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20/05/2019

EMBER  
pp 00001-00046

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

Reference: Operation E18/0281

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 20 MAY, 2019

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: This is the commencement of a public inquiry which is part of an investigation into the following allegation, whether between July 2015 and February 2015, Roads and Maritime Services employees Samer Soliman and Jainesh Singh partially and dishonestly exercised their official functions in relation to the awarding of contracts to Novation Engineering Pty Ltd and AZH Consulting Pty Limited. The general scope and purpose of the public inquiry is to gather evidence relevant to the matters being investigated for the purpose of determining the matters referred to in section 13(2) of the Independent Commission Against Corruption Act.

Now, to commence today I'm going to deal with some preliminary issues. The first one is to explain sitting times and dates. The public inquiry starts today and will sit until 11 June, but we are not sitting on 31 May or 10 June. Sitting days usually will commence at 10.00am and finish at 4.00pm with breaks for morning tea and lunch. However, if there is a witness who we can finish, for example, at a particular afternoon, or if we are not travelling as well as I expect in finishing this public inquiry within the times, the sitting times will be increased and we may have 9.30 starts going through to 4.30 or 5 o'clock.

The other new aspect of today's public inquiry is that it's being live streamed. This live streaming of the proceedings is provided on the condition that it's not recorded, published or shared in any form, and I so direct. This includes video and audio recordings and still images from the live stream. However, media representatives may publish live stream material on the condition that it is not used or permitted to be used for any purpose other than public reporting of the proceedings of the Commissioner. Failure to abide by these terms and conditions may result in the live stream being discontinued. The live stream may be muted or suspended at any time, including when the Commission has exercised its power to exclude the public from any part of the hearing and where a relevant non-publication order is in place. Any person who wishes to make an application for a non-publication order under section 112 of the ICAC Act should indicate that intention in general terms. The live streaming will then be suspended, pending the making of the application and its determination. There is a 30-second delay in the live streaming. Any application for a non-publication order in relation to evidence being given by a witness must be made within that 30-second period so that the live stream can be suspended before the relevant evidence has been streamed. So I do emphasise that you've got to be paying attention. If there is some area that you're concerned about, there is that 30-second window of opportunity for you to make your application for some form of suppression order.

Now, the way we're now going to proceed is I'm going to first just take the appearance of Counsel Assisting. There are some other orders I need to make and then we will hear the opening from Counsel Assisting and then we will turn to applications for authority to appear and other appearances.

MS WRIGHT: May it please the Commissioner, Wright, I appear as Counsel Assisting.

THE COMMISSIONER: Thank you, Ms Wright. Ms Wright, at this stage is there a particular order under section 112 that you would seek for me to make?

10 MS WRIGHT: Yes. Commissioner, I seek a non-publication order in respect of product pricing information provided by International Road Dynamics to its distributors.

THE COMMISSIONER: All right. I agree to make that order and hence I direct pursuant to section 112 of the Independent Commission Against Corruption Act that documents in evidence disclosing product pricing information provided by International Road Dynamics to its distributors shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes and between witnesses and their legal representatives for the purpose of receiving or providing legal advice and representation in relation to the appearance or reasonably anticipated appearance of the witness at the public inquiry or pursuant to any further order of the Commission.

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**SUPPRESSION ORDER: I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT DOCUMENTS IN EVIDENCE DISCLOSING PRODUCT PRICING INFORMATION PROVIDED BY INTERNATIONAL ROAD DYNAMICS TO ITS DISTRIBUTORS SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES AND BETWEEN WITNESSES AND THEIR LEGAL REPRESENTATIVES FOR THE PURPOSE OF RECEIVING OR PROVIDING LEGAL ADVICE AND REPRESENTATION IN RELATION TO THE APPEARANCE OR REASONABLY ANTICIPATED APPEARANCE OF THE WITNESS AT THE PUBLIC INQUIRY OR PURSUANT TO ANY FURTHER ORDER OF THE COMMISSION.**

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40 THE COMMISSIONER: Now, also pursuant to section 112 of the ICAC Act, a suppression order is made protecting against publication to any person outside the Commission of the following information contained in each of the exhibits to be tendered in this inquiry and/or other documents shown during this inquiry, with the exception of Commission officers for statutory purposes and between witnesses in the inquiry and their legal representatives subject to any further order of the Commission. Private

email addresses, residential addresses, private phone numbers and bank accounts.

**SUPPRESSION ORDER: THE COMMISSIONER: NOW, ALSO PURSUANT TO SECTION 112 OF THE ICAC ACT, A SUPPRESSION ORDER IS MADE PROTECTING AGAINST PUBLICATION TO ANY PERSON OUTSIDE THE COMMISSION OF THE FOLLOWING INFORMATION CONTAINED IN EACH OF THE EXHIBITS TO BE TENDERED IN THIS INQUIRY AND/OR OTHER DOCUMENTS SHOWN DURING THIS INQUIRY, WITH THE EXCEPTION OF COMMISSION OFFICERS FOR STATUTORY PURPOSES AND BETWEEN WITNESSES IN THE INQUIRY AND THEIR LEGAL REPRESENTATIVES SUBJECT TO ANY FURTHER ORDER OF THE COMMISSION. PRIVATE EMAIL ADDRESSES, RESIDENTIAL ADDRESSES, PRIVATE PHONE NUMBERS AND BANK ACCOUNTS.**

20 THE COMMISSIONER: Ms Wright.

MS WRIGHT: Commissioner, the public inquiry which commences today forms part of an investigation by the Commission into the awarding of contracts by the Roads and Maritimes Services to two companies, Novation Engineering Pty Ltd and AZH Consulting Pty Ltd. The allegation being investigated is whether between July 2015 and February 2019, Roads and Maritime Services employees Samer Soliman and Jainesh Singh partially and dishonestly exercised their official functions in relation to the awarding of contracts to these two companies. Both Mr Soliman and Mr Singh were employees of RMS during that period and are therefore public officials for the purposes of the Independent Commission and Corruption Act 1988.

The contract work awarded related to the conduct of field trials and scoping studies and the supply of equipment and parts. Two contracts awarded to Novation Engineering in 2018 for the replacement of RMS's portable weigh scale assets totalled over \$9 million in value. Further contracts for the supply of spare parts totalled over \$1 million. The total value of field trial and scoping study contracts awarded to AZH was just over \$1.3 million for the period 8 March, 2017, to 8 October, 2018.

40 The purpose of this public hearing is to gather evidence relevant to the investigation for the purpose of the Commission determining the matters referred to in subsection 13(2) of the Independent Commission Against Corruption Act 1988 and making findings and recommendations under subsection 13(3). This public inquiry is only one part, albeit an important part, of an investigation by the Commission. It is important to note that an investigation is not a trial. This public inquiry is not a trial, nor like a trial. The procedures are different to those used in a trial. An allegation of

corruption has been raised which was sufficiently serious to require investigation and this public inquiry is part of a process through which the allegation is being investigated.

I should also highlight, Commissioner, before moving to the detail of the subject matter of the hearing, that this opening is not evidence, nor is it a statement of the view of the Commission or of you, Commissioner. You will make your findings based upon all the evidence and only after considering the submissions of all parties, including mine as Counsel  
10 Assisting. The opening is intended to provide an overview of the subject matter of the investigation so that when the evidence is given during the course of the hearing, those who may have an interest in the inquiry have an understanding of how the evidence fits into the overall framework.

Commissioner, the type of misconduct under investigation principally concerns fraud and the giving and receiving of corrupt commissions or rewards. Misconduct in relation to internal RMS procurement and tender processes could also amount to the offence of misconduct in public office.

20 The affected persons for the purpose of this public inquiry are principally as follows. Samer Soliman, who was the Manager of the Heavy Vehicles Program Unit in the Roads and Maritimes Service during the relevant period of time, namely 2016 to 2018. Jainesh Singh, who held the role of business systems analyst and reported to Mr Soliman in the Heavy Vehicles Programs Unit. Mr Singh commenced his employment at RMS in that position in 2014. Stephen Thammiah, who was the sole director of Novation Engineering. And Ali Hamidi, who was the Operations Manager of AZH Consulting.

30 This investigation began in May 2018 and a large amount of documentary evidence has been gathered, including extensive RMS records. A number of persons have been examined or have provided statements to the Commission and some significant admissions have been made.

I'll first provide some contextual background about the RMS and specifically the unit within RMS affected by the alleged corrupt conduct. I'll then outline the nature of the relationships between the affected persons, following which I will go through the types of contracts awarded to the companies and, briefly, the circumstances in which they were awarded,  
40 including how the tender processes unfolded and how the dollar value of the contracts increased over time.

RMS is a New South Wales Government agency which operates within what is known as the Transport cluster, and RMS has responsibility for delivering road and maritime networks as part of the transport system in New South Wales. One of its functions is to enforce heavy vehicle compliance with road transport laws. Heavy vehicles are subject to strict legal requirements in relation to the roadworthiness and safety aspects such

as their mass and dimension limits. Part of RMS's function is to improve road safety for the heavy vehicle industry and wider community, and as an aside, Commissioner, a heavy vehicle under the NSW Road Transport Act 2013 is any motor vehicle or trailer that weighs more than 4.5 tonnes.

10 Needless to say, it is critical that heavy vehicles operate safely on roads in New South Wales for the safety of road users as well as for the protection of the environment. Heavy vehicles pose special risks to road infrastructure and to the more than 5 million drivers using roads in New South Wales, who may interact with them, and one of RMS's objectives is to reduce the incidence of fatalities and serious injuries resulting from crashes involving heavy vehicles, which it regards as a critical goal in making roads safe. RMS has a number of regulatory programs and compliance and enforcement programs which seek to achieve heavy vehicle safety. The part of RMS with which we are principally concerned in this investigation is the Heavy Vehicle Programs Unit. That unit sits within the Compliance and Regulatory Services Division or, in short, the CaRS Division in RMS.

20 The Heavy Vehicle Programs Unit has an important function in developing programs and supporting the operational areas of RMS which are responsible for heavy vehicle monitoring and enforcement. By way of example, and it becomes relevant in this investigation, Commissioner, heavy vehicles are checked by RMS inspectors at both scheduled and random times for their compliance with road safety rules, and this includes checking the trucks' mass or weight and dimensions, and for this purpose there are various locations in the state, including heavy vehicle safety stations – and I expect, Commissioner, you may hear about some of these locations in New South Wales, such as Mount White, Twelve Mile Creek and others – to intercept and inspect heavy vehicles which may be operating  
30 illegally or in an unsafe manner. For example, in 2018 nearly 10 per cent of all heavy vehicle breach notices issued were for weight breaches.

