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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 17 OCTOBER, 2019

AT 2.30PM

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

<STEPHEN ALAN THAMMIAH, on former affirmation [2.32pm]

THE COMMISSIONER: Right, Mr Thammiah. Now, before I forget, tomorrow morning we'll be starting at 10 o'clock.

MS WRIGHT: Could we please have volume 1 at page 309? Mr Thammiah, you see this is your email to Mr Soliman submitting the in-vehicle mounted tablet scoping study report on 11 August, 2016?---Yes.
10 Yes.

And if we turn to page 310, this is the attachment to your email, being the scoping study report. And then turning to page 312, this is a contents page. Do you recognise that?---Yes.

Did you prepare that?---Yes.

On page 313 is an executive summary. Just take a moment to familiarise yourself with that. Did you prepare that executive summary?---Yes, I believe so.
20

And it refers to "extensive field trials on five market-leading ruggedised tablets"?---Yes.

Do you agree that you conducted extensive field trials?---I conducted a field trial but I wouldn't say it was extensive.

So why did you write that it was "extensive" in this report?---It's a word I used in every report.
30

Why did you use a word that was not correct?---It was more in line with just the report, really, and other reports. It wasn't - - -

You did not conduct extensive field trials in your assessment. That's your evidence?---Yes, I would say more than one field trial would be extensive, at least.

So why is it – no, your evidence was you did not in your assessment conduct extensive field trials, so why were you telling RMS and any reader of this report that you did?---I didn't mean for the word extensive to have such weighting. I didn't think of it.
40

You were trying to convey that you'd done extensive work to justify your fee to RMS, weren't you?---No.

It's another example of spin, is it?---If you like.

Do you agree with that?---No. I just call it just grammar, just general jargon that you throw into a document.

Jargon?---Yes.

Page 315 is the project background. It's two pages on. You've given evidence that Mr Soliman would give you project background information.
---Yes.

10 Did he provide all of the information in this section of the report to you?---I don't know.

Is it likely that he did?---It's likely he helped me do this project background, yes.

And would you have written this report together when you were physically together?---Yes. I, I did all my reports at his house.

20 I see. So you did all of your reports - - -?---My scoping study.

- - - on your scoping studies at his house?---Yes.

With him?---Not with him all the time.

THE COMMISSIONER: So you might have been there by yourself?---I was. I mean, he was in the house but, yeah.

30 And when you said you "did all my reports at his house", so all the drafting of the reports you did at Mr Soliman's house?---Yes. Any reports that were done after that split I believe because - - -

After the, sorry, the what?---After I split with my ex.

And I'm just exploring when you said "I did all of my reports". So all the typing, the first draft, second draft or whatever you're doing at Mr Soliman's house?---Yes, but only up until that split I would say because - - -

40 Sorry, after the split?---Yes, because I did, I do remember drafting documents when I did have a house. After that point it was just Samer's.

So when did you split with your wife?---I believe it was end of May/June 2016.

MS WRIGHT: You say after May '16 you did some drafting of reports at your own home?

THE COMMISSIONER: No, I thought it was before.---Before.

MS WRIGHT: Sorry, I've got that wrong.---Yes.

Is it before. So before end of May 2016 you've done some drafting in your own home?---Yes.

And then after the end of May 2016 all of the drafting you did was at Mr Soliman's house?---Yes.

10

And does that include preparation of quotes and invoices?---I wouldn't say the quotes and invoices because they were just one-pagers and you just basically copied and pasted from the last one. They're quite easy documents. I didn't need his assistance.

Where did you prepare quotes and invoices after the end of May 2016? ---Quotes and invoices were just ad hoc. I'd say they were done on my laptop wherever I was.

20 And are you sure about that date, end of May 2016?---Yes.

So for this particular report, which is August 2016, you've done that at Mr Soliman's house. You've prepared that at Mr Soliman's house if I've understood correctly.---Yeah. More than likely, yes. Yes, sorry.

Do you have some uncertainty about that, Mr Thammiah?---Yeah, because I'm recalling from a, yeah. I only have a general perspective of I was in this room doing this work. I don't have any specific memories on any - - -

30 Now this, coming back to page 315 of this report, Mr Soliman provided you with the information in the project background?---Yes.

Is that correct?---Yep.

And did he suggest the word "extensive", which also appears in the final paragraph of this section?---I really can't say.

40 Then if we go over two pages to page 317, you've again used the expression which appears in other Novation reports of "following several meetings and discussions with RMS stakeholders". I take it you were only referring to Mr Soliman and anyone you spoke to at the actual trial?---Sorry. Yes.

And it refers to engineering, design, and fabrication as being a trial requirement. Nowhere in the report do you say that Novation did not do the engineering, design, and fabrication. Do you agree with that?---Yes.

And you've given evidence that you did not do any engineering, design, and fabrication?---Yes.

And you should have indicated in the report that you didn't do the engineering, design, and fabrication, shouldn't you?---Yes.

Because the report conveys that it's one of the things that you've done, doesn't it?---Yes.

10 Then if we go to page 318, which is the next page, you've set out specifications for five different ruggedised tablets. Where did you obtain that information?---I'm not too sure. I would have, I'm not too sure, but it would have been likely that, from the manufacturer's websites.

Did you prepare this table?---Yes, I believe so.

Did you go to the manufacturer's websites?---Sorry, I'm, I'm working backwards to sort of tell you how to get this information, as opposed to having a recollection of doing this table, and sourcing.

20 It's quite detailed information, isn't it?---No, I'd say if you googled this product and look at its product specifications on any number of websites, you'd find something similar.

I suggest it would have taken some time to prepare a table setting out all of these different aspects of ruggedised tablets.---Sure it would have taken some time.

30 And surely you'd remember whether you did prepare it, and you did go to manufacturers' websites?---It was three and half years ago. It's one document. I don't have a specific recollection.

This is not work you've ever done before, is it? Ruggedised tablets?---In what respect?

You've never worked on ruggedised tablets before this project, have you?
---I have.

Where was that?---At Optus. We had ruggedised tablets as well.

40 These particular tablets?---I wouldn't know.

Why not?---Because I don't know whether we used these brands.

So you would have had to look up Panasonic, Durabook, RuggON, Xplore, all of these different websites to get the images, processing information, CPU speeds, keyboard, cameras, weight, all of those different specs for each of these.---Yes.

That would have taken some time, wouldn't it?---I have no idea.

You wouldn't have known that information, you wouldn't have recalled that information from Optus, would you?---No, no, I'm not saying I recall this information from Optus.

And yet you say that you do not recall doing it, preparing this table.---Yes, I don't remember any specific page on this document that I created.

10 No, I'm not asking you about a specific page. Do you recall going to any manufacturer's website?---No, not to my recollection.

And is that because you didn't go to any of the manufacturers' websites to obtain this information?---No, it's because it's been three and a half years, and this is quite an old project.

Well, I suggest you would recall if you'd done it, Mr Thammiah.---(No Audible Reply)

20 Do you have any response?---No.

Then if we go to page 319, which sets out Field Trial Results and Summary.

MR LONERGAN: Sorry, Commissioner, can I just clarify, there was a question and then there was a, "Do you have a response." It's not clear whether the answer no was do you have a response or no to the question that came before that.

30 THE COMMISSIONER: I thought he was asked, "Do you have a response?" And he said, "No, I don't have a response."

MR LONERGAN: Well, he said, "No."

THE COMMISSIONER: That's the way I took your answer, Mr Thammiah. Do you remember Ms Wright just said to you, "Do you have a response," and you said, "No?"---Yes.

That was your answer. And the way I understood your answer was that you were saying no, I don't have a response?---Yes.

40 MS WRIGHT: Now, this page sets out the field trial results summary. Do you see that?---Yes.

Did you prepare the results summary in this report?---Yes.

And you've set out that the study had two parts. Do you recall that?
---No, I don't, but I'm reading - - -

And what were the parts of the study?---Sorry, I could read this out to you but I don't have a recollection off the top of my head.

Just describe to us what the parts of the study were, please.---Sorry, am I supposed to read this document?

10 I'm not asking you to read it, I'm asking you, I've reminded you that you've said here that there were two parts to the study and I'm asking you to describe the parts of the study, the two parts.---Sorry, I only know that there's two parts because I'm looking at this document and it says first and second.

So you have no recollection at all you say about what the parts were?
---No.

I suggest you're not giving - - -

THE COMMISSIONER: Well – I'm sorry, go on.

20 MS WRIGHT: You're not giving truthful evidence, Mr Thammiah. This is not ancient history, this is only three years ago.---Like I said before, my memory isn't something that I can completely depend on, considering the events of the last three years.

THE COMMISSIONER: You gave evidence before lunch that the trial involved RMS personnel using one of the tablets and saying something along the lines of this is good or this is poor, and you wrote those down. Do you remember giving that evidence?---Yes.

