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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 21 JUNE, 2019

AT 2.00PM

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

THE COMMISSIONER: Right, Mr Soliman.

MS WRIGHT: Mr Soliman, I just have a few more questions of you about the PSC Panel before I move on to ask you some questions about the spare parts issue. Could I take you to volume 7B at page 486. Do you see here this is an email of 6 September, 2017, and this is about arranging a meeting with Mr Chehoud to discuss the PSC Panel?---Yes.

And you tell him that you don't have long to get both panels up and running.---Yes.

You see that? "Both panels" was a reference to both the PSC Panel and Heavy Vehicle Maintenance Panel contract.---Yes.

And then if I could take you to – I'm sorry, I need to switch volumes. Volume 7A at page 261, and I'll come back to volume 7B. Do you see here this is a file note of a meeting with you of 6 September, 2017, at 1.01pm? ---Yes.

This was produced to the Commission by WSP. You understand?---Yes.

It appears to be a file note by Mr Chehoud about a meeting that you had with him.---Yes, okay.

This relates to the PSC Panel. You had discussed with him the purposes of the PSC Panel, had you not?---I must have.

And you told him that it would be for work to do with research and development of software and hardware relevant to the Heavy Vehicle Programs Unit?---I probably would have said that, yes.

And you said that the main drivers for the PSC Panel were cost savings and savings in contract management. Do you see towards the bottom of the page?---I don't know if that came up at the time, though.

Is that something that you would have told Mr Chehoud, that the main drivers for the panel were cost savings and savings in contract management?---I don't think so because in the early, early stages he wasn't looking at the benefits kind of thing.

What do you mean by that, Mr Soliman? Here is a file note of a meeting with you which says the main drivers for the PSC Panels are cost savings and savings in contract management.---Yeah, I - - -

They were things that you told Mr Chehoud, weren't they?---I don't recall.

And the file note includes that the companies currently doing the work are SGS and AZH.---Okay.

Do you see?---Yes.

And so you didn't count Novation as at September 2017 as a company doing this R&D style work?---Pretty sure by that time Mr Thammiah said he doesn't want to do that.

10

And he'd taken over the procurement of the spare parts and scales for RMS.---I think at this time, yeah, I think so.

That was by the end of 2016, wasn't it?---Okay.

Now, in reality the PSC Panel did not lead to cost savings, did it? Do you agree with that?---I don't understand. I mean - - -

20

Do you agree with that?---I don't understand. I mean - - -

I've taken you to four contracts worth in excess of \$200,000 each, awarded to AZH following its appointment to this panel.---Yeah.

And you are not able to tell the Commission anything of substance I submit about any of those works for which AZH was paid.---I've told you what I, what I do know.

30

Now, if we could go back to volume 7B at page 488. Do you see here that Mr Chehoud apologises for not being in touch sooner and he says he hasn't forgotten about the time frame for setting up the PSC Panel?---(No Audible Reply)

Do you see?---Yes.

And then he says he'll be focussing on the task today and will send some more correspondence to you and Alex, "To get the model RMS documents I need?"---Yes.

40

And you tell him you're looking forward to his response.---Ah hmm.

And then if we go to page 490 there is an email of 13 September in which Mr Chehoud has asked for some MS Word versions of RMS tender documents.---Yes.

Do you see that?---Yes.

And you've instructed Mr Dubois to send to Mr Chehoud the documents that he has requested.---Yes.

And you say that you will send Mr Chehoud example RFQs.---Yes.

So it's the case, isn't it, that RMS provided Mr Chehoud with all the template tender documentation?---I think they're just what you see, they're the panel deeds, not so much the templates.

You see it includes a request for tender document?---Yes.

10 And so you were providing template material for him to use in order to produce the documentation needed for the tender, weren't you?---Not sure if they're templates to be honest, but yeah, we gave him these documents, yeah.

In any event, it was for the purposes of enabling him to produce the tender documentation, wasn't it?---Yeah, basically.

And you sent to him, page 495, please, an RFQ for an example of a current trial. Do you see - - -?---Yes.

20

- - - on 14 September you say to Mr Chehoud by email, "Here is one RFQ example for a current on-road trial."---Yes.

And it's for one of the simpler trials for a new dynamic portable weigh scale.---Yep.

And you tell him in that email that normally you'd only ask for a scoping study for such a trial if the trial was successful?---Yes.