Now, the regulatory programs that the Heavy Vehicles Program Unit is responsible for include programs relating to risks associated with vehicle defects, mass, over-dimension, driver fatigue, et cetera. The first three of these risks which I've mentioned are particularly relevant to this investigation because one aspect of the allegations relates to the procurement of studies and trials associated with the management of those heavy vehicle risks. Novation and AZH were awarded contracts to conduct  
40 trials and studies, the purpose of which was to test equipment used to detect infringements of road safety laws.

If I could say something further about these studies and trials and this stage. The evidence suggests that Mr Soliman, as Manager of the Heavy Vehicle Programs Unit, had the authority to procure these sorts of studies and trials. His unit appears to have been responsible for exploring opportunities for innovation in heavy vehicle enforcement systems and tools, and it appears that on occasion, trials were conducted to test the performance of particular

technology. So to provide an example, a trial may seek to determine whether a particular scanner could be used effectively to determine a vehicle or a truck's dimensions or width, and whether it complies with road transport safety laws. Those trials could result in recommendations being made about the use of the technology in compliance and enforcement operations.

10 The evidence suggests that the budget available to the Heavy Vehicle Programs Unit for doing this kind of research or innovation work was very limited. The allegations include that Mr Soliman improperly used his position at RMS by awarding, separately, contracts to Novation and AZH to conduct such trials and scoping studies, and a matter under investigation is whether the award of those contracts was fraudulent in that the work was either not performed or was performed inadequately or only superficially by each company. The evidence suggests that neither Mr Thammiah nor Mr Hamidi, nor their companies, had any relevant experience in the area of heavy vehicle compliance trials or related equipment.

20 Another aspect of the allegations relates to the purchase of equipment, and a piece of equipment which I expect to feature quite strongly in this public hearing, Commissioner, is called a portable weigh scale, and in this hearing, Commissioner, you will hear evidence that RMS Enforcement Operations inspectors use portable weigh scales to conduct over-mass enforcement. The inspectors can check the weight of heavy vehicles, and one way this is done is by having the trucks travel over scales, and portable weigh scale is, as the name suggests, portable, meaning the scales can be stored in the RMS inspectors' vehicles for their use on the road, and that detail about how they are stored has some relevance to the events which unfolded, which I will come to later. The Heavy Vehicle Programs Unit was responsible for  
30 managing and purchasing portable weigh scales.

In 2015, the RMS had about 550 portable weigh scales in its fleet used throughout the state and most of the scales, it appears, had reached their end of life and needed to be replaced.

Now to the relationships. Mr Samer Soliman was employed by RMS on 10 January, 2011, as a Systems Strategy Manager. In February 2014, he was promoted to the position of Manager Heavy Vehicles Program.

40 Before joining RMS, Mr Soliman worked at Optus as a communications network support engineer. All of the persons of interest – Mr Soliman, Mr Singh, Mr Hamidi and Mr Thammiah – worked at Optus. I anticipate the evidence will show that Mr Soliman and Mr Singh were in the same team at Optus for at least two years from 2007, and that Mr Soliman and Hamidi worked together in mobile tech support. Mr Thammiah also joined Optus in 2007, leaving in 2014. Mr Thammiah and Mr Soliman did not apparently work in the same team but the evidence suggests that all four men interacted during their time at Optus.

But the association between Mr Soliman and Mr Thammiah in fact goes much further back in time. Mr Soliman and Mr Thammiah were at high school together in years 11 and 12 and then commenced the same course at the University of Western Sydney together in computer science. I expect the evidence to be that they are in fact best friends. Similarly, Mr Hamidi, Mr Singh and Mr Soliman socialised outside work at Optus and after leaving Optus, and played football together, and those three men are a close-knit group of friends.

10

Mr Singh was recruited by RMS in October 2014. Mr Soliman convened the two-member recruitment panel and recommended that RMS hire him. In convening that panel, the evidence suggests that Mr Soliman declared that he had no prior personal relationship with Mr Singh. Further, I expect the evidence to show that Mr Soliman told Mr Singh about the upcoming role at RMS and gave him some advice about the selection criteria for the role in the lead up to Mr Singh's application. Upon joining RMS, Mr Singh reported to Mr Soliman.

20 Commissioner, I don't expect there to be any dispute that it was Mr Soliman who introduced both companies, Novation and AZH to RMS business, both of his friends' companies, and that in doing so he failed to disclose his conflict of interest based on his pre-existing friendship with each of the companies' principals.

There will be evidence about the applicable RMS policies and code of conduct at relevant times, which at all times required the disclosure of any actual, potential or perceived conflicts of interest by officers working at RMS.

30

I should emphasise that the allegations in this public inquiry are not limited to a failure to disclose a conflict of interest. There is evidence of payments made to Mr Soliman by each of Mr Hamidi and Mr Thammiah. I expect that the characterisation of those payments, including their purpose, will be an issue for your determination, Commissioner.

40 Commissioner, the first contract awarded was to Novation in November 2015. I expect the evidence to be that in mid-2015 Mr Thammiah was looking for work and that Mr Soliman suggested he could give him a leg up, saying he had technology trial projects where he needed professional services and that Mr Thammiah would need a company to secure this work. I expect that the evidence will show that Mr Thammiah set up Novation Engineering on the expectation of obtaining work from RMS. The company was registered on 29 September, 2015. Mr Thammiah opened a company bank account at ANZ and obtained a company logo for Novation.

The first contract to Novation was for the purchase of under-vehicle cameras. The idea was to trial a camera that could be used by RMS

inspectors in their inspections of heavy vehicles. The under-vehicle aspect was that the camera would be, as the name suggests, designed to capture under the body of a heavy vehicle, and the evidence suggests that by the time of Novation's involvement there had already been a trial of a camera at the Mount White inspection station. There is evidence that Mr Soliman reported up to his general manager that the trial would be expanded and this is where Novation enters the picture.

10 The documents obtained in the investigation show that Novation provided a quote to RMS to provide 21 under-vehicle cameras and lifetime user support at a cost of \$2,180 per unit, totalling just over \$45,000. Mr Soliman approved the quote.

There will be evidence about this project. Suffice to say at this point that, as far as innovation projects goes, this one appears to have been an abject failure. The evidence suggests that there was no business need for this purchase and that the under-vehicle cameras were not ultimately considered useful by inspectors.

20 The main concern for the purpose of this investigation, however, is that Novation's involvement in this project appears to have served no useful purpose. Mr Thammiah ordered the cameras from a supplier in Canada and the evidence suggests that he applied a mark-up of about 500 per cent, so that is about five times Novation's cost price. Further, Mr Thammiah had no relevant technical expertise in heavy vehicles or cameras, let alone under-vehicle cameras.

30 The allegation is that Mr Soliman used Novation in that procurement for the predominant purposes of conferring a financial benefit on Mr Thammiah and introducing Novation to RMS' business.

The evidence shows that over the next six months – that is between November, 2015 and June, 2016 – RMS awarded Novation a further five scoping study contracts. They were five contracts to undertake field trials and scoping studies and for that purpose supply equipment if necessary.

40 For those six research-style contracts Novation was paid a total of approximately \$345,000 by RMS. The contracts were priced between about \$22,000 and \$84,000, well within Mr Soliman's delegation. Those studies were for trialling technical items of equipment, including an automatic number plate recognition camera, a thermal camera/scanner, a vehicle dimension scanner and conducting a portable weigh scale study. Each of the quotes provided by Novation required Novation to report to RMS on the results of the trial and provide a recommendation about the technology.

As I noted earlier, the evidence suggests Mr Thammiah had no relevant experience in the area of heavy vehicle compliance related equipment, and apart from the work awarded to it by RMS, Novation did no other business.

A factual issue arises as to what Novation actually did in these trials, and for some, whether it performed any service.

Further, importantly for the fraud aspect of this investigation, there is an inference available from the documents obtained by the Commission that Mr Soliman created some of the documents associated with the projects – including quotes, invoices and scoping study reports – which he provided to Mr Thammiah, who then submitted them to RMS for payment.

10

In terms of corruption prevention issues which arise in relation to these scoping study contracts, I note at this juncture that the evidence suggests that with one exception, no business case was presented by Mr Soliman to management at the commencement of any of the projects awarded to Novation, no written requests for quote were issued by RMS to Novation for the projects, and Mr Soliman had considerable discretion in approving expenditure and authorising payment to contractors, within his delegation, which it appears was \$500,000.

20

As I noted earlier, it appears that the budget for innovation projects was small. Despite this, Mr Soliman was able to authorise payments to Novation of about \$345,000 and, as I will come to, contracts to AZH valued over \$1.3 million for scoping studies.

Mr Soliman reported to the Manager of Compliance Monitoring in the CaRS division, who was Mr Paul Hayes, who I expect will give evidence in the first week of the public inquiry.

30

Commissioner, I anticipate that the evidence will show that RMS's business relationship with Mr Hamidi's company, AZH, commenced in a similar way as Novation's did, that is, with AZH being given contracts to test various forms of technical equipment and to provide scoping study reports to RMS. The first such contract was awarded to AZH about one year after Novation's contracts commenced.

40

I anticipate that the evidence will be that Mr Hamidi was seeking work opportunities in 2016 and that he approached Mr Soliman about this, and that Mr Soliman went to Mr Hamidi's house and told him his team had a lot of R&D work for which they needed scoping studies.

The first such contract awarded to AZH was in late December 2016. AZH provided a quote to RMS to conduct a trial of a thermal camera brake and tyre compliance system in the amount of \$29,000.

Between February 2017 and October 2018, AZH was awarded 14 contracts to undertake trials and scoping studies, for which it was paid, as I said earlier, a total of approximately \$1.3 million by RMS. Like the contracts to Novation, these related to a range of technical equipment including a high

resolution speed dimension scanner, a thermal scanner and to do a heavy vehicle safety crash analysis and trend report. The value of the contracts awarded to AZH increased considerably in late 2017 when RMS appointed it to a Professional Services Contractors Panel.

I expect the evidence to show that Mr Hamidi had no relevant expertise in heavy vehicles or heavy vehicle related technical equipment.

10 Of the six trial or scoping study projects awarded to Novation and the 14 awarded to AZH, Mr Soliman authorised the payments for all 20 projects that proceeded.

There is evidence of a further four quotes from Novation and three quotes from AZH that did not proceed past the allocation of a contract number on RMS's internal contract management system.