30 So I assume that must be one of the parts of the study, mustn't it? It must be one part, sorry, it must be part of the field trial?---Yes, I could presume that.

Well, you gave evidence before lunch that that was what was involved in the field trial. You've just been asked, well, you've said two parts. The evidence you gave before lunch must have been one of the parts, mustn't of it?---That's a logical assumption, yes.

40 So why didn't you, in answer to Ms Wright's question about what was involved in one of the parts, say, well, as I said before lunch, it involved me writing own some comments RMS personnel said when they were using it, can't recall whether that was part 1 or part 2, but that was part of it.---I only recall that there were two parts because I looked at the document on the screen that referenced two parts.

But you gave evidence before lunch about your recollection of what was involved in the field study.---Yes, from a general perspective that's what I recall.

Yes. So when Ms Wright asked you what was involved in the two parts, it must have involved the evidence you gave before lunch of writing down comments from RMS employees, mustn't of it?---Yes.

So why didn't you volunteer that at this stage, why didn't you give that evidence when Ms Wright asked you about the two parts?---Because I was unclear that there were two parts, I've just read the document.

10 No, you're not answering my question. My question is going to, and it follows on from this I can't remember, you remembered before lunch that the field study involved RMS personnel using the tablets, making comments and you writing down the comments. You gave that evidence before lunch. ---Yes.

When you were asked now about the two parts of the study, because of the evidence you gave before lunch that must have been either part 1 or part 2, mustn't of it?---Sorry, Commissioner, I know only that there's two parts to the study because you've clearly shown me this document.

20 Yes. So we agree with that.---Right, but - - -

Those two parts must involve work that you undertook during the trial, right?---Yes, and the detailed information is in that scoping study.

I'm not interested in that. We're asking you about your recollection. Before lunch you recalled that part of the work you did in the field trial was to get RMS personnel to use the tablet, make comments and you wrote them down.---Yes.

30 That was your recollection before lunch.---That's my recollection of the trial, yes.

Why didn't you tell that to Ms Wright when she just asked you about what was involved in either part 1 or part 2? Can you see what I'm getting at? You remembered something before lunch. Now you're being asked some other questions about the field study and you say you can't remember anything when you remembered something before lunch.

40 MR LONERGAN: Commissioner, I object, and the reason for my objection is that there's nothing incongruent with someone saying that they can remember something, i.e. doing particular work, but not knowing that there was two parts to the field study.

THE COMMISSIONER: No, he's agreed that there were two parts.

MR LONERGAN: Only - - -

THE COMMISSIONER: He's given that evidence. What I'm getting frustrated about is the continual "I can't remember" when clearly he did remember before lunch what was in at least part of the work that he did or claimed to do, and I just, it's the disconnect between remembering before lunch and now just doing a blanket "I can't remember". It was three years ago when he had a recollection of work that he did in this study before lunch.

10 MR LONERGAN: Yes, a recollection of work he did in the study, but then saying right now that the only reason he knows that there was two parts to the study - - -

THE COMMISSIONER: I'm not interested in the two parts. I'm interested in when Ms Wright just said to him, he said, "I can't see there's two parts," and she said, "What work was involved in the two parts or what did you do in the two parts?" and he just says, "Can't remember." He would have to, consistent with his evidence before lunch and his recollection, he should have said, "Look, part of it was writing down the comments" but there was just this blanket "I can't remember," and that's what I'm getting frustrated about, Mr Thammiah. It seems that you can remember at particular points and now you can't remember and there's an inconsistency with your evidence. Do you see the point I'm making?---I do see the point you're making. From my perspective I gave that as a generalised comment regarding this trial. I had no idea there were two parts. If I had to say that - - -

30 Not interested in the two parts.---Yeah. So when you asked me to specifically tell you in regards to that initial comment how that work would be separated into two parts or different parts of the study, I can't give that commentary.

40 But you weren't asked that. You were asked what work was included in the parts and consistently with your evidence before lunch I would have expected you to have said, "Yes, look, we did the comments." You might have said, "I can't remember whether that was part 1 or part 2 but that work was involved" instead of just a blanket "I can't remember what work was involved." Can you see I'm just getting frustrated with you that you can recall at one point and now about an hour later you can't recall?---Well, I don't think my recollection had that specific detail in it the first time I said it and I don't think my answers across all the projects have been, you know, in the specific nature that I can't recall. It's just I can't answer this question.

Ms Wright.

MS WRIGHT: Mr Thammiah, before I took you to this part of the report did you know that the study had two parts?---No, I don't remember this report.

And yet you say you drafted this document.---Sorry?

You didn't know that the study had two parts, did you?---I couldn't recall every project that I, every trial that I even did before we started this process so my memory has been, you know, I've been reading documents and going through this process and making a recollection as opposed to knowing exactly what these documents entail.

10 Now if we go to page 319, you've said, or you say you said, on this page, that, "The second portion of the study involves screening trucks using the tablets, running truck scan, and conducting inspections on vehicles as per normal process. Feedback was collated for analysis during and post the trial. The tablets all had a relatively comparable weight, and all felt durable and rugged. In terms of handling, the XSLATE B10," et cetera, et cetera, "were standout favourites." See all of that information?---Yes.

Did you actually draft that?---(No Audible Reply)

20 You physically typed that up?---I have no idea.

It's quite specific knowledge, isn't it, about what occurred?---Yes.

And there's an opinion, an expression of an opinion, about what tablets were the "standout favourites".---Yes.

And you say that you drafted that, do you?---Yes, I've said from – look, I, I did all of these reports, oh, well, most of these reports were finished in his house, and his room, on his computer.

30 You remember that?---I remember that from a general perspective of doing this work. I don't have any specific memory of doing any particular project.

Well, I suggest your lack of, or your claim of lack of memory, is just not credible.---I don't see how anyone is supposed to remember documents from three and a half years ago.

40 You're being asked – you're claiming a total lack of memory about every detail in the reports that I'm taking you to.---You've taken me to a sentence in a whole document.

THE COMMISSIONER: Sorry, do you agree with that proposition?
---Sorry. Can you please repeat the question?

MS WRIGHT: You're claiming a lack of recollection of every detail that I'm taking you to in the reports.---No, I believe I'm answering your questions as truthfully as I can. You're asking questions that I can't answer. That's it.

Okay, well, we'll keep going. So the tablets all had a relatively comparable weight. Do you recall that about the tablets?---No, but I mean, it's a tablet, so comparable weight is kind of objective.

Do you recall that all felt durable and rugged?---I mean, they're ruggedised tablets.

10 It says, "In terms of handling, the XSLATE and the two Panasonic models were standout favourites, due to their ergonomic rear handheld strap." So did you handle each one?---I can't remember these tablets.

And did you consider that they were standout favourites?---I really can't remember that.

Did you, do you recall their ergonomic rear handheld strap?---No.

And you say that they "came equipped with detachable keyboards, which users all confirmed is an advantage". You see that?---Yes.

20 What did your reference to "users" mean?---As in RMS personnel.

And how did you get -- are you asking me?---That's my interpretation of the word "users" in this document.

You don't even recall what "users" means.---Sorry, I beg your pardon?

You sound like you're speculating about what the meaning of "users" is, Mr Thammiyah.---I've already - - -

30 What did "users" mean?---"Users" mean the RMS personnel.

Okay, so that's what you meant. How did you get their comment?---I believe this trial was conducted with RMS personnel.

You're not sure about that?---No, that's what I recall. But I - - -

And how did you get their comments?---Verbally.

40 You've indicated here, "The users all confirmed that the detachable keyboards is an advantage over wireless keyboards used by the other devices," and I'm asking you how did you get the users' comments, to put that in the report there?---It was communicated to me onsite.

Why are you shrugging?---Because I, sorry, I, I just think - - -

THE COMMISSIONER: You're being asked questions. If you can just answer them, please.---Yeah. Oh, is that okay? Have I answered that question, or - - -

MS WRIGHT: Well, not with much confidence, I suggest. How did you get their comments?---Verbally.

Who did you ask?---I have no idea who was onsite.

How much people did you ask?---Sorry, I don't know.

10 You don't, you have no idea how many users you're referring to in this report, when you say that they confirmed that the detachable keyboard is an advantage over wireless keyboards?---Yes.

You do have an idea?---No, I don't.

You have, you can't even provide an approximation?---Two to three.

And who took the photos on page 319?---Sorry, I - - -

20 Sorry, it will come up on the screen. I apologise.---Yeah, I have no idea. It could have been anyone onsite. Could have been me.

You didn't take them?---No, I'm not sure.

Did you take them?---I have no idea.

You have no idea who took them?---No.