30 And so was that your view, that that was the only circumstances in which a scoping study would be needed, only if the trial was successful and would be included in a business case?---I think what I meant there, generally we would basically demo the hardware for a couple of days first and see how we go from there.

And then after that, if it was successful, you would ask a vendor to complete a scoping study document?---Not necessarily. We would see if it basically warrants more trialling and a scoping study.

40 And so the idea was you wouldn't need a scoping study necessarily at the outset, it would only be if there was a promising outcome from the initial demo or trial?---Potentially, yeah.

And that's not the approach that you took with either Novation or AZH prior to this point, is it?---I think it was for the majority.

Well, in all of the examples, there is a quote and it includes a scoping study report from the outset, doesn't it?---Not all of them.

For which each company was paid regardless of whether there had been a prior demo indicating a positive or promising outcome or a successful outcome, as you say in this email to Mr Chehoud on 14 September, 2017. That's the case, isn't it?---I don't understand your question.

10 What I'm suggesting is for each of the Novation and AZH contracts awarded prior to this, there had been no demo or trial which had been considered successful which had then led to a further trial and request for a scoping study.---I think for most of them we, we saw enough proof for the hardware that it would warrant further trials.

THE COMMISSIONER: But that isn't provided for in any of the documentation, was it?---Sorry, which documentation, Commissioner?

20 The documentation for all the quotes and invoices that Ms Wright has taken you to over a number of days, where Novation and AZH were paid considerable public funds. There's no demarcation between an initial demo and then subsequently a scoping study. They're all included in the one quote and the one invoice, aren't they?---Not necessarily. For example, I think the FLIR ONE Pro, we just kind of looked at it quickly and it seemed to work but it wasn't a road test. So that's what would warrant further trialling of it, if that makes sense.

All the rest, the quote and invoice, did not include this two-stage process, did it?---Not that part, but we would generally anyway only go to the further trial if there's some proof that the hardware should work.

30 MS WRIGHT: But that FLIR ONE Pro matter didn't even proceed, did it? That was the one where you said there was a difference between the handheld and the in-ground thermal camera.---If I recall correctly, it did proceed but AZH lost that one.

Now, page 505 of volume 7B is an email chain of 19 September, 2017, and you'll see the email at the bottom of the page, 19 September, from Mr Chehoud to you and Mr Dubois, and he's updating you about his drafting of the PSC Panel tender documents.---Yes.

40 And he has a heading (1) Evaluation Criteria.---Yes.

And he says that the ESM 6 provides the following typical non-price criteria. If we could turn to page 506, he then sets out the six possible criteria and he asks you what are your thoughts on the evaluation criteria and the weightings. Do you see? "What are your thoughts?"---Yes.

"If you agree, what are your thoughts and evaluation criteria weightings."---Yes.

Now, and he also asks you about the Tender Assessment Panel or Committee and he asks you to let him know what you think and who needs to be on this panel. And he suggested, "If the value of the work is likely to exceed \$50,000 per order, we will need to establish a panel of at least three officers." Do you see that?---Yes.

10 And he says he's happy to be involved as the independent member. And then you respond back on page 505, and you reduced the criteria to three criteria – technical skills, methodology and past performance. Do you see that?---Yes.

And you suggested the weightings for each criterion. You see?---yes.

And you suggested it be 80 per cent for past performance. Do you see that at C?---Yes.

20 And you deleted reference to time and cost and retained the reference to quality of past performance. Do you see that?---I thought that was taken out by Nathan, if I recall.

Sorry?---I thought that part was taken out by Nathan, if I recall correctly.

If we could go back to page 506, do you see at C he has, "Past performance, time, cost and quality?"---Yes.

And then back on page 505 you've deleted time and cost and retained quality. Do you agree with that?---Yes, but I'm sure we spoke about this at the meeting because it was a non-price, non-price panel.

30 Well, this follows the meeting, the meeting's already occurred on 6 September.---Yeah. I know there was - - -

And then he suggested to you past performance, time, cost and quality - - -? ---Yeah.

- - - in this email on 19 September, 2017. Do you agree?---Yeah.

40 So it's unlikely that he would have included time and cost if at the meeting you'd, or he had suggested that it only be referable to quality. Do you agree with that?---Just trying to recall what happened. I know there was a person, a face-to-face meeting but I thought there was also some phone calls about this subject.

And you suggested that the work orders would be highly unlikely to exceed \$50,000. Do you see that?---(No Audible Reply)

Under heading 2 of your email.---Yes.