20 In relation to the 14 trials and scoping study contracts awarded to AZH, the evidence suggests that no business case was ever presented by Mr Soliman to management prior to awarding the work. For the projects where a request for a quote was issued by RMS, it contained no detailed specifications or scope included in the request, and an inference is available that, using AZH letterhead, Mr Soliman created the quotes and invoices associated with the projects and provided them to Mr Hamidi who then submitted them to RMS.

And, Commissioner, you will hear evidence of the internal process at RMS starting from procurement of the work through to payment, and how purchase orders were raised, an aspect in which Mr Singh was heavily involved.

30 The evidence also suggests that apart from Mr Hamidi attending three trials, Mr Hamidi and AZH did not undertake or attend any trials for the 11 other projects nor did Mr Hamidi prepare any scoping study reports or supply any equipment to RMS for any of the alleged projects, despite the terms of the relevant quotes and invoices submitted by AZH.

40 I noted earlier that Novation stopped doing scoping study work for RMS after about six months. A number of things happened in the second half of 2016 which resulted in Novation positioning itself for other contracts from RMS which were more, it turns out, lucrative than the scoping study contracts and so it's necessary to provide some further background here, Commissioner, about RMS's business arrangements.

The investigation has disclosed that a number of interconnected events took place which led ultimately to Novation being awarded the two large-scale replacement contracts worth over \$9 million.

I referred earlier to a type of equipment called portable weigh scale which inspectors use in their enforcement operations. As at 2016, RMS had a

longstanding business relationship with a company called Electronic Load Weighing Company Pty Ltd or ELWC. This was a family-owned, New South Wales-based company. It provided maintenance and verification services for RMS's portable weigh scales and the majority of the RMS portable weigh scales were manufactured in Canada by a company called International Road Dynamics Inc. IRD specialises in highway traffic management and it supplies weight enforcement systems and products, including PAT, that's P-A-T, brand portable weigh scales. IRD distributed its products into NSW through ELWC and in fact this was an exclusive Australian distributorship arrangement.

Towards the end of 2016, ELWC's business relationship with RMS in NSW came to a grinding halt. Its distributorship with IRD in NSW was also terminated. Further, Novation replaced ELWC as IRD's distributor into NSW and as supplier to RMS of IRD's scales. It is likely that you will be required to make findings, Commissioner, in relation to the circumstances in which ELWC came to cease its business relationship with RMS on or about 3 October 2016 after more than 20 years.

20 There is significant evidence to suggest that Mr Soliman used his influence as the Manager of the Heavy Vehicles Program Unit to bring to an end both RMS's and IRD's respective business relationships with ELWC in New South Wales and that he did so in order to bring about Novation's appointment by IRD as its new exclusive distributor.

The evidence suggests, and it is alleged, that Mr Soliman sought to position Novation in this way in order to facilitate Novation's appointment by RMS as preferred supplier of scales and spare parts and for the purpose of gaining for himself and Mr Thammiah a financial advantage.

30 This allegation could amount to corrupt conduct under section 8(1) of the ICAC Act, in that it would be partial behaviour to give someone an advantage for an improper purpose with knowledge that what was being done was for a reason which was unacceptable and for the purpose of subsection 9(1)(a) of the ICAC Act, where it is sufficiently serious and merits criminal punishment in all the circumstances, such conduct could be the common law offence of misconduct in public office.

40 Under section 9(1) paragraph (b) and (c) it could also constitute or involve a disciplinary offence or reasonable grounds for dismissing a public official if it is established that the conduct involves serious and wilful misconduct, dishonesty or neglect in the discharge of his duty.

As I've noted, the evidence suggests that Mr Soliman went to significant lengths to have Novation installed as the sole distributor in New South Wales of PAT brand portable weigh scales, at the expense of the existing distributor ELWC. This extended to making representations to the Canadian manufacturer of the scales to replace ELWC with Novation.

To provide some further detail, the evidence obtained by the Commission during the investigation discloses that in about mid-2016 Mr Soliman informed IRD that he was dissatisfied with ELWC's service and had other vendors in mind to meet RMS requirements for portable weight scales. Mr Soliman informed ELWC that all enforcement programs would in future have to operate on a multi-vendor model and he told ELWC that more than one vendor would now be required to provide services for any single program.

10

There is evidence that around this time Mr Soliman introduced Novation to IRD as preferred vendor to RMS and it will be noted that ELWC still held IRD's exclusive distributorship at this stage. Mr Thammiah signed a non-disclosure agreement with IRD on 28 August, 2016 and there is evidence that both Mr Thammiah and Mr Soliman misrepresented Novation's capabilities to IRD, including by way of Mr Soliman advising Mr Thammiah what to set out in a company prospectus.

20

In September, 2016 Mr Soliman arranged a meeting between IRD and Mr Thammiah to discuss IRD formalising Novation as a reseller of IRD equipment parts. Under guise of the multivendor approach, Mr Soliman informed Mr Doherty of ELWC that henceforth ELWC would only be able to supply 50 per cent of future procurement requirements and services for RMS.

30

A further meeting took place between Mr Soliman, IRD and Novation, from which ELWC was excluded, and on 3 October 2016 Mr Doherty informed Mr Soliman that ELWC was ceasing its business relationships with RMS effective immediately due to the unjustified complaints against his company and because the multi-vendor approach which Mr Soliman had introduced was, to Mr Doherty, untenable.

A month later, IRD terminated ELWC's exclusive distributorship in New South Wales. In notifying ELWC of this, IRD attributed its decision to a request from its end customer, namely RMS. It said that it would be establishing alternative business channels in New South Wales but would continue to support ELWC in other Australian states and territories for the sale, service and maintenance of its products.

40

The following day, Mr Soliman advised IRD that it should give Novation Engineering a licence to sell its products until the end of the financial year, and there is no evidence Mr Soliman ever told IRD that Novation was his friend's company.

On that same day as IRD terminated ELWC, Mr Singh attempted to raise a payment in favour of Novation for \$220,000 for "reactive maintenance" of portable weigh scales to be paid over several invoices. It appears that this reference to maintenance really meant the supply of spare parts to be used in

repairing scales. I don't anticipate any dispute that Novation had no capacity to undertake maintenance or repairs on scales, its only role would be to purchase or procure scales and associated spare parts and software for RMS from IRD in Canada. And I note that this stands in contrast to ELWC's prior service to RMS over many years, which included both providing maintenance services and procuring equipment where necessary.

10 On 23 November 2016, IRD appointed Novation Engineering as its exclusive distributor in New South Wales, and on 24 November, IRD advised Mr Soliman that it had done so.

Commissioner, these events appear to have set in motion the conduct which I will come to shortly, which resulted in Novation being chosen by RMS as a successful tenderer to a Heavy Vehicle Maintenance Panel, and in it being awarded a substantial contract for the supply of spare parts and then successfully tendering for two further contracts for the supply to RMS of 550 new scales to replace the entire RMS fleet, to the value of over \$9 million.

20 I now come to the relevant tender processes which RMS engaged in in 2017 and 2018. There are interconnected events which occurred over a period of time and so I will address these tenders and the subsequent contracts chronologically.

I just referred to a Heavy Vehicle Maintenance Panel. Commissioner, like all government agencies, RMS has a need at times to create panels of suppliers, and appointment to a panel involves potential suppliers submitting a tender and the agency assessing them according to set evaluation criteria. If appointed, the members of the panel become eligible  
30 to supply goods or services to RMS.

On 24 August 2017 RMS issued a request for tender for the Heavy Vehicle Maintenance Panel contract. This was an open tender advertised on the RMS eTender website. The request for tender documentation provided for two categories of panel to be created. Only category B is relevant for present purposes. Category B related to the procurement and maintenance of scales, and the documentation specified the brand of scale as being PAT brand and HAENNI brand and these were two brands of scales already used  
40 by RMS.

The tender indicated that RMS may consider other brands if such brands could be demonstrated as of equal or superior performance and the panel would be appointed for an initial period of 3 years with an option to extend for an additional two years. Five companies submitted tenders for category B, including Novation.

Novation submitted its tender on 6 October, 2017, being the date on which the tender closed and Mr Thammiah, in his tender, acknowledged

compliance with the NSW Code of Practice for Procurement and implementation guidelines and the request for tender indeed required compliance with the RMS Statement of Business Ethics as well.

A Tender Evaluation Committee was appointed to evaluate the submissions. The members of the committee included Mr Singh, two other RMS employees who reported to Mr Soliman and an external consultant, Nathan Chehoud of WSP Australia.

- 10 The Tender Evaluation Committee recommended that all tenderers be appointed to the panel, and this necessarily included Novation, and the members of the committee declared that there was no actual or potential conflict of interest and declared their impartial fulfilment of their duties in carrying out the tender assessment. Commissioner, the extent of Mr Singh's association with Mr Thammiah and whether it should have been disclosed in relation to this panel contract tender process are issues which arise.

- 20 The Tender Evaluation Committee reported that all tenderers had the capacity to complete works within the contract period based on similar works successfully completed for the RMS, yet it would appear that at this stage Novation had done no previous similar work. The report acknowledged that Novation was "only authorised supplier, not maintainer" of the portable scales. The evidence suggests that there was a view on the committee that Novation had to be selected because it was the only tenderer capable of supplying the PAT brand portable weigh scale equipment utilised by RMS.

- 30 There is a factual issue which you may be required to decide, Commissioner, as to whether the tender process for category B of that panel included procurement or whether the potential scope of work to be allocated to successful tenderers was more limited and what I mean by that more specifically is whether the tender involved a testing of the market for scales or was more limited in scope.

- 40 Mr Soliman's manager, Paul Hayes, informed Mr Thammiah that Novation's tender had been accepted in late October 2017 and as the events unfolded later, the evidence suggests that Novation's appointment to this panel facilitated, if not guaranteed, the subsequent award to it of the two scale fleet replacement contracts in 2018 worth \$2 million and \$7.2 million respectively, and so the commercial advantages which flowed to Novation increased significantly following its appointment to that panel.

In October 2017, at the same time as the appointment process was underway in relation to the Heavy Vehicle Maintenance Panel, the Heavy Vehicle Program Unit was engaged in another similar tender process aimed at appointing a panel of professional service contractors. Members of the panel would be eligible for professional services contracts, which could include scoping studies of the kind referred to earlier.