30 How did you get them?---After a trial is, after any trial is completed we would collate any photos from vendors or users and myself and then we would use it as, as fit.

So you never took any photos yourself?---I said I would take photos as well.

So sometimes it was you, sometimes it was others?---No, I'm sure it was everyone that participated in the trial.

And you've used some photos in your report. Did you select the photos that should go in the report?---Yes.

40 Were these photos taken at the trial?---I'm not sure. The first one kind of looks just like a reference photo, it just looks like it's showing a user kind of like, stopping a truck, kind of in motion. It might just have been a good photo.

You don't recognise the man?---I do recognise the man but I don't know his name.

So you're not sure whether that photo was taken at the trial?---No, not that particular one. It's very, I guess it's not, it's not obvious which trial this could have been.

And how did these photos come to be selected for this report?---As in?

It's your report, how did these photos come to be selected to be inserted into this report?---That would have been part of the process of creating this document, collating photos and using them.

10

How did they come to be selected?---I have no idea. Probably using the best photos available.

Who chose them?---Me.

So you had a broader selection and you chose these particular ones?---I have no idea if there was a broad selection.

20

Page 320 you've said, "All tablets under KPI 1 have the ability to be in-vehicle mounted, however they require an Australian Design Rules certification to ensure best practice safe mounting standards are adhered to." How did you know that?---Australian Design Rules certification?

How did you know that?---Because I was informed.

By whom?---By RMS.

By whom?---I can't remember.

30

Would it have been Samer Soliman?---It's likely.

Did you know what that meant, an Australian Design Rules certification?
---Yes.

Did you have any idea what the content of that certification is?---No.

So it was just information you were told to put in the report?---No, it was a process to actually have an in-vehicle mount, you had to pass this regulation in order to certify so that you could use it in production.

40

And that involved safe mounting of the tablet?---Yes.

And had you quoted for mounting?---Yes.

And you didn't have any training on best practice safe mounting, did you?
---No, no.

No, but you didn't do the mounting in the end anyway, when you quoted for it you knew you didn't have certification? I withdraw that, I withdraw that suggestion. Now, KPI 2, "There was a distinct difference," you say in the report, "between the tablets when it came to visibility under direct sunlight." What was the distinct difference?

MR LONERGAN: Commissioner, I just raise objection on the basis that Mr Thammiah has said when he was asked by Counsel Assisting that he has no recollection of this project. That was his evidence.

10

THE COMMISSIONER: I don't know if he said that he had no recollection of the project.

MR LONERGAN: Sorry, of the report and constructing the report.

THE COMMISSIONER: Ah hmm.

MR LONERGAN: And so now to go through each line item of this report and put each individual proposition within it is, you know, in light of the answer that he has no recollection of the content of the report is, well, you've already got the answer and going through each piece of it is then just a reaffirmation of lack of memory. I don't see the utility in the questions going through that when you've already got the answer as to the entirety of the report.

20

THE COMMISSIONER: Sorry, Ms Wright, do you have - - -

MS WRIGHT: Well, Commissioner, I've put to him that his lack of memory is not credible and in those circumstances and where a submission may be made which I'm exploring that, that he is asserting or claiming a lack of memory about any detail. I'm taking him to the details in order to test whether that's a genuine position.

30

THE COMMISSIONER: I'm going to allow, Mr Lonergan. As I put to Mr Thammiah just a while ago, he had a recollection of part of this trial before lunch which then seemed to disappear after lunch. I have concerns with his often blanket response of "I don't have any memory." I will allow Counsel Assisting to test that and to go to specific parts.

MR LONERGAN: If it please the Commission.

40

MS WRIGHT: Do you see here under KPI 2 visibility in sunlight, an expression of an opinion, Mr Thammiah, that there was a distinct difference between tablets when it came to visibility under directly sunlight? Do you see that?---Yes.

Do you recall forming that opinion?---No.

Do you recall who prepared the table appearing under KPI 2?---I presume it's me.

You presume but I'm asking do you recall preparing it?---I said I do recall but only from a general perspective.

So you recall preparing that table?---No, I recall preparing the document.

10 Do you recall generally the information in that table about maximum brightness, screen resolution, pixels, screen size, display type?---Not at all.

So you have no recollection whatsoever of the content of that table?---No.

Well, I suggest if you prepared that table you would recall generally some of the information in the table.---Well, I don't agree with your suggestion.

20 Do you maintain that you have no recollection at all of that table and the contents, not even in a general way?---There's a lot of tables I've looked at in my life and forgotten. This is one of them.

Now, did you expose these items to direct sunlight?---Yes.

What did you do?---We used it in direct sunlight.

THE COMMISSIONER: No. Well, who did?---During the trial?

No, no, no, no. Who did it? How did you do it?

30 MS WRIGHT: Well, you've said you did it. How did you do it?---During the trial the tablets were exposed to direct sunlight.

THE COMMISSIONER: Yes, but how did you do it? You might be stating the obvious - - -?---Sorry, you - - -

- - - but how did you do it?---Sorry, you turn it on and have a look at the screen and see how it does indirect sunlight.

MS WRIGHT: You did that, did you?---I can't recall.

40 You can't recall exposing them to direct sunlight?---Yes.

Not even once? Not even in relation to one of them? Can't recall standing under the sun with it?---I am saying I recall doing the trial in direct sunlight but as for that specific notion that I was exposing them to direct sunlight in order to get a response I don't remember that specific outcome.

I'm not talking about the outcome. I'm talking about the action of you exposing them to direct sunlight.---Okay. I don't remember that specific action.

Not at all. No recollection whatsoever. Is that what you say?---Yes.

I suggest that's because you didn't do it as you claim that you did. Is that the truth of it?---No.

- 10 Then we go to page 321 and you say that under KPI 3 that "All five of the trial ruggedised tablets have an IP65 rating which means it's protected against dust and low pressure water, splash proof from all directions. The following tests were performed to validate the IP65 rating. The units were placed outside for 30 minutes in rain. The units were exposed to a splash of water." Now, did you place the units outside for 30 minutes in rain?---No, I don't remember performing this KPI.

You don't recall, but did you do it?---No, I don't think I did.

- 20 So you didn't expose them to 30 minutes of rain?---No.

Did anyone else do it?---No.

So how is it that, or why is it that you've said in your report that you did, or that it was done?---My intended purpose was to purchase these ruggedised tablets and perform this KPI specifically. I didn't get to do that, and was, I guess, informed that I could get this information online and compare the water resistance in that, in that way.

- 30 So you made a false statement in this report, do you agree, in stating that, "The units were placed outside for 30 minutes in rain"?---Yes, that is a false statement.

It's entirely untrue, isn't it?---Yes.

And, "The units were exposed to a splash of water," is that statement also untrue?---Yes.

- 40 THE COMMISSIONER: You said that you were informed the material could be obtained online. The material you're talking about are the results that are set out at 321?---Yeah, under that KPI, yes.

And who informed you that the material could be obtained online?---Samer.

So you told him that you hadn't performed this part of the scoping – sorry, that you hadn't performed this part of the field study?---Yeah, I remember him, I remember the purchase of the ruggedised tablets, being associated to

this KPI, I'm being advised that I don't need to purchase them, and that's where the previous comment about reducing the - - -

No, no, no, no, no. But you said that you were informed - - -?---Yes.

- - - that the material or the data or weightings in respect of KP13 could be obtained online.---Ah hmm. Yeah.

10 Mr Soliman provided you with that information. You've just given that.
---Yes.

And did you inform him that you hadn't performed the tests set out under KP13?---Yes, I believe, yes, he knew.

MS WRIGHT: This page about water resistance, page 321, do you maintain your evidence that you drafted this page?---Sorry, my evidence was that I drafted this document.

20 So the answer's yes?---In regards to this document, yes.

And in regards to this particular page, page 321, do you maintain your evidence that you drafted this page?---I don't have a specific memory of this page.

Well, you've given evidence that you drafted the document. The document includes this page, doesn't it?---Yes.

30 And so is it your position that you drafted this particular page?---I guess if it's, you know, relating to the first in that response, then yes.

Why is it "I guess"? You're assuming, are you, that you drafted it?
---Because that's my recollection of a generalised sense, I'm giving you my honest feedback.

THE COMMISSIONER: We don't want honest feedback. We want honest evidence.---Honest evidence. Sorry.

40 MS WRIGHT: Now, "IP codes are a standard set forth by the IEC." That's the next sentence. Where did you get that information?---Likely online.
I'm sorry, I don't know where that information specifically was - - -

What's the relevance of that information?---(No Audible Reply)

What's it mean?---Sorry, I'd have to read that to sort of go into, I don't have any recollection.

No recollection of how that's relevant to be stated in a report on ruggedised tablets?---No, it's, I believe it's regarding intrusion prevention and it's just

stating where the codes are kind of, where the guidelines for the codes are coming from.