You were therefore recommending against a panel of three. Do you agree with that?---Sorry, no.

Well, if we go back to page 506, he says that if the value of the works exceeding 50,000 - - -?---Yes.

- - - “You will need a panel of three, otherwise a panel of two officers will do.”---Yes.

10 And then if we go back to your email at page 505, you tell Mr Chehoud that, “The work orders are highly unlikely to exceed \$50,000.” Do you see that? ---Yes.

And so aren't you recommending therefore that a panel of two officers will do?---No.

Do you agree that's an available interpretation of this email, given that you've included a heading “Tender Assessment Panel Committee?”
20 ---Don't agree with that interpretation, especially since I think there were three on the committee.

At this point you appear to be recommending that it could be a panel of two, based on the work order value that you expect.---I don't think that's what I would have meant by that.

Well, I suggest that's clearly what you meant, Mr Soliman, in responding to his question, “Let me know.” You deny that, do you?---As I just answered, I don't believe that's what I would have meant by that answer. I think he was just asking about the likely values of the work and that looks like what
30 I've answered him.

Now, you've decided upon the criteria to apply, or at least you recommended the criteria to be applied and the weightings to be applied to those criteria for this PSC Panel tender, haven't you?---The weightings or the ABC?

ABC plus the weightings which are set out in the email that you prepared.
---Yes, that was my recommendation, but we also had, from what I can remember, several phone calls and meetings.
40

But these were your recommendations, Mr Soliman.---I don't know if they came directly from me but I look at it now and it makes sense to me.

THE COMMISSIONER: But look at the second line. “Here are my recommendations.”---Yes.

It's your email.---Yes.

They're your recommendations.---Yes, that's, yeah.

MS WRIGHT: And you tell him that – I withdraw that. If I could just go to, just before that, in terms of the weightings, Mr Soliman, you're aware aren't you that the procurement manual states that the weightings are determined by the committee and are confidential?---No.

10 In setting the weightings and the criteria yourself, you were seeking to favour AZH's inclusion on the panel, weren't you?---No.

Because the criteria that were left off – management systems and skills, organisation's capability and financial capability – were not matters that AZH had any real capability in, were they?---Don't know.

Then if we go to page 510. On 25 September, 2017 you asked – and this is at about halfway down the page – what the status of the PSC Panel documents were to Mr Chehoud.---Yes.

20 And you said that you needed the panel up and running before the end of October.---Yes.

And Mr Chehoud sent you an email back setting out a draft or a program timetable.---Yes.

30 And then if we could go to page 516, your reply to that email on 25 September, 2017 is towards the top of the page, and you tell Mr Chehoud that it's great to see he has a plan and that you will place priority on this, so you expect to be able to shorten the period for RMS review and incorporate RMS comments and issue final docs. Do you see that?---Yes.

Because this was your process in the sense that you were the person at RMS that was determining what the documentation would be.---In which sense. I don't understand that question.

Sorry, my question wasn't terribly clear, but you have said there that you expect to shorten the period for RMS review and incorporate RMS comments and issue final documents. Do you see that?---I do.

40 That is because that was your job to conduct the review of the documents on behalf of RMS.---(not transcribable) remember whose job it was but, I mean, it's just about the, the timeline, dates, not who would do it.

Well, you say, "I will place priority on this."---Yes.

And so you knew that you would be in a position to prioritise it because it would be your job to do the review for RMS of the tender documentation. ---That doesn't read, that's not how it reads to me.

How does it read to you?---Well, he's basically asking me to look at his program here at the bottom of the, of the page. Yeah. He asked me what do I think of those dates and I said, well, you can, you can make a couple of those things less lengthy because you don't need, he's, he's got here five days to look at a document, and if I'm reading this now it seems like I would say the same thing. Again, why would you need five days to look at a document.

10 His email sets out, for example, RMS review 27 September to 29 September, 2017. Do you see that?---Sorry, which one?

His email, which is at about three-quarters of the way down the page, and he says, "Our program looks like this."---Yeah.

And he has a number of bullet points. You see that?---Yes.

And the second one is RMS review, 27 September to 29 September.---Yes.

20 And then for "incorporate RMS comments and issue final docs" he's allowed to 5 October, 2017. You see that?---Yes.

So he's provided in excess of five days after RMS's review for incorporating RMS comments and issue final documents.---Yes.