Evidence obtained by the Commission indicates that Mr Soliman had considerable input into the design of the panel evaluation process despite this being contracted in the initial stages to an independent firm, WSP, to project-manage. The Tender Evaluation Committee for this panel also included Mr Singh. AZH was a successful tenderer for inclusion on the Professional Services Contractors Panel, or PSC Panel.

10 The RMS Procurement Manual stipulated that confidentiality of tender information and the security of tender documents were among the responsibilities of panel members, as were needless to say honesty, fairness, and compliance with the RMS Code of Conduct and Ethics including the requirement to act in the best interests of RMS, the government and the public. The policy prohibits any discussion of the assessment criteria with any person outside the assessment panel or disclosure to potential tenderers or bidders as “this could allow them to tailor their submission to take advantage of these and not provide a true representation of their capabilities”.

20 The evidence obtained by the Commission suggests that Mr Soliman, although not named as a member of the committee, was present during the evaluation process. Further, admissions have been made to the Commission, which I expect to be the subject of oral evidence early in the public hearing, which include that Mr Soliman drafted or contributed to drafting AZH’s tender submission for inclusion on the PSC Panel.

30 On 2 November, 2017 Mr Singh advised Mr Hamidi that AZH’s tender to join the PSC Panel had been accepted by RMS and on 6 November AZH signed a deed of agreement for inclusion on the PSC Panel. The persons who signed on behalf of AZH were Ali Hamidi and his wife, Zoe Hamidi, as sole director of AZH.

That same day Mr Singh issued to AZH a request for quote for a scoping study for PAT brand portable weigh scales and, Commissioner, it would appear that to fulfil the requirements of a scoping study of that kind AZH may have had to obtain the scales from Novation who by that stage was the sole authorised supplier in New South Wales through IRD as I went through earlier.

40 The evidence will show that following its appointment to the PSC Panel, the scoping study projects awarded to AZH increased significantly in value. For example, on 15 December, 2017 a quote from AZH in the amount of \$219,250 on AZH letterhead was submitted for a field trial of “modern portable weigh scales” and a corresponding invoice on 10 January, 2018 resulted in the payment by RMS of \$241,175 including GST that was paid on 29 January, 2018.

Commissioner, of the total \$1.3 million paid to AZH, contracts to a total value of about \$850,000 were awarded to AZH after its appointment to the PSC Panel so its inclusion in that panel was significant.

10 Returning to Novation, as I have already outlined, Novation was given two large contracts to supply to RMS a significant quantity of portable weigh scales and I'll deal with them now. These were awarded in March, 2018 and October, 2018. The first was to procure 125 new portable weigh scales and the second was to procure 425 new portable weigh scales. The second contract would in effect complete the replacement of the entire ageing RMS fleet of scales.

20 The scales that Novation was to supply were a new model of the existing brand of scale used by RMS, which were manufactured by IRD. So it can be seen that Novation's appointment by IRD as its exclusive distributor in November 2016 and the coinciding cessation of the business relationship between RMS and its previous scale maintainer, ELWC, have placed Novation in a position where it was able to win two contracts from RMS as supplier of the selected scale.

The evidence suggests that in past years the CaRS division had made submissions for funding to replace the scale fleet, but business cases had been rejected. The evidence shows that in October 2017 Mr Soliman submitted to more senior staff that replacement of the scale fleet would cost \$6 to 8.5 million and to not replace would be, he said, a major risk politically and a risk to road safety. He was asked to put together a procurement plan.

30 Mr Soliman suggested two options, namely the purchase of new scales to fit into existing vehicle storage docks or to repair the existing scales to an as-new condition.

In January 2018 funding in the amount of \$2 million was made available to the Heavy Vehicles Program to purchase a proportion of the overall scales said to be needed.

40 On 17 January 2018 RMS issued a request for quote to the category B members of the Heavy Vehicle Maintenance Panel for the procurement, of which Novation was a member. Mr Singh was the manager of the process.

Commissioner, the request for quote set out specific scale dimension and charger requirements – that is, the size of the scales, specific requirements in relation to the size of the scales – and the effect of those requirements was that the new scales would have to fit the current storage racks and charging ports in the inspectors' vehicles.

You may be required, Commissioner, to make findings about the origin of those restrictive requirements, as the evidence suggests that they guaranteed to Novation a favourable outcome in the tender process.

You may also be required to make findings about whether there was sufficient justification in the circumstances for this procurement to be offered to members of the Heavy Vehicle Maintenance Panel as distinct from RMS assessing its operational needs and engaging in an open tender involving a broader evaluation of scales on the market.

10

In February 2018, three companies tendered in response to the request for quote, namely Novation, and companies called NEPEAN and AccuWeigh.

Novation's tender quoted a unit price of \$15,000 per scale and \$2,400 per charger for the PAT brand Series III portable weigh scale. This was the same brand and supplier as the existing ones, but a new model.

20

Both NEPEAN and AccuWeigh recommended a different brand of scale and the unit price offered by each was significantly less than Novation's at around \$5,700 per scale. Only one tender met the scale size requirements, and that was Novation's.

30

The Tender Evaluation Committee comprised Mr Singh and Ms Claire Lemarechal, David Jones and Barry Everson, and Mr Jones was appointed as the subject matter or technical expert on the Tender Evaluation Committee Panel, and the evidence shows that both Mr Singh and Mr Jones raised an issue in relation to the restrictive scale dimension requirements, and in fact Mr Jones was not prepared, at one stage, to sign the tender evaluation report on the basis that the requirements were too restrictive in relation to the scale's dimensions. Following some internal discussion, ultimately, Mr Jones did sign the report but recommended that an evaluation of other makes and models of scales should take place before any purchase of additional scales in the future. Mr Jones will give evidence, I expect, in the public inquiry.

40

In February 2018, Novation was awarded the contract to supply 125 scales at a price of just over \$2 million, including GST. Novation provided a quote to Mr Soliman and Mr Singh in accordance with its tender, of \$15,000 per scale and \$2,400 per charger and so the total figure paid to Novation in June 2018 by RMS was \$2,117,940.

Evidence obtained in the investigation shows that Novation's mark-up was well over double its cost price. [REDACTED]

Conduct of any person whether or not a public official that adversely affects or that could adversely affect the honest and impartial exercise of official functions by a public official or public authority is corrupt conduct under section 8, subsection (1)(a) of the ICAC Act.

10 Obtaining or offering secret commissions is a form of corrupt conduct under the Act, section 8(2)(d), as is fraud, section 8(2)(e) and there is evidence to suggest that Mr Thammiah made payments to Mr Soliman during the period leading up to and following the award of this procurement contract of 125 scales and, as I noted earlier, the proper characterisation of the payments may be an issue.

Now, the second contract for the procurement of portable weigh scales was awarded in and this was for the purchase of 425 scales of the same kind as the 125 scale contract awarded to Novation in March and which would complete the replacement of the entire asset base.

20 The documents show that in early 2018 Mr Soliman prepared a business case for the purchase of the remainder of the portable weigh scale fleet, which was drafted, it appears initially, by Mr Singh and he submitted that funding of \$7 million over two years was required to procure 475 scales at a cost of \$14,500 per unit.

An issue arises as to the way in which the tender for this contract was run. RMS decided to use a select tender process. This was effectively an invitation only request for quote to vendors already on the Heavy Vehicle Maintenance Panel to which I referred earlier.

30 The question whether this tender should proceed by open tender – that is, publishing the tender to the open market – or by select tender via the panel was discussed internally and the Chief Procurement Officer became involved.

It appears that a decision was made that an open tender was not required on the basis that there was already a prequalification panel in place, by which it was understood that the market had been recently tested on appointment of the category B Heavy Vehicle Maintenance Panel.

40 Commissioner, whether this was a correct view of the Maintenance Panel, the category B Heavy Vehicle Maintenance Panel process is an issue in the public inquiry and, further, the basis of that understanding will be the subject of evidence.

The RMS Procurement Manual made it very clear, it will be submitted, that the overriding objective when purchasing goods and services is achieving the best value for money within a framework of probity and fair dealing and the manual set out certain requirements for a tender of this magnitude and

they included that where the procurement was above a threshold of \$250,000 a procurement strategy was compulsory and must be endorsed by the Chief Procurement Officer.

Where there was no prequalification panel or contract in place, it was necessary to go through a publicly advertised open tender process. However, even where there was an existing arrangement in place, an open tender may be required based on risk.

- 10 The policy required that appropriate technical experts and business users be engaged in developing the specifications for the goods and services sought, “so the specifications reflect the ‘real’ requirements of the end-users” and it required an assessment panel consisting of at least one RMS staff member with experience in the subject matter.

Commissioner, the manual also specifically cautioned against stipulating technical specifications that excluded other products which may be able to fulfil the business need and it prohibited the disclosure of the assessment criteria to potential tenderers as “this could allow them to tailor their  
20 submission to take advantage of these and not provide a true representation of their capabilities”.

On 16 August, 2018 a request for proposal was published to the five panel members including Novation for “the procurement of 425 portable weigh scales for heavy vehicle enforcement”.

The request for proposal stipulated highly specific technical specifications which the scales would have to meet. These included dimension requirements for the scales and there was also a requirement that the  
30 proposed scales have been utilised by more than “10 highway agencies from around the world” for more than 10 years.

Of the five category B members, only Accucorp and Novation submitted tenders. Novation nominated IRD’s scale, the PAT-brand model 10A series 3 scale and Novation as I adverted to earlier had become the sole authorised distributor of those scales in New South Wales. Accucorp nominated a different brand.

40 Mr Thammiah on behalf of Novation declared in his tender that the company had no actual or potential conflict of interest in relation to its participation in the tender process or the supply of the goods to RMS and it would be obvious by now, Commissioner, from my opening that at no stage did Mr Thammiah it appears disclose to anyone at RMS that he was close friends with Mr Soliman.

The members of the RMS Tender Evaluation Committee were Alex Lee, Guido Zatschler and Paul Walker, all of whom reported to Mr Soliman and none of whom had experience in the subject matter.

Mr Jones, who was the subject matter expert on the committee evaluating the previous procurement of the 125 scales was not included on this committee, nor was his recommendation for a broader evaluation of the market adopted, or it appears even considered.

10 The committee recommended Novation as the preferred tenderer and this was said to be based on value for money and meeting the requirements specified in the tender, and in October 2018 Novation was awarded the contract to supply 425 scales at a price of \$7.2 million.

In this public inquiry, a number of allegations are made against Mr Soliman in relation to this tender.