And you don't know where you got that, other than somewhere on the internet?---I'm presuming that the information was sourced from, yes, the internet.

10 But you can't tell us where on the internet specifically, the internet being a large place, a large source of information?---No, I can't recall the specific website.

You can't even recall going onto the internet, can you, because you said you presume that it was from the internet?---Yes, because I got the majority of my information from online.

You got the majority of the information in this and other reports from the internet. Is that what you say?---I got my majority of information, yes, online.

20 And the opinions expressed in this and other reports, did you also get them from the internet?---Sorry, the opinions expressed?

Yes, yes.---I can't answer that. I mean I did get information from the internet but I have no idea if I used anything, you know, like for like or borrowed phrases, I have no idea.

30 Now, going over to page 322, KPI 4, "Drop shock resistance, M-i-l." Sorry, that will come up on the screen. What can you tell us about drop shock resistance and how that was tested?---I can tell you it wasn't tested.

It was not tested?---No. This would require purchasing the equipment again.

40 And when you say in this report, "The drop resistance of all the tablets met RMS requirements but the Panasonic SCF20 was the standout, achieving the highest shock resistance at six feet," how did you come to include that information if the drop resistance was not tested?---Sorry, this is a, the drop shock resistance is a, I guess a standard test that they do have information on in regards to ruggedised tablets.

THE COMMISSIONER: Sorry, who's "they" have information on?
---Sorry, each manufacturer.

MS WRIGHT: So this was information you got from the manufacturers, was it?---Yes, more than likely, or associated website.

But you don't know?---No, I don't.

No recollection where you got this information?---No.

And is it the same for the battery life, you have no recollection on the source of the information?---No.

And then over the page at 323 - - -

10 THE COMMISSIONER: And, sorry, down the bottom of 322 you have, “As the above data predicted, certain models performed the best in terms of battery life during the field trials.” Is that based on any empirical work that you did?---Yes, that would have been. The battery life is a simple metric sort of measure.

But it’s based on something – sorry, I shouldn’t have put it that way. The comments you made at the bottom of 322, what do you rely upon in expressing that opinion?---So I’m just looking at the data and - - -

Okay.---Yeah.

20 MS WRIGHT: So the opinion the XSLATE Panasonic and other Panasonic performed the best, how did you form that opinion?

THE COMMISSIONER: I think he said he looked at the data.

MS WRIGHT: I see.

THE COMMISSIONER: Which is the data, the battery life comparison? ---Yes.

30 MS WRIGHT: So anyone could have done that, just gone online and checked the battery life from the manufacturer and compared them. You didn’t do any particular testing of battery life yourself?---No, I can’t recall battery life, the battery life test, but because it’s such a nominal test I presume it was accomplished on trial.

But you had no part yourself in testing whether the battery life complied with what the manufacturer said?---Sorry, I believe they were tested but I have no idea if they were tested against the, the manufacturer’s stated deliverances.

40 Well, why do you have a belief that they were tested? A belief based on what, Mr Thammiah?---Based on the fact that the trial was conducted.

THE COMMISSIONER: Sorry, with battery life, you’ve got here, “Battery life comparison,” and you’ve got some data in that table.---Yep.

And I have assumed that that material has come either from the internet or from a manufacturer’s website?---Actually, I’m not too sure.

Did you actually – did you test batter life during the field trial?---I'm making the presumption – sorry. My recollection is just of the trial being conducted.

You have no recollection of testing the battery life during the trial?---Not specifically. No.

10 How would you test it during the field trial?---I guess you would look at how they perform throughout the day.

MS WRIGHT: So if you were going to test battery life, you would turn it on and you'd see whether it stayed on and for how long. Is that what you mean?---Yes. You would have to have a similar operating system program, sort of, running to have a similar sort of CPU realisation and then you could, then you could probably test battery life a little bit better.

20 And you didn't do that in this trial yourself, did you?---Sorry. I have said I can't recall most of these, so I - - -

You can't recall anything about this trial, can you?---I did say that at the start, I could only recall from a general perspective about this trial.

And you gave evidence that you do recall the inspectors or someone giving data and you noting down data?

THE COMMISSIONER: I think it was just comments.

30 MS WRIGHT: Comments.---Yes, that's what I recall.

So you do recall being there and getting comments?---Yes.

Do you have a specific recollection of that, that you were there?---No. I have a general recollection of that. That's why I said it, it's a really hard study, or really hard scoping study or trial to recall because at every trial there was a ruggedised tablet with personnel in there and I was getting feedback from it all the time.

40 And what about your recollection of the preparation of this report? Do you have any specific recollection of preparing this report?---No. Some of the tables kind of, you know, they look very familiar but I don't have any specific recollection.

Do you have a recollection of receiving the report or sending yourself the report from Mr Soliman's personal email address - - -?---No.

- - - on 19 July, 2016?---No.

So it's possible Mr Soliman sent it to you, isn't it?---It's possible.

And then you sent it to RMS on 11 August?---Yes.

Do you have any recollection of taking the report to him and giving it to him to have a look at?---No.

10 Do you think that happened, that you took it and gave it to him for him to look at?---My recollection of all the scoping studies and trials was that they all followed that same pattern.

What pattern is that?---That I would always be at his house finishing these reports.

And so you would do the reports at his house?---Yes, but only specifically that location after, at the end of May 2016. Before that, it was both locations.

20 And when you did them in both locations, did you ever take a report over to his house from your house?---As in take a draft, yes.

And how would you take it there?---Either on USB or on my laptop. Or I could have emailed him but I, somehow I don't think I have emailed him.

And what's your recollection about this report and how it was drafted?---I don't have a specific recollection of any of the reports being drafted.

I have a variation application. 4 December, 2018, page 95.

30 THE COMMISSIONER: Sorry, can you give me that again? 4 December.

MS WRIGHT: Page 95, line – I'll just, line 38, or perhaps, sorry, Commissioner, line 42 to the end. And that's it.

THE COMMISSIONER: Sorry, so 95, line 42.

MS WRIGHT: Yes, to 47.

40 THE COMMISSIONER: Seven. I'm just wondering whether you would also require lines 11 to 14, just to put in context the report.

MS WRIGHT: Well, yes. Yes, yes.

THE COMMISSIONER: All right. The order under section 112 of the Independent Commission Against Corruption Act is varied to exclude the evidence of the witness, Mr Thammiah, given on 4 December, 2018 to exclude his evidence recorded in the transcript page 95, lines 11 to 14 and lines 42 to 47.

VARIATION OF SUPPRESSION ORDER: THE ORDER UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT IS VARIED TO EXCLUDE THE EVIDENCE OF THE WITNESS, MR THAMMIAH, GIVEN ON 4 DECEMBER, 2018 TO EXCLUDE HIS EVIDENCE RECORDED IN THE TRANSCRIPT PAGE 95, LINES 11 TO 14 AND LINES 42 TO 47.

10

MS WRIGHT: Mr Thammiah, you gave evidence on 4 December last year and you were asked a question, "Can Mr Thammiah be shown a document dated 19 July, 2016, which is an email from the ducktape email address of Mr Soliman to Novation Engineering attaching an in-vehicle tablet scoping study. Can you explain what might be happening here?" Answer, "He's sending me my scoping study." Now, I'll just pause there. If we could have volume 18, page 137. This is the email, Mr Thammiah, that you were shown during your private hearing in the Commission. Do you recall that's the one from Mr Soliman's personal email address?---Yes.

20

And in your answer to the Commission, you said, "He's sending me my scoping study." So it's your evidence, isn't it, it was your evidence that he sent that email to you.---Yes.

30

And that's the case, isn't it? He sent that email attaching the scoping study report on 19 July to you. You didn't send it to yourself from his house. He sent it to you. That's the case, isn't it?---No, look, I said this previously, that it could have been me. That's because it could have been. I don't have a specific recollection of him sending this. I'm taking it for granted that it's his name sending it to me.

Well, you said to the Commission in December that he was the person who sent that email.---Yeah, because I'm seeing his name addressed to me.

And he did send it to you, didn't he?---As this email reads, yes.

40

So when you suggested in your evidence today that it might have been you who sent it to yourself, that didn't apply to this particular project, did it? ---No, I, it would be, it would be wrong of me to suggest that I know specifically which email I sent to myself, but I do recall sending emails to myself from his laptop.

But not on this particular occasion, I suggest, as you told the Commission - -
-

THE COMMISSIONER: Under oath.

MS WRIGHT: - - - under oath in December last year.---It was wrong of me to specifically target this email, yes.

When was it wrong of you to specifically target this email?---Because I don't have a specific recollection of what - - -

But what do you mean by it was wrong of you? When was it wrong of you? What are you saying?---On the 4th of – well, when I previously gave evidence.