And then your response to him is that you'll place priority on this, so you expect to be able to shorten the period for RMS review, for example. Do you see that?---Yes.

30 And that's because you would be placing priority on your review of the draft documents issued by Mr Chehoud.---Don't know. I don't know what I would have meant then, but it's possible.

You then at page 522, please, receive from Mr Chehoud the draft procurement documents for the PSC Panel on 26 September.---Yes.

Yes?---Yes.

40 And then you respond to him that it's, "Great overall." And you say that you've made changes with some comments for his reference. Do you see that?---Yes.

And your email summarises the changes, and then at the bottom of your email you ask him to, "place priority on this."---Yep.

And you're referring to the finalisation of the documentation?---Yep.

And you say, "As discussed we have some deliverable projects that have been requested to be delivered very soon." Do you see that?---Ah, yes.

And were they the HAENNI, the second set of the HAENNI and PAT 10C Series III portable weigh scale trials?---Don't know.

And the modern portable weigh scale trial that was subsequently awarded to AZH?---Don't know which ones exactly.

10 So you are not able to tell the Commission what the deliverable projects as at 28 September, 2017 were that were requiring some urgency with the establishment of this panel?---Could have been those ones but I can't speculate I guess.

And one of the things that you did was, as set out in your email, to add requirements for the tender responses regarding demonstrated experience. Do you see at point 2 of the email you've done that?---Yes, yes.

And you say that's the main criteria. Do you see that?---Yes.

20 And you said you removed requirements relating to pricing because it was a non-price tender?---Yes.

And that's because didn't you want to ensure a situation where AZH only had to produce a couple of reports of prior scoping studies that it had done in order to ensure that it would be included on this panel?---No, that's not what I meant by that, it was a non-price tender. I think Nathan made a mistake there.

30 And you gave the past experience an 80 per cent weighting.---Yes. I think that would have come from either of us, but - - -

It did not come from Mr Chehoud, Mr Soliman, the email where you suggested the criteria and weightings is clearly from you, I suggest. ---That one was from me, but again we had several meetings and several phone calls about this subject.

And you as the RMS representative establishing this panel would know what RMS needed for this panel, wouldn't you?---What do you mean, needed, what - - -

40 Well, it's not Mr Chehoud's responsibility to understand what RMS business needs are, is it?---Not necessarily, no.

Mr Chehoud was asking you in the emails I took you to what you thought about the evaluation criteria, wasn't he?---I think so, but again, we had spoken about it.

He was taking guidance from you.---Not for everything, I mean he's the expert here, I think the main thing we used him for was to build these

documents based on his previous workings with panels and tenders and things like that.

I'll take you to page 615. And I suggest this is one of the attachments to Mr Chehoud's email that I just took you to where he attaches the draft tender documentation. You'd accept that?---Yeah, that's fine.

10 And if we just go back to page 614, you see this material is under the heading Schedule B5 Non-price Criteria?---Yeah.

And it sets out technical skills, methodology and relevant bullet points. ---Yeah.

And then if we go over the page, after the first dash Innovation, there's the heading Past Performance. You see that?---Yeah. Yeah.

And the document is marked up. There's some tracked text on the document.---Yeah.

20 And that was inserted by yourself.---It's possible. I'm not sure.

Because you had said in your email at page 522 that you had attached, with changes marked up in each document, the changes following your review of the material he had sent to you.---Yes.

Do you understand?---Yes, I do.

So in fact this document was attached to your email to him.---Okay.

30 Okay? You understand?---I do.

So the tracking, and indeed the comment by a commenter known as SS6, were inserted by yourself.---That would make sense. It seems that way.

40 So you had decided that there should be provided by the tenderers a list of all heavy vehicle ITS regulatory technology trials performed during the past two years and attach at least two detailed reports produced for these trials. You decided that criteria should be included, didn't you?---Again, I don't know if it was just me. We had several meetings there. This could have come out of one of the meetings that we were all there but I don't know.

That is most unlikely, isn't it, Mr Soliman, in circumstances where Mr Chehoud has sent you draft documents on 26 September and then you have responded two days later informing him that you have made changes which are marked up to the documents.---I don't recall exactly what the workings were with his comments.

And in your email you told him, "Can you please review the changes and our comments so we can finalise the documents."---Yes.

That is because he had not seen these changes before this point in time when you sent the changes to him.---Again it's possible but I don't, I don't recall exactly what the workings were or where they came from. They could have come from me, yes.