20 The evidence obtained by the Commission suggests that Mr Soliman set the specifications or requirements for the tender, that he disclosed confidential information to Mr Thammiah about the tender before it was published, that he deliberately drafted tender specifications to exclude potential competition to Novation, that he reviewed Novation's submission and was present during the tender evaluation, despite not being a member of the Tender Evaluation Committee.

The Commission has received evidence showing that Novation's mark-up was significant. Novation charged RMS \$15,500 per scale and \$2,400 per charger. [REDACTED]

30 Commissioner, the evidence obtained by the Commission in the course of the investigation indicates that in addition to these two large-scale contracts and the six scoping study contracts awarded to Novation, Novation was also awarded contracts to supply spare parts to RMS for scales.

40 Between 10 January, 2017 and 1 March, 2018, Novation issued RMS with 26 invoices totalling over \$1 million for the supply or purported supply by Novation of spare parts for PAT brand SAW 10A Series I model portable weigh scales and software and accessories. And so this work by Novation was done in the 12-month period before the 2 large scale fleet procurements I have just outlined. So I'm not dealing with this aspect strictly chronologically, Commissioner.

The expenditure was authorised by Mr Soliman and the business sponsor was Mr Singh.

RMS records indicate that RMS did not engage in any tender process connected with Novation's supply of spare parts.

Each of Novation's invoices for supplying spare parts was under \$30,000 inclusive of GST, with one exception where it invoiced RMS around \$240,000 following its appointment to the Heavy Vehicle Maintenance Panel, category B.

10 RMS Procurement policy did not allow for contract and order splitting to reduce the value of a contract in order to bypass a procurement threshold or delegation limit, however the evidence suggests that there was no system within RMS for aggregating all of the amounts invoiced by Novation, so that is all of the individual \$30,000 invoices in connection with the supply of spare parts, to enable a check on the procurement process.

Commissioner, the number and frequency of the invoices submitted by Novation, involving often multiple invoices submitted on one day or sequential days within a short five-month period, raises a question as to whether there was a genuine business need for such extensive spare parts. The evidence suggests that Novation submitted invoices for significantly more than they had quoted or for which purchase orders were approved internally in RMS.

20

There is a live question in this investigation whether the spare parts for which Novation invoiced RMS were ordered from IRD and supplied, paid for by Novation and/or delivered to the entity responsible at the relevant times for maintenance for use in scale maintenance. False invoicing for the purpose of obtaining payment for the purported delivery of goods that are not in fact delivered can amount to fraud and that can be corrupt conduct under sections 8 and 9 of the ICAC Act.

30 The final aspect of this investigation concerns corruption prevention. The functions of this hearing are not confined to corruption detection. As required by subsection 13(2) of the ICAC Act, a function of the investigation is corruption prevention and that is the Commission is to conduct its investigation with a view to determining firstly whether any laws governing any public authority or public official need to be changed for the purpose of reducing the likelihood of that occurrence of corrupt conduct, and secondly whether any methods of work, practise or procedures of any public authority or public official did or could allow, encourage or cause the occurrence of corrupt conduct. Under subsection 3 of section 13 of the Commission's Act, it is a principal function of the Commission to formulate  
40 recommendations for the taking of action that the Commission considers should be taken in relation to the results of its investigations.

One area of concern, Commissioner, is the apparent lack of managerial oversight of Mr Soliman in the Heavy Vehicle Programs Unit and those reporting to him and the way that public money was spent. The evidence suggests that Mr Soliman had a large discretion in the selection of vendors, authorisation of work and payment in relation to innovation projects, supply of parts and acquisition of assets within his delegation and there is also a

concern about the ease with which Novation and AZH Consulting were created and maintained as RMS suppliers with, it appears, no proper due diligence checks.

So I wish to foreshadow the possibility that in my closing submissions I may make submissions as to possible recommendations for changes to minimise corruption opportunities in the contract procurement processes applicable to the Heavy Vehicles Program Unit in RMS or in whatever form that the work is carried out by that unit is done after 1 July, 2019.

10 Commissioner, that's my opening address.

THE COMMISSIONER: Thank you, Ms Wright. What we'll do now is we'll take an adjournment for about 20 minutes and then we will resume. At that time, I will hear applications for authorisation to appear and then we will proceed with evidence in the public inquiry. We're adjourned until five to 12.00.

**SHORT ADJOURNMENT**

**[11.33am]**

20

MS WRIGHT: Commissioner, the first matter I wish to attend to by way of evidence is to – I'm sorry. Yes.

THE COMMISSIONER: I think before we do that we might just confirm or take applications for authorisation to appear.

MS WRIGHT: Oh, yes, certainly.

30 THE COMMISSIONER: Now - - -

MS HOGAN-DORAN: Commissioner, Hogan-Doran. I seek authorisation for Roads and Maritime Services. I appear in this Commission and these hearings with my learned friend, Mr Glover, instructed by - - -

THE COMMISSIONER: Who's not here.

MS HOGAN-DORAN: Who's not here, but he will be here this afternoon.

40 THE COMMISSIONER: Now, you've said RMS. Are you also seeking authorisation for - - -

MS HOGAN-DORAN: I have spoken with Counsel Assisting about that. At this stage I seek only authorisation for the agency.

THE COMMISSIONER: All right. That authorisation is granted.

MS HOGAN-DORAN: Thank you.

THE COMMISSIONER: Now, yes, Mr Young.

MR YOUNG: Yes, please the Commission, I seek authorisation to appear for Mr Samer Soliman.

THE COMMISSIONER: That authorisation is granted. Right, now - - -

10 MS DABLIZ: May it please the Commission, I appear for Mr Hamidi, Ms Dabliz, seeking authorisation to appear on his behalf.

THE COMMISSIONER: That's granted.

MS DABLIZ: Thank you.

MR JAMES: May it please the Commission, I seek authorisation to appear for Mr Stephen Thammiah. My name is James. I appear with my learned friend, Mr Lonergan, instructed by Mr James.

20 THE COMMISSIONER: All right. Thank you, Mr James.

MR JAMES: Thank you.

MS BONNOR: If it please the Commission, my name is Bonner, B-o-n-n-o-r. With authorisation I appear for Nathan Chehoud and WSP Australia Pty Ltd.

30 THE COMMISSIONER: Yes. I think that authorisation had been granted beforehand.

MS BONNOR: It was for Mr Chehoud, Commissioner.

THE COMMISSIONER: Yes, thank you very much.

MS BONNOR: Thank you.

40 MS TOLLEY: May it please the Commission, my name is Tolley, T-o-l-l-e-y. I seek authorisation to appear on behalf of Mr Singh. I also seek authorisation on behalf of my principal, Mr O'Brien. He's not here today but will be tomorrow.

THE COMMISSIONER: Yes, I think I was informed of that. That authorisation is granted.

MS TOLLEY: Thank you.

MR BOATSWAIN: Thank you, Commissioner. My name is Boatswain, initial S. I seek authorisation for to appear for International Road Dynamics Inc.

THE COMMISSIONER: Yes, that authorisation is granted.

MR BOATSWAIN: Thank you.

10 THE COMMISSIONER: Now, is that it? All right. Ms Wright.

MS WRIGHT: Thank you, Commissioner. Commissioner, I tender part of the brief in digital form, comprising 12 volumes, and if I could tender that as one exhibit, if that's convenient, and I had it up as a USB. I understand it's to be Exhibit 34.

20 THE COMMISSIONER: Yes. Can you just excuse me for a minute. Tremendous. Yes, just to explain to everybody, because of the particular document management system within the Commission we won't be commencing with Exhibit 1 here in the public inquiry. We'll be commencing, as Ms Wright foreshadowed, with Exhibit 34. So Exhibit 34 will be the brief of evidence, and it consists of volumes 1 to 8, 10 to 12 and 17.

MS WRIGHT: Yes, yes, Your Honour.

THE COMMISSIONER: All right. That will be Exhibit 34.

30 **#EXH-034 – PUBLIC INQUIRY BRIEF (VOLUMES 1-8, 10-12 AND 17)**

MS WRIGHT: And I also tender, and I understand it is in fact on the same USB, a bundle of witness statements and records of interview, and if I could read onto the record whose statement they are.

THE COMMISSIONER: Yes.

40 MS WRIGHT: Statement of Ms Bailey, dated 12 April, 2019, statement of Mr A. Bass, dated 21 March, 2019, statement of Mr A. Dubois, dated 15 March, 2019, statement of Mr B. Everson, dated 7 May, 2019, statement of Mr M. Jabson, dated 8 April, 2019, statement of Mr A. Jansen, dated 17 April, 2019, statement of Mr D. Jones, dated 26 March, 2019, statement of Mr A. Lee, dated 2 April, 2019, the statement of Ms C. Lemarechal, dated 6 March, 2019.

THE COMMISSIONER: Right, the bundle of statements, consisting nine in total, will be Exhibit 35.

**#EXH-035 – BUNDLE OF STATEMENTS**

MS WRIGHT: And I also tender a record of interview of Mr Nathan Chehoud, dated 22 March, 2019.

10 THE COMMISSIONER: All right. The record of interview with Nathan Chehoud, date 22 March, 2019, will be Exhibit 36.

**#EXH-036 – ROI TRANSCRIPT NATHAN CHEHOUD DATED 22 MARCH 2019**

MS WRIGHT: If it's convenient now to do so, Commissioner, I will call the first witness, Mr Ali Hamidi.

20 THE COMMISSIONER: Yes. Yes, Mr Hamidi, thank you. And, Ms Dabliz, would you come to the front row. Now, do you take an oath or an affirmation?

MR HAMIDI: Oath.

THE COMMISSIONER: Thank you, Mr Hamidi. Mr Dabliz, have you had an opportunity to discuss section 38 of the Act?

MS DABLIZ: I have, Commissioner, and we'd be seeking a declaration from the Commission in respect of his evidence.

10 THE COMMISSIONER: All right. Now, Mr Hamidi, I understand that section 38 order and the protection it will provide to you has been explained, so I won't go into detail about it except for one aspect that I have to emphasise. The protection given does not cover any false or misleading evidence to this Commission. If you give false or misleading evidence, that is possibly an offence against the ICAC Act. You can be prosecuted for that offence. It's a very serious offence, it's like a form of perjury and a penalty of up to five years' imprisonment could be imposed.

20 Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

40 THE COMMISSIONER: Ms Wright.

MS WRIGHT: Thank you, Commissioner. Sir, could you please state your full name?---Ali Reza Hamidi.

And do you know Samer Soliman?---Yes, I do.

How long have you known him?---Since 2006.

Where did you first meet?---At Optus.