10

So your evidence under oath in December was false?---Yes, on this particular – yes.

Then you've been asked in December, "Is this the feedback you were referring" – I'm sorry, I withdraw that. You were asked, "So your recollection is you took a physical copy of your report over to Mr Soliman?" Answer, "Yeah." Question, "And said, 'This is the report so far?'" Answer, "Yeah." Question, "And then he emailed it back to you?" Answer, "Yeah." Now, you've told the Commission something quite different today in relation to how this report came into existence. In fact, you say you can't recall, you presume that you prepared it and yet you said in December that your recollection was that you took a physical copy of your report over to him and said, "This is the report so far," and then he emailed it back to you. ---Yes. That was my evidence.

20

Well, which one is it?---So are you asking me - - -

THE COMMISSIONER: You've given two different accounts.---Yes, I have.

30

Both under oath.---Yes.

And I think Ms Wright is asking which one is the true one?---I believe, I, I know that I am speaking from a much more balanced perspective right now. I don't think, I think I tried to answer the questions as best I could back then but I was dealing with quite a lot and so some of these answers will differ. This is one of those.

MS WRIGHT: And when you said your recollection is you took a physical copy of your report over to Mr Soliman, when you said that in December, were you just making that up?---I don't believe I was making it up. I do believe I might have misheard your question.

40

It wasn't my question. You may have misheard the question?---I'm sorry, could you repeat that?

THE COMMISSIONER: Ms Wright wasn't asking you the questions on that occasion.---That was just a statement?

No. Somebody else was asking the questions on that occasion.---Oh, my apologies, my apologies.

MS WRIGHT: So you say you misheard the question, do you?---(No Audible Reply)

10 Is that what you said?---I, I did obviously give a false answer there but at the time I didn't know it was false. I'm just trying to answer your questions now.

But aren't you just making up your questions insofar as the preparation of -
- -

THE COMMISSIONER: Making up your answers?

20 MS WRIGHT: I'm sorry. I withdraw that. Aren't you just making up your answers concerning the preparation of this scoping study report as you go because you're seeking to hide the truth of the matter which is that Mr Soliman substantially prepared there report and provided it to you for you to send on to him at RMS?---No.

Now, in relation to this study, it's just one more document I want to take you to and that is at volume 1, page 299. Do you see here an – oh, not quite yet. Do you see here an email of 17 June, 2016, from Mr Soliman to Novation, saying, “Here is the quote for the new in-vehicle mounted tablet scoping study so you can create the invoice accordingly”?---Yes.

30 Now, you did not have the quote at that stage, did you?---Sorry, I have no idea.

If we just turn to page 300, that's the attachment to his email, do you see that? Quote 94.---Yes, yes.

Setting out the scope of works. And at page 301, the cost, \$83,950, excluding GST.---Yes.

40 And then we go back to page 299. Is it possible that Mr Soliman developed the quote and sent it to you?---No.

To assist you to prepare the invoice for this project?---No, I don't think so.

Why would Mr Soliman be sending you the quote, Mr Thammiah?---I have no idea.

You see, there's no evidence of you ever submitting a quote for this project. Do you understand that?---There's no quote ever submitted to Roads and Maritime?

There's no evidence of you submitting a quote. That is, an email from you saying, "Here is my quote," or "Please find attached Novation's quote." You understand?---Yeah.

And this email suggests that Mr Soliman sent you the quote to inform you as to the information you should include in your invoice. Do you understand?---Sorry, I, I understand the, I understand what he's saying here but it doesn't make any sense.

10

Well, is that what happened, that he sent you the quote, a quote which you did not prepare, and that on the basis of that you prepared Novation's invoice?---Sorry, I have no recollection of this quote.

Because you sent an invoice to RMS on the very same day as he sent you this email, 17 June, 2016.---Yes.

Why would you need the quote to be sent to you by Mr Soliman on 17 June?---I have no idea. I could have prepared it at his house.

20

You didn't prepare this quote, did you?---I have recollection of doing my quotes and invoices and scoping studies. I have no specific recollection of this quote.

You have no specific recollection of preparing this quote at page 300. If we could have that back for the witness, please. Is that what you're saying? ---No, I have no recollection of him doing any quotes, so I am taking responsibility for my quotes and invoices because they're a reflection of Novation's work.

30

Well, no, that's not what you're being asked. I'm asking you whether you have a specific recollection of preparing the quote yourself.---This quote? No.

And when you say because you don't remember specifically Samer preparing the quotes, you will take responsibility for preparing the quotes? ---I have to. I recall creating invoices, creating quotes, doing scoping reports.

40

Is that the reason your evidence is that you prepared all the documentation? ---Yes, because that's what I recall doing.

I see. So it's not just because you don't remember him doing it. It's because you remember doing it yourself.---Yes.

And you specifically remember sitting at a computer preparing the documentation, do you?---Yes, from a general perspective, yes.

Including this quote?---This quote is included in all of the documentation.

How did you know how to quote for this project?---I would have got the scope of works and worked it out from there.

And the price, would Mr Soliman have approved the price that you quoted?
---He wouldn't have, would not have approved but he would have suggested. He would have made suggestions about this project and the associated price.

10

I see. So he would have suggested how much you should quote for the project - - -?---Yeah, he might have - - -

- - - is that what you say?---Yes.

20

Well, I suggest that you know full well that Mr Soliman created the quote, and that he also substantially created the scoping study report, and that's why he has sent you both the quote and the report from his email addresses, and that your claim of a lack of memory about this project is not a genuine one, Mr Thammiah. But you maintain your evidence about the preparation of these documents?---Yes.

And you always sent quotes on the expectation that Samer would approve the quotes, didn't you?---I beg your pardon?

You always sent your quotes for the scoping studies on the expectation that Samer would approve them, didn't you? Samer Soliman.---Well, I was asked to provide the quote for that reason.

30

And you expected that they would be approved by him.---Not by him.

Okay. Well, you expected they'd be approved, didn't you?---Yes.

Because you never had a quote knocked back for a scoping study as being too high, did you?---No.

Now, you came to be IRD's distributor in New South Wales of PAT scales. Do you agree?---Yes.

40

And how would you describe the way in which Novation came to be appointed by IRD as distributor of scales, its distributor?---A band-aid solution?

How would you describe the way, that is, how did it happen that you, Novation, with no prior experience in portable weigh scales - - -?---Mmm.

- - - apart from participation in a portable weigh scales study, do you say you came to be appointed by IRD?---Well, the opportunity arose because the licence was, was given up by the previous company - - -

And how was the - - -?--- - - - ELWC.

Sorry. Didn't mean to cut you off. How was the opportunity, how did the opportunity arise for you, what happened, what was the process?---So, I guess I was informed that - - -

10

By whom?

THE COMMISSIONER: By whom?---By Samer, that the opportunity arose to take on this licence, because of the previous vendor's sudden departure. And, yeah, it was painted to me as an opportunity to actually move into a different space and take on more work, and more, yeah, more responsibility.

20

MS WRIGHT: When you say the other vendor's departure, did he actually say to you that the other vendor had stopped doing work for RMS?---Yeah, he said he'd pulled out completely from the maintenance as well.

See, the evidence indicates that that didn't occur until well after you were meeting with and corresponding with Mr Malhotra. So isn't it the case that Mr Soliman had conversations with you about you taking over as distributor for IRD at some earlier point, or do you say Mr Soliman told you, the first time he raised this with you, that the previous vendor had stopped doing work from RMS?---He never raised it as my opportunity, or an opportunity, but he definitely highlighted the issue that he had with this specific vendor.

30

So your - - -?---Sorry, I don't think I answered your question.

Your evidence is he told you there was an issue with the other vendor, not necessarily that the other vendor had stopped doing work for RMS.---Yeah, I believe I was only introduced to Rish and this opportunity when IRD, when Glen actually, or ELWC pulled out of that contract.

40

THE COMMISSIONER: And sorry, what do you base that on?---From my recollection I, I can only recall this sort of information around meeting, around the time meeting Rish.

But who told you, was it Rish who told you, was it Mr Soliman who told you or what, or did you speak to Glen yourself?---No, Mr Soliman told me, yeah.

MS WRIGHT: And how soon after Mr Soliman told you about this opportunity did you meet with Mr Malhotra?---I can't recall any specifics about time frames.

Well, do you recall that you had recommended the HAENNI scale, and that was in May 2016, and I took you to that this morning?---Yes.

And you said that it was sometime after that that Mr Soliman talked to you about becoming an IRD distributor.---Yes.

And then you met with Mr Malhotra before sending him your prospectus, didn't you?---Yes.

10

A couple of times?---I thought it was just the once.

I see. And that was in Sydney?---Yes.

And was Mr Soliman present at that meeting?---Initially he did an introduction and then he left us.