10 And then if I could take you to page 625. One of the other documents you sent back to him was the schedule for description of services to be included in the PSC Panel tender documents. You agree?---Can you flick through it so I can see it?

And then at page 626 you again were sending him tracked changes, being your suggestions for what this document should look like. You agree with that? I'm not asking you to read the changes. There are tracked changes here, Mr Soliman.---Yes. Yes.

20 They were your changes, weren't they?---I recall that table, Heavy Vehicle Regulatory Program.

And there's a comment on the - - -?---He asked me for that.

I'm sorry?---He - - -

There's a comment on the side by SS. That is you, correct?---Probably is, yeah, SS.

30 "We should not specify the exact trials in creating this panel, as these trials may change depending on business requirements."---Okay.

Do you see that?---Yes.

So have you previously provided him with the name of several trial projects, including the ones set out in the deleted table there?---Don't think so.

He must have got that information from you. And to be clear, I'm referring to the table which is deleted.---Yes.

40 Which has got columns Regulatory Program and Trial Project.---He would have - - -

Which then lists a number of specific trials, including a mass management dynamic portable weigh scale trial.---Yes, I see it.

That was a trial that you were planning by this point to award to AZH, wasn't it?---Planning at this point? What do you mean?

This is in September 2017, when you are settling the tender documentation for the PSC Panel.---Okay.

And Mr Chehoud or someone has inserted in a draft document the name of several trial projects that could be awarded under the PSC Panel. Do you see that?---Yes.

10 And you have deleted that table and you have inserted a reference to the general heavy vehicle regulatory programs instead of having a list of specific projects.---Yes, that makes sense.

And there is a reference in the deleted trial project table to dynamic portable weigh scale trials. Do you see?---Yes.

And then only a couple of months later you sought from AZH the second set of HAENNI dynamic and PAT 10C Series III trials as well as a modern portable weigh scale trial. This is the end of 2017 you did that.---Okay.

20 And I took you to them this morning.---Yes.

So you had in mind at this time that those contracts would be awarded in due course to AZH. That's what I'm putting to you. Do you agree with that?---Don't know if at that time that's what I thought.

And you added reference to "Demonstrated experience in heavy vehicle ITS regulatory solutions, including detailed knowledge of ITS solutions best practice," in the second paragraph under section 1.2. Do you see those words added in mark-up?---Yes.

30 And so, Mr Soliman, you had direct involvement in amending the tender specifications for this panel, didn't you?---Well, I definitely met with him about it, so I probably did, yes.

And then I suggest Mr Chehoud, at page 638, sent to you the final request for tender documents incorporating your comments and changes.---Okay.

Do you see? And then you asked Mr Chehoud to manage the upload of the tender documents as you would be on leave.---Okay.

40 And do you recall that you and Mr Singh also asked Mr Chehoud to insert a particular conflict of interest clause in the tender documentation?---No.

I could take you to volume 8, page 116. Do you see here an email from Mr Singh copied to you on 16 October?---Yes.

To Mr Chehoud.---Yes.

“Hi, Nathan. As per phone discussion, below is what we’ve put together to address the conflict of interest risks. Feel free to change it around if required.” And then the clause, which is in italics in that email, requires “Notification of any potential or actual conflict of interest or duty in the tender that may affect your ability to provide the proposed services to us.”
---Yes.

10 And so you were well-aware of the concept of a conflict of interest at this stage and the risks associated with a conflict of interest?---Only about this specific issue, but I think Nathan himself had a conflict here.

And is that what prompted this discussion about conflicts of interest?
---Must have.

20 And you didn’t have any concern about your own conflict of interest with regard to AZH or that of Mr Singh, did you?---At the time it wasn’t at the front of my mind but his conflict was different though, he was running the actual tender and his company wanted to apply for it, I think that’s what the issue was.

You were also running the tender on behalf of RMS and you had a clear conflict of interest with respect to your friend, Mr Hamidi.---I realise that now, yes.

You realised that at the time. That would have been absolutely obvious to you at the time, Mr Soliman.---Well, I wasn’t on the committee so I guess in my mind maybe that’s, I didn’t think it was an issue, but now I know it is an issue obviously.

30 And Mr Chehoud wasn’t on the committee in the end, was he?---Don’t think so.

And Mr Singh was on the committee, wasn’t he?---Yeah, yes.