Where within Optus were you working?---We were working in Technical Support.

Were you both working in Technical Support?---Yes.

How long did you work together at Optus?---We worked in Technical Support for about a year and then he moved on to a different position. I was at Optus until 2018.

10

And are you sure it was just a year?---That I worked with him?

With him.---Yeah, it was about a year.

And did you become friends during that time?---Yes, we did.

And he moved out of that role you said?---Yeah, he moved, he moved on.

Did you stay in touch with Mr Soliman after that?---Yes. Definitely, yeah, we stayed in touch.

20

And did you socialise outside work?---Yes.

How regularly would you see him?---It wouldn't be that frequent but it was, you know, gatherings, birthday parties, you know, a couple of social events. Throughout the years we got, you know, would watch fights together and I've been to his wedding.

And did you ever play sport together?---Not with Sam.

30

And you said weddings and christenings did you say?---Yes. Weddings, christenings, his child's birthdays.

Have you met his parents?---Yes, I have.

And has he met your parents?---He had met my mum.

Is it fair to say that you were close friends with Mr Soliman?---Yes.

Were you in any social media groups with Mr Soliman?---Yes. I was.

40

How do you know Mr Singh?---The same. From Optus. Jai and I just throughout the years we lived very close together so for a period of time we would ride share into work together while he was at Optus. We played football together.

Did you work within the same team at Optus?---We worked in the same department. He worked in IT and I worked in it then after that he would move into IT and I moved into a different role so - - -

What year did you work in the same department of Optus - - -?---I think it would have - - -

- - - as Mr Singh?---I think it would have been about 2006/2007. Somewhere along those times, yeah.

10

And for what period of time to the best of your recollection?---From maybe a year, again a year or two years maybe.

And you came to know him in a social capacity as well?---Yes.

Did you ever play sport with Mr Singh?---Yes, we played football together for several years.

For several years?---Yeah.

20

From when?---I'm not too sure. Probably about 2011 and then from then on we'd play casually as well. Like on Wednesday nights we'd go to Fairfield and play five-a-side. Played futsal as well together.

Through to what year approximately?---Till last year even we were playing.

Till last year, 2018?---Yeah. '18, yeah. Early last year we still played.

30

And did you go to each other's houses from time to time?---I never went to his house I don't think but he came to my house here and there, yeah.

Would you also have regarded him as a good close friend?---Yes, I would.

And did you consider that Mr Soliman was a mutual friend of you and Mr Singh?---Yes, definitely.

And you all socialised together at times?---Yes, we did.

40

Coming back to your employment at Optus. You commenced in 2006 did you say?---I commenced in 2005. I started off in Customer Service and then moved on to Tech Support in 2006. That's where I met Sam and Jai and I think about 2007 I was doing other stuff like within Optus and then 2008 I moved to a different group.

When you say you were doing other stuff at Optus in 2007 what were you doing?---I was doing a lot of the training so I was, I kind of was working at a different site because Optus had, they had a Gordon office and they had a Macquarie Park office.

Which office were you in?---I was working at the Macquarie Park one doing the training for all the new start, all the new staff before they made the move over.

You were conducting the training, were you?---Yes, I was.

What sort of training?---It was a call centre, like, it was like in-classroom kind of training on all the products and processes and stuff like that.

10

And in how to conduct a call centre, was it?---Yeah.

And your previous role in Tech Support, was that related to call centre management?---In Tech Support I was just an agent then I moved on to being a manager and then moved on to, the last six/seven years I was an analyst.

20

So when you say you were just an agent, what sort of work were you doing?---It was just inbound calls so someone would call up and say I've got a fault with my mobile phone and we'd troubleshoot that.

I see.---Yeah.

Now, you said you moved on to a role as analyst.---Yeah.

When was that?---As an analyst I think it was 2009.

30

And what were the roles - - -?---Sorry, it would have been 2012 or '13 sorry. '12, yeah.

So 2012 - - -?---I became an analyst, yeah.

What were the responsibilities in that role that you had?---Basically it was just data analytics so we'd take the data from the different departments, turn them into meaningful insight or we'd automate reporting for the different groups. Do trend analysis, gap analysis to, you know, to get the business functioning better.

40

And so that was analytics in terms of Optus business?---Optus, yeah.

Now, did Mr Soliman ever supervise or manage you at Optus?---Never.

And when did you leave Optus?---I was made redundant last April.

April, 2018?---'18, yeah, that's correct.

Do you recall what date was your last day?---My last day, my last day I think was 31 March so, yeah.

31 March, 2018?---Yeah, yeah, that was my last day.

And between high school and joining Optus what did you do?---I was a carpenter for a little bit. I went to TAFE. I worked at Woolies. Yeah.

Do you know Stephen Thammiah?---I've met him briefly on a couple of occasions.

10 And how long ago did you first meet him?---I met him once at Optus. Sam introduced me to him.

By Sam, you mean Mr Soliman?---Mr Soliman. I never really saw him, I never really spoke to him much at Optus and then the other times I met him was at Sam's wedding and at Sam's house for his child's birthday.

Have you ever socialised outside of Mr Soliman's wedding or Mr Soliman's child's birthday in the time you met him at Optus with Mr Thammiah?

---No.

20

When was Mr Soliman's wedding?---He had two weddings.

Was Mr Thammiah at both of those?---I can't remember the first one, if he was there, but he was at the last one, last year.

When was that?---I think maybe February/March, I'm not too sure.

February/March, 2018?---'18, I'm pretty sure it was 2018, yeah.

30 Now, I'm going to ask you some questions about AZH Consulting. When did you set up the company?---I set up the company, like officially registered it, in 2016, November.

And how did you go about setting it up?---I did it online.

And who is the company director?---My wife is the company director.

40 And why are you not a director?---Because my wife was working, well, she still works part-time. At that, that time, I set it up because I started an e-commerce business and I thought, well, she's working part-time, there's income from it, she'll get taxed less as opposed to me.

And so why did you set up the company?---Because I had a, I'd, I'd been working on an e-commerce website, selling like apparel. So yeah, and I, I didn't want my personal address to come up when people made payment or for refunds and stuff like that. I didn't want my full name to pop up on PayPal transactions and stuff like that, so I thought I'd set up a business so it has the business name instead of my name.

What do you mean by working on an e-commerce site for apparel?---So in 2016, I started doing designs for T-shirts and stuff like that and then I launched in November, 2016. Yeah.

What did you launch in - - -?---The, the website. The website was fcculture.com.

10 THE COMMISSIONER: And did it specialise in any - - -?---Yes. It was football, like, tributes to, like, or soccer as people like to call it. It was just like that style of apparel and I had professional footballers wearing it and buying it. Yeah.

MS WRIGHT: And did you actually create t-shirts?---Yes, did create t-shirts. I still create t-shirts.

Now, the date, and I can show you the record if you wish, but the Commission's information is that the date the company was registered was 10 November, 2016. Does that accord with your memory?---Yeah, that would be about right. Yep.

So you were conducting the clothing or the T-shirt business prior to the registration of the company?---I was, like, creating it so I had supplies from China sending me samples and that, dating from, like, June, 2016, and designs and stuff.

And why did you feel you needed to create or register a company for that business?---Because I had, I just thought it was for tax reasons. I had no idea that the way I set it up was completely wrong until I saw an accountant and he was like, "The way you did it was completely wrong. You didn't need to do that." He was just, yeah - - -

What was wrong about it?---I didn't need, like, a Pty Ltd company or anything like that for the e-commerce side of stuff but I did it just for when you create a PayPal account, because most people like to pay in PayPal. For a business one, you need, you know, the business details and it also has your name. So if it's a personal one, it will have your personal name when someone buys something off you and I didn't want my personal name to pop up on to people's statements or people knew who I was and they could look me up and if they had a problem with it or - - -

Now, did the company have a place of business?---It was just from my house. That was - and it had a PO Box as well.

Did Mr Soliman have any involvement in AZH being set up?---No. I did it through easycompanies.com.au.

And prior to registering the company on 10 November, 2006 [sic], did you have any conversation at all with Mr Soliman about you doing work for RMS?---Yes. Late in 2016, he said to me – I, I originally reached out to him when I knew that I was going to be made redundant because NBN decided to change what they were going to do with Optus and I just reached out to him and said, “Hey, do you know anyone looking for, like, looking for anyone?” He referred me to someone in the private industry and said, “Have a chat to this guy.” That didn’t really pan out and later on he said, “I might have something for you if you’re interested.”

10

And did he ever suggest to you that you would need a company in order to do that work?---He told me, yeah, said I’d need a business and then we could do that.

And was part of the reason you set up or registered AZH because of Mr Soliman’s suggestion that you would need a company to do work?---No, it was for my, I always wanted to branch out into business and, yeah, so it wasn’t specifically to do this, whatever he, he had in mind.

20 Now, when you set up the company did you obtain an email address for AZH?---Yes.

And what was that address?---It was manager@azhconsulting.com.au.

And was that a, what sort of account was that?---It was hosted through Gmail, it’s called G Suites, yeah.

Did you open a bank account?---Yes, my wife, I got my wife to open a bank account because she was a director.

30

And which bank was that with?---Westpac.

And who had access to the AZH bank account?---Just me.

Did you obtain login details to access the account online?---Yes.

And you could access the bank account statements online?---Yes.

And you said you asked your wife to open the account.---That’s correct.

40

Was she the sole signatory to that bank account?---She was, yes.

And so you made your wife the sole director of AZH.---Yeah.

And the sole signatory to AZH’s bank account.---Yeah.

And why did you do that?---Well, I just didn’t really know the ins and outs of it. She, the reason I got her to be the director of the business was I

thought because being part-time was a tax, I'd pay less tax, because she was only working part-time and because she was a director of the business I just thought only the director can open a bank account in the business name.

THE COMMISSIONER: And was this bank account in the name of AZH?

---Yes, that's correct.

MS WRIGHT: Now, did your wife ever do work for AZH?---No.

10 Did you get a logo for the company?---Yes, I did.

Where did you get that?---Um, Fiverr.com.

Sorry?---Fiverr, yeah.

Did you ever send that logo to Mr Soliman?---Yes, I did.

And when did you do that?---It would have been, I can't remember when it would have been.

20

Was it after AZH was given work by RMS or before?---It would have been after it got registered, that logo, yeah, I was told I needed a logo for it because - - -

THE COMMISSIONER: Who told you?---Sam, Sam Soliman. So I got a logo and then I sent him the logo.