It was only you and Mr Malhotra thereafter?---Yes, I believe so, yeah.

20 Did you ever meet with Glen Doherty?---No.

Now, you signed a non-disclosure agreement with IRD, didn't you?---Yes.

And that was on 28 August, 2016?---Yes.

And before you signed that agreement you provided your Novation prospectus, didn't you?---Yes.

30 And did Mr Soliman prepare that prospectus?---No. He definitely helped though.

What did he do by way of help?---He provided that template.

Didn't he prepare it in relation to the Novation information in it?---No. He told you he did, didn't he, by WhatsApp?---Oh, yeah, that WhatsApp message does sort of give you that indication.

40 You were following the proceedings in the last two days?---Yes.

And you're familiar with that message?---Yes.

And he says, "The résumé that I prepared," didn't he?---Yeah, he did.

Or, "That I made."---Yes, but I can't remember his words.

And that's because he made it, didn't he, the Novation résumé, he made it.---No. I believe he took credit for a lot of things that he didn't do.

Are you referring to his evidence?---I'm referring to those messages and a lot of their content.

Are you saying that in his evidence you think he took responsibility for things he didn't do? Is that what you're saying? What did you mean by that answer?---Sorry, I just meant that he can say one thing but I don't recall that happening and I think that he took credit for a lot of things that he didn't actually do.

10

So you prepared the information in the prospectus, did you, based on a template he gave you. Is that what you say?---Yes.

If we could have the prospectus at volume 18, please, at page 178. See an email here from you to Mr Malhotra on 20 August, 2016?---Yes.

Now, if we just turn to the next page, what parts of it did Mr Soliman draft, if any, any of it?---No. I think he might have helped with some of the wording but that's about it.

20

Which wording did he help with?---I can't remember any specific wording.

Mr Thammiah, you're saying he helped with wording. Is that your evidence, that Mr Soliman helped with the wording?---Yeah, definitely.

Which wording?---Look, I'd be lying if I said I remember any specific words or sentences.

30

All right. Now, where it says, "Clients, Roads and Maritime Services December 2012 to the present," that was not true was it?---Beg your pardon?

That is not a true statement - - -?---Sorry, could you repeat the question?

It says "Clients, December 2012 to present, Roads and Maritime Services." That was intended to represent that the client, RMS, has been Novation's client since December 2012, wasn't it?---Yeah, I didn't even notice that.

40

And that's a lie, isn't it? It's not true, it's false.---Yeah, that date is wrong.

And you knew that at the time, didn't you?---No.

And by that statement you were intending to give the company credibility with IRD, weren't you?---No. A quick search on the company would tell you when it was incorporated.

And did you expect IRD to do a company search, did you?---I expect them to do their due diligence before selecting a new partner.

So it didn't matter that this was a lie?---That's a mistake if anything, yes.

Oh, I see. A mistake. And you know it to be a mistake, do you?---Yes. Because the company was only created in 2015.

Did you make that statement, did you insert those words, 12/2012 to present?---Yes. Likely I put the wrong date in there.

10 And where it says, "Enforcement programs managed, delivered for RMS," and it goes on to talk about under-vehicle enforcement camera program, delivery, maintenance, calibration legal certification.---Yes.

Maintenance was a misleading statement, wasn't it?---Yeah, should have been support but, I mean - - -

You weren't doing any maintenance for RMS, were you?---Sorry, as far as the under-vehicle camera project, the purchase of those under-vehicle cameras goes, I did provide that maintenance and support.

20

What maintenance and support?---Sorry, that was in the contract.

What did you provide by way of maintenance and support for the under-vehicle cameras?---Sorry, I think I, I am reading this as responsibilities as opposed to outcomes.

I see. So you didn't actually provide maintenance for the under-vehicle cameras or any other camera program but this was intended to refer to a responsibility that you considered you had. Is that what you mean?---Yes, I did, under the quote.

30

THE COMMISSIONER: So a responsibility you had that you couldn't perform?---Sorry, I could perform it but it was never asked of me.

How could you perform maintenance? You didn't have the ability to maintain, did you?---There were only 20 cameras purchased.

Yes but you didn't have the expertise to maintain them, did you? Have you got expertise in maintaining under-vehicle cameras?---No. I've got expertise in electronic equipment and it's a piece of electronic equipment. So when I was tasked to take on the maintenance and support for it, I was happy to, because I knew I could do the work and if I really couldn't do it myself, I could get a third party as well but it was only 20 cameras that I needed to support.

40

MS WRIGHT: You were intending to convey by this prospectus that you were actually conducting maintenance for RMS, weren't you?---No, I was only conveying my responsibilities.

Do you see how this document may convey to a reader that Novation Engineering is actually doing maintenance of under-vehicle enforcement camera programs for RMS? Do you agree with that?---Sorry, could you repeat the question?

10 Do you agree that this document to a reader might convey that Novation Engineering, or would convey that Novation Engineering is actually doing maintenance?---Yeah, I think if you look at these titles and these words, I mean, you need to expand on this what, like, there needs to be some probing questions after you read this document.

And you intended to convey that to IRD by sending them this document, which refers to maintenance, that you were actually doing it.---No, I, no, I intended on them coming back to me.

They did come back to you, didn't they?---With questions.

20 Yes. Many questions. And you told Mr Malhotra that you were an eight-person extended team with various capabilities and skill sets, didn't you? ---Yes, I believe I did say that.

And who were the eight persons that you were referring to?---I was referring to contractors that I worked with.

Who were the contractors?---So I did refer to my cousin as one of those contractors, but - - -

30 THE COMMISSIONER: Who's your cousin?---Oh, sorry, not as a contractor but because he was one of (not transcribable) on the books.

Who was your cousin? Name?---Karasen Naidu.

And he was on the books? That's your evidence, that he was on Novation's books?---Yeah, because, yeah, it was supposed to expand into a business development role. But I would basically just use the fact that I was working with all these other entities.

40 And, sorry, who were all the other entities?---Basically I used, like, the thermal vehicle scanner, the in-the-vehicle dimension scanner.

Sorry, so the thermal vehicle scanner, you're saying you were working with another entity, is that what you're saying?---No, but they were, I guess they gave me that opportunity to work with them.

MS WRIGHT: Who? Who did?

THE COMMISSIONER: The vendor of the thermal vehicle scanner?
---Yeah.

What, when you went and did a study?---No, because I ended up going back to their workshop and discussing other projects with them. They were very interested. So I, I definitely used them.

MS WRIGHT: The under-vehicle camera provider, is that what you're referring to?---Yeah.

10

THE COMMISSIONER: No, I think it was the thermal vehicle scanner.

MS WRIGHT: Sorry, the thermal vehicle scanner. And - - -

THE COMMISSIONER: So you went back to their workshop?---Yeah, but I also had Hamish and his crew.

20

Who's Hamish?---Sorry, Hamish was the guy that actually did the maintenance for ELWC and RMS effectively. So they were using a third party to, yeah, complete that, so that capability came across to me.

MS WRIGHT: And in no sense were they part of Novation's team, Mr Thammiah, were they?---No, but I used them as contractors.

And they're not part of Novation's team, which is what you told to Mr Malhotra when he asked you for details after he received this prospectus. ---But I thought it included the comment to, to reflect that.

30

No, I suggest you didn't. But we'll come to that.---Okay.

Coming back to this, see how it says, "Roads and Maritime Services compliance operations enforcement programs managed/delivered for RMS" in blue font?---Yes.

Managed/delivered suggests that you're actually doing all of the things listed under the bullet points, doesn't it?---Sorry, that's open to interpretation.

40

I suggest that's the interpretation that you intended to convey, that you were actually managing and delivering things including maintenance.---Yeah, I think it should, like, you know, it should read "enforcement trials".

All right. And you weren't doing calibration or legal certification, were you?---No, it was only an undertaking to research those points under that particular study.

And you didn't do any actual research, did you, of calibration or legal certification?---Sorry, in regards to the under-vehicle enforcement program, I can't recall specifically.

That was a lie in this résumé, wasn't it?---No, you definitely had to do some research, but I can't remember in regards to calibration and legal certification, but, like - - -

10 It would have been more accurate to say "research", wouldn't it?---Well - - -

THE COMMISSIONER: Not "managed or delivered for RMS".---Well, if it read "trials" it would be managed/delivered.

MS WRIGHT: "Thermal vehicle scanner, delivery, maintenance, calibration, legal certification." Was that a reference to the scoping study? ---Yes, it would have been.

20 And you didn't do any maintenance, calibration or legal certification or delivery in the sense of procurement, did you?---No. In terms of procurement.

That was all a lie, wasn't it, when you said this in this prospectus.---No, it doesn't read that way to me.

