussions with Mr Thammiah which covered this period of time and that you'd discussed this tender with him, didn't you?---No, I didn't, no.

And you just made up that evidence about coming back from leave and wondering if you let it slip out, didn't you?---No, I didn't.

20 Because you were communicating with him throughout this period by WhatsApp even though you were on leave, weren't you?---Don't know if I was. I, it's, it's all there. I mean - - -

So when you said you were on leave, that wasn't the full truth, was it? ---Sorry?

When you gave evidence that you were on leave - - -?---I was on leave, yeah.

30 - - - you were trying to distance yourself from having anything to do with this tender, weren't you?---I was on my honeymoon. That's a pretty big ploy to pull, but okay.

On your honeymoon and sending text messages to Mr Thammiah about Novation's tender.---I don't know if I was, if I had left at that point. It depends what dates you're talking about.

40 All right. Well, I'll just take you to page 414. On 31 January, 2018, third blue message, "We're extending the tender to next Friday." 418. You say, you thank Mr Thammiah for something and then he says, "Wicked day. Everyone had a blast. The weather held out. I didn't stick around too long after the speeches. Hope you guys are sleeping in. Take care, bro." So he was referring to your wedding, wasn't he?---Yep.

And was that on Saturday, 3 February?---Yep.

And then you thank him, and at page 419 you tell him, "I notice you left." And then at page 420, 5 February, 2018, you say, "I'm only here at work this week to make sure this tender goes through." See that?---Yep.

So you came back to work the week after your wedding to ensure that this tender went through.---No, I think I had to sign it, though.

And you exchanged messages with him throughout that week. If we could just flick through page 421, 422, 423. And you tell him to quote, on 424, “for 21 chargers”. You see that?---Yep.

And at 426, he asks you whether anyone else from your work was at the wedding. See that?---Yep.

10

And you say, “No.” And he said, “How is he, by the way? Nah, just curious about who he was sitting with.” Who was that a reference to?---Not sure.

Was that a reference to Mr Singh?---Not sure.

And then at page 427, you tell him, “I was meant to invite the team, but decided against it.” See that?---Yep.

20

And you tell him, “Didn’t want drama if someone recognises your name, also, you’re a household name in the branch now.” See that?---Yep.

And then at page 428, you tell him, in the second blue message, “It’s all set for this tender. My job is done. LOL. Fuck, what a slog for two years.” And that’s on 9 February, 2018.---Yep.

30

And then you tell him you’ll get cash from him, “Once we’ve jumped this hurdle, two to 4,000 per week is still reasonable, but we’ll talk later.” And then at 429, he wishes you a happy honeymoon. See, in the week of 5 February, the responses to the tender were coming in to RMS, weren’t they? ---I’m not sure, but yeah, it looks that way.

And the RFQ closed on 9 February, on the Friday.---Okay.

And Novation submitted its tender that day, didn’t it?---I’m not sure, but okay, I accept it.

THE COMMISSIONER: Ms Wright, I’m going to have to - - -

40

MS WRIGHT: I’m sorry, Commissioner, yes, yes, 4.30.

THE COMMISSIONER: All right. We’ll adjourn for the day and we’ll resume at 9.30 tomorrow morning.

THE WITNESS STOOD DOWN

[4.32pm]

AT 4.32PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.32pm]