MS WRIGHT: So Mr Soliman, did he tell you you needed a logo?---Yeah.

30 And the website that you suggested, Fiverr.com - - -?---Yeah.

- - - how did you find that?---Oh, it's just a, like, freelancing website, you - - -

Yes, but how did you find it, did Mr Soliman suggest it or - - -?---Ah, he just told me go online and get a logo and I just did that.

And you googled and found that website, did you?---Yeah, it's freelance, yeah.

40

Now, did you send that logo to Mr Soliman before the first job was awarded to AZH or afterwards?---I'm not sure. I'd say it would be before because he would have submitted the quote or - - -

Okay.---Yeah.

Now, you've already touched upon it, but could you just describe in your own words how it is that AZH came to first be given work by RMS?  
---Yeah. So Sam said, he told me late 2016 that he might have some work for me. He came over to my house one day and he just said, "You know what, I can get you work through the, through the RMS. You've got, you know you do data and stuff, it's basically just doing trials and doing documents and putting it together and making a recommendation." And I told him at the time, I said, "I don't know anything about it, I don't know how, how you do it." And he's like, "I'll show you how to do it and then  
10 you can kind of take over and, you know, you can run it yourself." And at the time I remember asking him, I said, "Is this illegal?" And he told me no. And I said, "Are you sure?" And he said, "Yes, it's not illegal, the worst case is I'll lose my job."

Why did he offer you that opportunity?---I think it was around the time prior to that I was told by Optus that our team would be made redundant and I'd asked him for, you know, if he knew anyone looking for anyone and he gave me a lead which went nowhere and then, and then after that he just said, you know.  
20

So you had reached out to Mr Soliman about needing some work.---Yeah.

And then he suggested to you one day at his house - - -?---At my house.

I'm sorry, at your house - - -?---Yeah.

- - - that there may be an opportunity to do some work with RMS. Is that how it unfolded?---Yeah, yes.

30 Now, and the nature of the work that he told you that you may be able to do from RMS was in the nature of trials, did you say?---Yeah, trials, and he said just putting the document together from your findings from the trial.

Did he tell you how much work you could expect to be given?---No, he really just said a couple of jobs here and there, he was like, they would be like, 20 or \$30,000, he never said the extent of it. Then I asked him, you know, how would it work, he said, you know, at the start, yeah, he'll, he'll take like 75 per cent of it, of the - - -

40 THE COMMISSIONER: Sorry, what did he say?---I asked him how it would work, like financially for me and he said, look, at the start, because I don't know what I'm doing and he's going to teach me, he'll take 75 per cent of the earnings and then after that he'd train me up then - - -

MS WRIGHT: Okay.---Yeah.

Now, you said there would be 20 or \$30,000. Was that for each job or in total?---Ah, he said for each job, but he never specified how many jobs there would be, you know.

Okay. Did he say anything about how long the work would take you?  
---He said that, you know, you go for the trials, it can be a couple of days or a week and then you're talking about, you know, five or six weeks doing the scoping study and he's like, you can do that in your, you know, at nights and stuff like that once you have the data, and you can put together, your,  
10 you know, recommendations and your findings from everything you saw in the trials.

Now, before we come to the detail of what you did for RMS, before you were given any work or before AZH was given any work by Mr Soliman, was there any process you had to follow to become a contractor to RMS?  
---At that point there was nothing. I just had to submit my business details and that was it. At that point that was all that was required.

20 Could Mr Hamidi please be shown volume 3, page 8. This is an email from Jai Singh - - -?---Yeah.

- - - dated 28 November, 2016, to manager@azhconsulting.com.au.---Yeah.

And you can see that's asking you for some company details.---Yeah.

And then if Mr Hamidi could be shown page 9, please. This is an email chain including your response to that email.---Yeah.

30 Now, you've sent that back to Mr Singh but your email says, "Hi, Samer." I'm sorry, I'm sorry, the second email in the chain - - -?---Yeah.

- - - you've said, "Hi Jai," and you've provided answers to the various questions.---Yeah.

Do you recall sending that email?---Yeah, so that was the business details I sent through to - - -

40 So did you ever submit any other company information to anyone at RMS before being able to do work for RMS?---Prior to this?

Yes.---No.

Or after this?---After this, I think later on there was that whole tender process thing.

But at this stage at the end of 2016?---That's all I was asked for and that's all I submitted and I believe they registered me as a vendor.

Did you have contact with anyone apart from Mr Soliman or this email from Mr Singh prior to being engaged by RMS?---No.

And before getting this email from Mr Singh, in which he asks you or tells you that, “Your details need to be added into the system for us to engage with you,” did you have any contact with Mr Singh at all about doing work for RMS?---No, not really.

10 When you say not really, did you have - - -?---I, no, I, I can’t remember. I don’t think so. I’m pretty certain I didn’t have any, like, this was my first engagement with Jai about working for the RMS, yeah.

I’m not limiting my questions to emails. Did you ever discuss with Mr Singh - - -?---With – No.

- - - the possibility of you or AZH doing work for RMS?---I, I cannot recall having any discussions with him.

20 Before you got this email, from Mr Singh, did you believe that Mr Singh knew you’d be doing work for RMS?---I think he, I, I was under the assumption that Sam told him that I would be doing work for the RMS.

How did you form that assumption?---Well, because Sam told me he would tell Jai because obviously Jai knows me, so - - -

30 So when you got an email from your friend, Jai, asking for details, you didn’t think it was strange that Mr Singh was writing to you asking - - -? ---No because Sam told me that Jai would send me an email for the business details.

Do you see how this email’s dated 28 November, 2016?---Yep.

40 And AZH was set up on 10 November, 2016, and by set up, I mean registered with ASIC. Are you sure you didn’t set up the company for the purpose of obtaining work from RMS?---It wasn’t for the purpose of it. I’m sure of that because I had my online business, so that was my sole reason for registering a business. It came about that, you know, that that’s what Samer kind of wanted as well but my whole plan, and I can show you designs and manufacturing quotes and stuff like that in 2016 for my apparel business.

THE COMMISSIONER: But were you actually selling the apparel?---I was selling it online, yes.

But how? Like, did you have a website or - - -?---Yes, I had a website. So e-commerce, yeah, so a website.

And what was the website called?---At the time it was fcculture.com.au and since then I ran into some legal issues with someone claiming I was copying their designs. I changed it to a different name and then ran it from that.

And do you still operate this website?---I still operate the website.

MS WRIGHT: When you registered AZH on 10 November, by that stage did you expect to be receiving work from RMS?---Not for a while, no.

10 When you say not for a while, what do you mean by that?---Because Sam said that he will see what he can do type of thing and see what's coming up and their budgets and the projects required.

When had you had that conversation in which he said that there could be an opportunity to do trials for RMS?---I, it would be late 2016. Yeah, I can't remember the date exactly.

But it's before, it's obviously before - - -?---It's before the emails.

20 - - - 28 November?---Yes, that's correct.

When Mr Singh asked you for the company details?---Yep.

And you'd registered the company on 10 November of that month?---Yes.

Would you have had that conversation with Mr Soliman prior to 10 November, 2016 to the best of your recollection?---Potentially. I, not too sure when that conversation took about.

30 Now, how many jobs do you recall that AZH was awarded by RMS?  
---There was, I can't remember the total. It was, I think it was 14. It's all, it was all there, I suppose, in the documents but I think it went up to, like, 18 quotes or something and not all the quotes were successful.

And are you saying that you were paid or AZH was paid for 14 of those quotes?---I would say so, yeah, for the invoices. If there was invoices sent, they were paid, yes.

40 And how would you describe the nature of the work that RMS gave to your company?---At the start it was just trials and scoping studies, and then over time it kind of evolved into other stuff. It's, at the start I was doing the, the trials, so I attended three trials, the first three, in February, March and April.

We'll come to those.---Yeah.

But when you say it evolved into other stuff, were they still trials and scoping studies later?---Later, when I looked at it, after everything

happened, I realised they weren't just trials. It was like purchasing equipment and stuff like that.

Did you ever purchase equipment on behalf of or for RMS?---I did not.

10 What did you understand a trial and scoping study to be?---So the trial, from what I was told, was attend the site, they would test the technology, they would trial the technology, you capture the data, and then from the data you've captured – from, you know, the vendor's data as well, whoever was supplying the equipment – you kind of put them together and make, like, a recommendation over, you know, all the data that was available.

You said you attended three trials.---Yes, that's correct.

Did that relate to three different invoices submitted by AZH to RMS?---Yes, that's correct.

20 And what did you do, just in general terms at this point, at those trials?---So I would, yeah, get onsite. We would just capture the results from what we were testing, so I think it was, one was a thermal camera, there was a three-dimensional scanner and just another type of scanner, and it was, they would come in, you would get the results from the technology and then there would be, like, the manual side of it, so then you'd manually check it. So when there was, like, a three-dimensional scanner it was manually checking the width and height of the trucks to see if it matched the camera.

THE COMMISSIONER: So the camera would generate data of its measurements of this particular truck.---Yeah.

30 And then you would then independently go with the tape measure or a ruler and compare. The camera said it was X metres high. That corresponds with the manual measurement.---Yeah. So then you go, okay, then, it was off or it was on or, it was to see how close it would get to a manual measurement.

40 And the actual operation of, with that example, the camera, who operated the camera?---The thermal one, the actual vendor who was supplying it was there doing the, the, like, the, like, running it. Same with the second one and the, I think the, the Marulan one, the, it was already installed so the data would come through already once the trucks would pass the camera.

MS WRIGHT: So you didn't supply the camera or the other equipment for the purpose of the trial?---Those trials didn't require it. And for any other thing, we didn't supply any equipment.

Where were the three trials that you attended?---It was Marulan, Twelve, sorry, Twelve Mile Creek and Picton Road.

And apart from those three trials which you attended, did you ever attend any other trial?---No, Samer told me not to, I don't need to attend any more.

Did you ever attend any other place at all in connection with doing work for RMS apart from those three trials?---No.

Now, you had a background at Optus in call centre management and analytics.---Yeah.

10 Did you consider that you had any qualifications to do this work for RMs?  
---I thought the data side, like analysing data, was relevant, but obviously I didn't have any knowledge of heavy vehicles or heavy vehicle compliance.

Had you had any experience in heavy-vehicle related equipment such as cameras - - -?---No.

- - - or dimension scanners?---No, not at all.

20 Now, just coming to the actual trials. Where was the first trial that you attended?---It was Picton Road.

And what was the purpose of that trial?---I think it was a thermal scanner or camera.