You made those statements intending to obtain work for Novation from IRD, didn't you? You made these statements that I'm taking you to in this résumé with the intention of obtaining work for Novation from IRD. Or a contract.---Yes.

30 By work I mean a contract. Didn't you?---Yes.

And you knew that these statements were false, didn't you?---No, I don't believe them to be false.

And at the very least misleading, weren't they?---I believe I definitely talked myself up, yes.

And they were misleading statements, weren't they?---No, I don't think so.

40 Grossly misleading, Mr Thammiah, to say that you're doing legal certification.---There's no sentences there. That's just a word.

"Managed and delivered". You're doing legal certification. You were not doing any legal certification for RMS, were you?---No, I was only doing the research about legal certification such as the design rules.

You said someone told you about the design rules for the in-vehicle mounted tablet.---It's not like they quoted it verbatim. You still had to go look it up and find out what it was and see how it related to the project.

Your answers earlier were that someone informed you about Australian Design Rules for the tablets, and that's why you included that in the report. ---Sorry, I think it was taken out of context. Yes, they might have mentioned that this body exists and that certification is required.

- 10 You knew that was not legal certification when you included this in this résumé.---No, but understanding the process for legal certification I would say is a requirement.

Or when you sent this to Mr Malhotra. Now, "Vehicle dimensions scanner, delivery, maintenance, calibration, legal certification." I suggest that's also false and that you knew that when you sent this document.---No.

- 20 THE COMMISSIONER: You don't agree with that?---No, I don't believe they're false statements because they're not statements.

MS WRIGHT: "Business skills and competencies, including electrical engineering, custom fabrication, innovation design," at the top.---Yes.

You weren't doing any of those things for RMS, were you? Design or electrical engineering or custom fabrication.---Sorry, they come under business skills and competencies. They don't actually reflect any of the work across to Roads and Maritime Services.

- 30 Had you ever done any custom fabrication?---Yes, but not in regards, well, only in regards to the, the automatic number plate reader, but not in regards to any other project, and I would call that - - -

What did you fabricate with the ANPR project?---The ANPR project required a, required the camera to be dash-mounted, and it, it required a stable platform that was level, so my simple solution was using something I picked up previously from Optus, but it was just using a polystyrene block to cut out the exact shape of the base of the camera itself and making sure that it was actually level and, yeah, positioned correctly.

- 40 Did you do that yourself or did someone else do that for you?---No, it's basic. It's quite easy.

Did you do it yourself or did someone else do it?---Yes, I did it.

And it was basic?---Yes, it is.

And in stating in this résumé that you do custom fabrication as a business skill and competence, you were intending to convey something somewhat

more sophisticated than that, weren't you?---Sorry, I only said I had fabrication, custom fabrication.

And you were intending to convey or represent that Novation Engineering through yourself had somewhat more sophisticated business skills and competence in the area of custom fabrication than a basic mounting for an ANPR camera.---Sorry, I'm not suggesting that that was the only custom fabrication I've ever done, I was just suggesting that that was the only fabrication I did in regards to these RMS projects.

10

Well, the transcript will indicate whether that's the case, Mr Thammiah, but what other custom fabrication do you now rely on?---I previously did work for a telecommunications provider that did do customer fabrication of microwave installations.

Your employer did it. What did you do?---No, we did it together as his apprentice, we had to fabricate those brackets.

20 Okay. So you had some experience as an apprentice in custom fabrication. ---No, I have experience as an apprentice telecommunications technician that requires custom fabrication.

And how long were you an apprentice in that area?---About a year.

And what about electrical engineering, do you have any qualifications as an electrical engineer?---No.

30 And so that wasn't true to state in this résumé that a business skill and competence was electrical engineering?---Electrical and telecommunications engineering crosses three years of the four-year study requirements so I included that as a competency and skill set because I did complete the first three years.

How many years?---The first three years.

And you've separated them here, electrical engineering, and you've got a separate entry for telecommunications network engineering.---Yes.

40 Do you think it conveyed that you were fully qualified in those areas to the reader?---No, it clearly says, "Business skills and competencies." It doesn't say qualifications.

I see. So you say you were distinguishing between formal qualifications and things you call skills and competencies.---Sorry, I didn't hear that, I kind of - - -

Well, your answer was, "No, it says skills and competencies." So your answer was suggesting that even though you don't hold formal

qualifications as an electrical engineer or a telecommunications engineer, that this was not an untrue statement because it's only referring to skills rather than formal qualifications. That's what you were intending to convey by your answer, weren't you?---Yes.

Don't you think the reader may have considered that you were a fully-qualified engineer?---Sorry, just - - -

That's what you were intending to convey, Mr Thammiah.

10

MR LONERGAN: Objection. It's just causing for so much speculation on the part of Mr Thammiah that it's of no utility.

THE COMMISSIONER: What speculation does it require?

MR LONERGAN: Well, that a person sitting in the seat of the reader would think the proposition that was put to him.

THE COMMISSIONER: Sorry, do you need to get what Mr James said?

20

MR LONERGAN: Sorry, and – he's just saying, and disregarding the heading, which is part of it as well.

THE COMMISSIONER: Ms Wright - - -

MS WRIGHT: I don't press it, Your Honour. I've dealt with that.

THE COMMISSIONER: I think you've - - -

30

MS WRIGHT: Yes.

THE COMMISSIONER: I think this particular part of it you've explored adequately.

MS WRIGHT: Just going on finally to the last two sections. Business services. Again I suggest that the reference to, "ITS hardware maintenance, 24/7 calibration and legal certification," was false. Do you agree with that? ---I thought the hardware maintenance was in relation to the under-vehicle cameras again.

40

So you don't agree that it's a false representation?---No, I don't.

And ITS consultancy, do you say that's a true statement?---It's just ITS consultancy, yes.

What consultancy were you doing?---I was a consultant in my previous job in ITS.

What was your previous ITS job?---Project manager in the telecommunications company which is specifically - - -

In Optus?---Yes, which is ITS solutions.

I see. And then ITS procurement, what procurement were you doing?
---I had already done the procurement of the under-vehicle cameras.

10 So it was only the under-vehicle camera that you're referring to here?
---Yes, I presume so, I can't think of anything else.

And you weren't doing any ITS consultancy at the time of this résumé, were you?---I don't believe the résumé is supposed to reflect active work.

Well, it's a current document showing the company's current skills and services and clients. That's what it's purporting to be, isn't it?---Yes.

20 And you were not doing ITS consultancy at the time you sent this document to IRD, were you?

MR LONERGAN: I object to that. There's no implication in the document that that is something that they're presently doing. It's business services. It's easily interpreted as business services that are offered.

THE COMMISSIONER: Ms Wright?

30 MS WRIGHT: I'm putting the proposition to the witness, and he can disagree with it, in my submission. It's an available inference from a document such as this, in my submission.

THE COMMISSIONER: All right.

MS WRIGHT: But it's a question of weight and - - -

THE COMMISSIONER: Okay, if you put it on that basis.

40 MS WRIGHT: Mr Thammiah, you were intending to convey that you were doing ITS consultancy at the time that you sent this document, didn't you?
---No.

And what does ITS stand for?---Off the top of my head, I can't remember. I just remember it was a term - - -

You don't even know what ITS is, do you?---Off the top of my head, I, seriously, it's like one of those mind blanks where you forget an acronym that you really should know, and unfortunately I just can't think of it right now.

And you weren't doing anything to do with ITS consultancy at Optus, were you?---In terms, sorry, Intelligent Transport Systems? Is that the acronym? Oh. There you go.

What sort of consultancy were you doing at Optus?---What sort of consultancy?

Yes.---(No Audible Reply)

10 What sort of consultancy were you doing at Optus?---Sorry, I was just a consultant for the projects that we had, yeah. As in - - -

And what sort - - -?--- - - - different customers, I would engage with them.

I'm sorry to cut you off. What sort of projects were they?---Generally speaking, they were a lot of infrastructure projects.

What sort of infrastructure?---As in, like, network, telecommunications infrastructure projects.

20

So telecommunications networks?---Yes.

And that's it? I mean - I don't mean that in a pejorative sense. That may be very important work. But that's the sole area of consultancy work, telecommunications networks?---Yeah, was predominantly, yes.

And none of that had to do with transport or road agency consultancy work, did it?---Yeah, but we worked with customers in that space, and so - - -

30 In telecommunications systems - - -?---Yes, but we worked - - -

- - - is that correct?---Yeah, but we definitely worked with them.

But not in respect of their transport systems?---But there were definitely integrations with the telecommunications that crossed into their project side, which is why I suggest.

And did you think this all through when you prepared this résumé?---(No Audible Reply)

40

That is, that your reference to ITS was relevant, based on your experience at Optus. Did you actually go through that thought process when you prepared this document?---No, I can't recall. I, you know.