If Mr Hamidi could be shown volume 3, please, at page 15. This is an email to you as manager at AZH Consulting from Mr Soliman with his work signature cc'd to [REDACTED]@gmail.com. Do you recognise that email address?---That's his personal email address.

30 And that's Mr Soliman's personal address?---That's Mr Soliman's personal email address.

And were you familiar with that address before getting this particular email?---Yes.

It lists three what appear to be trials. The three that you attended are they listed there?---I think it's the thermal trial at Picton Road.

40 That's the first trial that you attended?---The first one, yeah. The, the Marulan one, the dimension scanner. I'm not sure.

THE COMMISSIONER: Number 4?---Yeah. So number 1 and 4 and I'm not sure if the, the Twelve Mile Creek one is there. I think it might, yeah, or maybe not. Yeah, I'm not sure.

MS WRIGHT: So the second one is a SICK high-speed - - -?---High speed.

- - - dimension scanner at Marulan.---Yeah.

Did you attend that one?---I only attended one at Marulan. I'm not, I can't, I had the, the details but handed over to my solicitor exactly which one it was.

And the one you attended at Marulan involved testing just one item of equipment rather than two?---Yeah, it was just a, it was a 3D dimensional scanner so like - - -

10 And then the one at Twelve Mile Creek you say is not listed there in this email?---I'm not sure if, yeah, it was that one the vendor was onsite for that as well. I'm not sure if it was one of these ones.

Now, the first trial was in relation to a thermal camera. Is that correct?  
---Yeah.

If Mr Hamidi could be shown page 95 of the same volume, volume 3, please. This is an email chain from Mr Soliman. If you could look at the last email on the page, "Hi, AZH team. Can you please provide a quote for  
20 the scoping study and trial of the IMC thermal camera with the requirements we discussed earlier."---Yeah.

Did you have a discussion earlier about requirements?---No.

And you have responded to that email, and it's the email in the middle of the page, saying, "Please find attached our quote." And you've signed that email in your own name with the title Operations Manager.---Yeah.

30 And if I could ask you to note the time of the email which is 1.20pm. And then if Mr Hamidi could be shown page 97, please. This is the quote itself. Do you recognise that document?---It was a document that Mr Soliman sent me to - - -

Well, we'll come to that but do you recognise the document?---Yeah.

Did you prepare that document?---I did not.

Do you see at the top there's the AZH logo.---Yeah.

40 And there's an address and phone number and it states, "Prepared by Zoe Hamidi."---Yes.

Did your wife prepare this document?---No, she did not.

The phone number there, what is that phone number?---It was an old business number I got for this, for this, yeah, for AZH, for this aspect of it.  
- - -

When you say this aspect, for RMS work?---For RMS, yes.

So you obtained that phone number - - -?---Yes.

- - - for the purposes of AZH doing work for RMS.---Yes, that's correct.

And did you provide it to Mr Soliman?---Yes.

10 Now, you'll see the quote sets out a scope of works, first a field trial at an RMS-selected site for a brake and tyre compliance scanner, and it says the trial is to run for a three-month period. And then 2, a scoping study, 3, it sets out field trial requirements, 4, engineering design and fabrication and then, 5, to report on the results. Okay. Now, who drafted this scope of works?---He would, the, Mr Soliman.

And if Mr Hamidi could be shown page 91, that is an email from Mr Soliman to the AZH email address as well as an Optus address. Are they both your email accounts?---Yes, that, that was my work email address.

20 And that email appears to be sent at 12.47 on 17 January, 2017. Do you see that?---Yes.

And when you said that Mr Soliman prepared the quote, is this an email by which he sent you the quote?---Yes, that's correct.

And then what did you do with it?---I would submit it as, yeah, I would submit it to, in response to, you know the RFQ or, that was sent.

30 But just dealing with this particular quote - - -?---Yeah.

- - - I took you to an email earlier where he asked you for a quote - - -?  
---Yes.

- - - for the scoping study and trial of the thermal camera, and then you sent him back a quote on 17 January, 2017 at 1.20pm and which I've taken you to the - - -?---Yeah.

40 - - - quote which you sent back to him. Is it your evidence that you received the quote from Mr Soliman earlier that day - - -?---Yes.

- - - at 12.47 and that you simply sent that back to Mr Soliman in an email less than an hour later?---Yes.

And is it your evidence that you didn't draft anything in that quote?---I did not draft anything in that quote.

And how do you say that he received the AZH logo?---I sent it to him via email.

Now, that process of Mr Soliman sending you a quote and you sending it back for this first project, did that occur for later trials and scoping studies? ---That was pretty much how it happened for every single quote and invoice.

His email, so still on page 91 of volume 3, there's nothing in the body of the email.---Ah hmm.

10 How did you understand what to do with the attachment, which is titled, Quote, RMS01?---He'd instructed me on WhatsApp that he would send me the quote and then I just have to forward it on when he requested a quote.

So you were in contact on WhatsApp?---That's correct.

And when did he provide that instruction?---It would have either been that day or earlier that week, so maybe even a Monday, that he was going to send me the quote and then once I received the quote to submit it.

20 And did he tell you when to submit it?---Sometimes he would tell me when, he would say, I think at the start from what I remember he sent me a whole bunch of them, quotes, and he would say send these on these dates. Yeah, something along those lines, but yeah, he would normally tell me when to send it.

And would he normally send them in PDF version, which is - - -

MR YOUNG: Well, I object, I object to questions about what normally. If evidence is going to be given of this kind, in my submission it should be identify the occasions and it should be as close to possible in direct speech.

30 THE COMMISSIONER: Sorry, Ms Wright?

MS WRIGHT: Well, Your Honour, I appreciate I am eliciting evidence about this particular occasion as well as a practice which Mr Hamidi says occurred on subsequent occasions, but in my submission it will be clear when it's a particular occasion, when it's more of a general proposition.

40 THE COMMISSIONER: Mr Young, my understanding is we're kind of, we're at the beginning. We're starting an overall view of what Mr Hamidi's evidence I anticipate will be about his dealings with Mr Soliman, and then I anticipate, given that we've got about two volumes, we will be going to specifics. So I'll allow it at the moment at this overview stage with the expectation that we will get down to specifics when we turn to particular scoping studies or particular invoices.

MR YOUNG: Please the Commission.

THE COMMISSIONER: Sorry, Mr James?

MR JAMES: Madam Commissioner, having regard to that, and looking at the time, might I without discourtesy seek to be excused, leaving the matter in the hands of my learned junior and instructing solicitor, to return when I should be required?

THE COMMISSIONER: Yes, certainly, Mr James.

MR JAMES: Thank you.

10

MS WRIGHT: Mr Hamidi, this particular quote was sent to you as a PDF document.---Yes.

Did Mr Soliman ever send you quotes on AZH letterhead or use an AZH logo which were in any different format?---Yes, most of the time they were in Word, Word format.

And did you submit them to RMS in Word format?---No, I would convert them to a PDF and then send them.

20

Why did you do that?---That was the instructions he gave me, to remove the, the author and the creator of the file from the, from the Word document.

If you could just try and use the words that he told you. So was this by WhatsApp or in person?---Yes. It was convert them to PDF so my name is not on them. It would have been somewhere along those lines.

Now, did you ever sign the quotes before submitting them?---I don't recall doing so.

30

Now, just coming back to this quote, which is at page 92 of volume 3, what was your expectation in relation to your ability to do the work set out in this quote?---It was that, he, he, he told me from the start that he was going to show me how it was done and I would use my analytical skills, and then he will show me the rest.

Now, this trial was the one at Picton Road. I think you said that was the first trial that you attended.---Yes.

40

Do you recall when?---I think it was 2 February.

And who was present at the trial?---Mr Soliman, Mr Singh and the inspectors for that area and the vendor that had the equipment.

How many inspectors approximately?---I couldn't remember. Maybe two, three. They kind of came and went.

And you understood that they were RMS inspectors, did you?---Yes, that's correct.

And the vendor for the equipment, did you say?---Yes.

And what did you actually do at this trial?---So it was just measuring the, like, you know, the temperatures that the camera was getting and then what the inspectors would manually get with their guns on their, on their brakes to see if they were heating up.

10

And how did you measure the temperatures that the – sorry, what did you call it, a - - -?---Oh, they had the, like, a temperature gun, the inspectors. So they would go into the brakes, measure the temperature and they will tell us and we would record them.

THE COMMISSIONER: Sorry, so you had the vendor whose camera it was?---Yes.

20

And the vendor would operate the camera, what, to measure heat from the brakes?---Yeah. So they would drive over the, the camera, it was, like, in a box and it would measure the, the, the temperature of the brakes.

And so, for example, that would then generate a result that, this is off the top of my head, that the brake was 50 degrees Celsius?---Yes, that's correct.

And then the inspector would go out with a, how did it - - -?---It was a temperature gun.

30

Temperature gun?---Yep.

And would?---Would basically aim it at the, the brakes and get the temperature reading.

Which might be 40 degrees?---Yeah. Could be different, to see the variance, because like, the camera would say, I remember would say, oh, it's running really hot, and then when the inspector would check it, it wasn't as hot as the camera would say it was.

40

And was your role, with a clipboard, to write down "Camera generated result, 50 degrees. Inspectors' result, 40 degrees"?---Yes, that's correct.

MS WRIGHT: Would that information be conveyed to you verbally by the inspector or the operator of the camera?---Yeah, so the, the, the vendor would say this is what we got and we'd basically just filled out a spreadsheet and then the inspector would say this is what we got and then we would just put them together, saying camera, inspector, sorry.

THE COMMISSIONER: So you were really like a scribe?---Basically. I was just gathering, like, data entry I suppose.

MS WRIGHT: What was Mr Singh doing?---He was just making sure that, you know, everything was running with the vendor, with the, with the inspectors, if there was a problem with the camera in any way because of what they anticipated that it could capture at a high speed, so they had to modify it to try and see how, you know, how they can best use that equipment.

10

Mr Soliman, what was he doing?---That was what Mr Soliman was doing. Him and Mr Singh were, you know, working with the vendor to try and - - -

THE COMMISSIONER: Ms Wright, are you going to a new topic?

MS WRIGHT: Not quite. A new document but within the same trial.

THE COMMISSIONER: I'm just wondering if that would be a convenient time?

20

MS WRIGHT: Yes, yes.

THE COMMISSIONER: All right. We'll adjourn for lunch and resume at 2.00pm.

**LUNCHEON ADJOURNMENT**

**[1.03pm]**