Now, when you say in this document that the future involves expanding into Queensland, Australia, in 2017 - - -?---Yes?

- - - was that a true statement?---It was at the time.

What made it true?---I believe at the time we were involved – well, I think was regards to the portable scales, there was something about Queensland coming into high regulations, or – yes. It was something about them creating their own enforcements, oh, using, you know, the portables scales, and I believe that’s where this comment sort of comes from, because there were talks around, regarding this.

10 What do you mean talks? Who was having talks?---Oh, Samer was discussing these, the possible expansion into Queensland, if, oh, well, not if, but in regards to the work that I had done.

This statement suggests that you were actually expanding into Queensland in 2017, doesn’t it?---Yes, but it doesn’t actually dictate the work. I just remember a conversation around this.

So this was based on a conversation about a possibility of getting some work in Queensland, was it?---Well, it does say the future, it’s not - - -

20 It says, “Expanding in 2017.” That’s just the following year, isn’t it? ---Yeah. That was the - - -

That’s within a matter of months after August 2016, isn’t it?---Well, yes. That’s, yes, that’s when it starts.

Did Mr Soliman actually offer you work in Queensland for 2017?---No.

30 No. And so it wasn’t true, was it, to say that you were expanding into Queensland.---No, it was true at the time.

Well, he didn’t actually offer you work in Queensland, did he?---No, he didn’t offer me work but he, so as I said that was the potential and that’s why this comment came because that discussion was happening.

But you couldn’t have thought, on the basis of a comment about a potential, that you were going to be expanding into would, could you?---But it’s literally a comment under the future and it’s what you plan to do next. It’s not written in stone.

40 You intended for Mr Malhotra to look at this document and see that you were a very serious company and in fact your business would be expanding into Queensland in 2017, not just the possibility but that it was actually going to happen.---I expected him to read this document and ask all relevant questions and I believe he did.

Well, come to that now. Page 182. This starts with your response to him and his email to you is at the bottom of the first page on 23 August, 2016. He asks you, if we go over to page 183, to provide you with more details on

the different products provided by Novation within the five bullets mentioned in your prospectus. And then jumping to the next paragraph, “Specifically I’m interested in understanding more about your involvement with the portable weigh scales scoping study since that is of direct relevance.” And then he asks you, “Further, can you please provide me with more details on the Novation team, i.e. team size, competencies, capabilities, as well as background of the individuals who will be our,” IRD’s, “direct point of contact forth the portable scale business.” And he wanted to review this to discuss the training plan and next steps. Skipping
10 down, “Lastly, are you available to speak? Sydney time.” And then you responded. Now, you responded and I won’t read you the entire message but on 23 August you said in the third last paragraph, “Regarding the Novation team, we’re an eight-person extended team with various capabilities/skillsets as listed in the Novation prospectus sheet. Computer engineering, telecommunications engineering, business management et cetera.” And you say, “Novation engages a panel of contracted third-party vendors such as electricians, fabricators et cetera, for reliable and efficient management of the above mentioned under-vehicle camera assets.” Now,
20 you did not say to him that you were including in the eight person team, your panel of contracted third-party vendors, did you?---I actually read it that way.

And the panel you were referring to there was for the under-vehicle camera assets, wasn’t it?---Yes.

And you really did nothing more than procure those assets, did you?
---Sorry, to perform a trial as well, on those assets.

30 What was the trial?---The under-vehicle camera trial.

You didn’t quote for a trial, did you?---No, but I performed the trial.

And how many days did the trial take place for?---I believe it was supposed to be three but it ended up only being two.

And where did that take place?---One location was the, I think it was Canterbury Racecourse, outside there. There was a police operation, and the other would have been Mount White, but I can’t remember the dates.

40 And when you said that you had an eight-person team based on one particular project, you were intending to represent that Novation was a much bigger company than it actually was, isn’t that the case?---I was aiming to show that we had the capability.

Well, anyone can say that they have a capability if they’re going to contract out work, can’t they? You were intending to convey that your company actually had an eight-person team as a permanent part of your company

structure. That's what you meant by that statement to him.---I thought I clearly articulated that as well.

Well, I suggest you're not being truthful, Mr Thammiah. This prospectus was full of lies and misrepresentations about Novation, which was concocted in order to secure a sole vendor licence from IRD, wasn't it?
---No.

10 Because you and Mr Soliman had concocted a plan as at the middle of 2016 that Novation could take over from ELWC and secure lucrative work from RMS to supply PAT parts and ultimately PAT scales, hadn't you?---No.

And it's made abundantly clear in your subsequent WhatsApp messages with each other I suggest.---No.

And you're familiar with those messages in detail, aren't you, now?---Not in detail but I am familiar.

20 And yet you deny, do you, that you had a plan, a scheme, an agreement, whatever word you're comfortable with, where you agreed with Mr Soliman that he would facilitate you receiving work from RMS, or contracts, in the form of PAT scale parts and scales?

MR LONERGAN: Commissioner, I don't have an objection to the question, but it needs to be broken down in my submission. There are a number of significant propositions that Counsel is seeking to put to the witness, and there were joining of a lot of them in one question.

30 MS WRIGHT: If it's going to be more fruitful to break up scales and parts, I'm happy to do that if that's the issue.

THE COMMISSIONER: I think that the issue was the rolling up of a number of propositions.

40 MS WRIGHT: Well, there's only one, there's two propositions, I submit, in what I put, and the only two propositions are that there was an agreement and that it involved him securing contracts for PAT scales and parts. Now, I can break up the scales and the parts into separate elements, but the agreement I don't think I can.

THE COMMISSIONER: Okay. Just distinguish between the scales and the parts.

MS WRIGHT: Mr Thammiah, you had an agreement with Mr Soliman, and to be clear I'm not talking about a written agreement, but you agreed with each other that he would use his position to help you to get contracts for PAT scales and parts.---No.

Would you agree that you had an agreement he would help you get contracts for PAT parts?---No.

Do you agree that he would assist, you had an agreement that he would assist you to get PAT scale contracts?---No.

You were working together towards IRD taking you on as a sole licensed vendor. Sole vendor licence perhaps is the order.---No.

10 You were clearly working together. You were communicating with each other about the need to get a sole vendor licence from IRD, weren't you?
---Yes.

And that is because you both agreed that you should pursue that for Novation.---That was the previous vendor's agreement with that distributor, so I pursued the same.

20 And one of the ways you pursued a licence from IRD was in sending Mr Malhotra Novation's prospectus, didn't you?---Yes, I had to.

And you knew that IRD was the supplier of the PAT scales and parts, didn't you?---Yes.

And you knew that Mr Soliman was assisting you in obtaining that sole vendor licence, didn't you?---No.

You've said that he suggested, he gave you the template for the prospectus.
---Yes.

30 And he introduced you to Mr Malhotra, didn't he?---Yes.

You said he was there at the meeting.---Yeah, just the introductions.

And he assisted you with the prospectus, you've said.---Yes.

And in 2017, you exchanged multiple messages, in which he said, "You've just got to get the sole vendor licence, you've just got, you've got to get it."
---Yes.

40 And he told you that he had told Mr Malhotra that he couldn't meet with Accuweigh when he'd asked that question, didn't he?---Sorry, I - - -

THE COMMISSIONER: Do you remember that message?---No, I don't, but yeah, yeah.

MS WRIGHT: All right. So you don't recall that message?---No, I've, I've, I've read that message now, but that is - - -

THE COMMISSIONER: What, you don't recall receiving it at the time, is that your evidence?---No, not at, not at all.

MS WRIGHT: I'll take you to those messages tomorrow, Mr Thammiah. If I could just, if there's time, quickly finish off on the prospectus.

THE COMMISSIONER: Yes.

THE WITNESS: Sure.

10

MS WRIGHT: At page 180, Mr Malhotra asked you for a conversation over the phone, you see?---Yes.

And did you have a conversation with him over the phone?---I'm not sure.

Did you speak to Mr Soliman about the need to have a conversation over the phone with Mr Malhotra?---I'm not sure.

20

Okay. And then at page 177, this is dated 14 August, 2016, and it's before you've sent the prospectus to IRD, an email from Mr Soliman's personal account to Novation.---Yes.

And did this email advise you about the types of things that you should say in the company prospectus?---No.

It includes information such as fabrication, ITS technology trials, expanding to Queensland, which is consistent with what is in the prospectus, doesn't it?---Yes.

30

Didn't this inform you as to what you were supposed to put into the prospectus?---I can't remember looking at this.

All right. Given the time, I'll stop there.

THE COMMISSIONER: All right. Now, we're starting at 10 o'clock tomorrow, so we'll adjourn until then.

40

THE WITNESS STOOD DOWN

[4.29pm]

AT 4.29PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.29pm]