40 And so you knew that any conflict of interest Mr Chehoud might have had with regard to WSP would be the same conflict of interest that Mr Singh would have with regard to AZH, didn’t you?---I was not really, I didn’t really think about Mr Singh’s conflict. Obviously now it’s black and white, but - - -

Your conflict was even more acute I suggest because you were setting the tender specifications and assisting Mr Hamidi to draft his own tender submission.---Ah, I would agree with that, yes.

And you would have been absolutely aware of that at the time of this, but you sought to hide that conflict of interest, didn’t you?---No, that’s not what I was trying to do.

What was your answer?---That's not what I was trying to do here, this was a different subject though.

I understand. I'm not talking about this particular email, I'm talking generally, Mr Soliman. It would have been obvious to you that you had a very serious conflict of interest with regard to this tender process.---I don't know.

10 And you sought to hide your conflict of interest from your employer.
---Don't think I hid it, it wasn't at the forefront of my mind. There was one tender, it could have been this one actually, where I first kind of saw the conflict of interest document, could have been a little bit earlier, I'm not sure, that's when I knew I had a, had a clear conflict, but I guess it was too late to do anything about it at that point.

And you continued to receive cash payments from Mr Hamidi well into 2017 and 2018.---Yes.

20 Now, Mr Soliman, you're aware that Novation would invoice RMS at regular intervals in 2017 for spare parts for portable weigh scales.---I found that out during this hearing, yes.

Well, some of those invoices came to you directly, Mr Soliman.---Don't recall approving an invoice for him.

Well, could I take you to volume 9A at page 230. Do you see here an email from Mr Singh to you of 16 January, 2017, forwarding an invoice - - -?
---Yes.

30 - - - numbered 101-02 - - -?---Yes.

- - - from Mr Thammiah? Then if we turn to page 231. Here is the tax invoice from Novation for 10A Series I parts packages.---Yes.

You see that? So this is one example where you received Novation's invoice.---Yes, but I don't approve it.

40 So it's not the case that you found out about Novation invoicing RMS for spare parts during this Commission hearing, as you suggested earlier, is it?
---Well, that's what I recalled, yeah. Didn't recall getting this one.

You were aware that Novation was invoicing RMS for spare parts - - -?
---Yes.

- - - in 2017. Do you agree with that?---I knew there was parts orders. I think it was 2017, yeah.

So when you said earlier that you became aware of that during the Commission hearing, that was not correct, that answer?---At the time that I said it, it was correct with what I, what I recalled. I didn't recall this one.

Mr Soliman, your answer was given all of about 20 seconds ago.---Yes.

You said that you found out during the Commission hearings, didn't you - -
-?---Yes.

10 - - - that Novation was invoicing RMS for spare parts.---Yes.

And then I've taken you to an invoice.---Yes.

And then I asked you to confirm whether you knew in 2017 that Novation was invoicing RMS for spare parts, and you agreed that you did have that awareness in 2017.---I knew there was - - -

Do you recall giving that answer?---There's several questions there. I mean, can you please give me a question one-by-one?

20

THE COMMISSIONER: No, what Ms Wright was doing was she commenced with reminding you about the sequence of evidence and then asked you to confirm that it was the case that in 2017 you knew Novation was invoicing RMS for spare parts. And that's the case, isn't it? You're getting a copy here of a tax invoice, portable weigh scale parts, on 16 January, 2017.---Yes.

30 MS WRIGHT: So there's nothing about invoicing by Novation of RMS that you've only discovered the first time in these Commission hearings, is there?---Well, I knew they must have been. I just also didn't know if it came to me like you stated originally.

Well, you knew it, I suggest, because you received the email on 16 January, 2017.---I would have known then but you're asking me now and again I didn't recall that email until you showed me it.

40 Now, I'm going to show you a table of all of the invoices submitted by Novation to RMS between January and May 2017. Do you see here a table including a date of an invoice and the number of the invoice and the total on the invoice, excluding GST. Do you see that?---Yes.

And there are invoices submitted in January, March and May 2017. Do you see?:---Yes.

And there are multiple invoices in each month which are submitted?---Yes.

And particularly in March do you see on a Friday there are three invoices submitted?---Yes.

And then the following Monday there are three further invoices submitted?
---Yes.

And then every day of the week, excluding the Friday, there are three invoices submitted by Novation to RMS.---Yes.

And then the following week another three invoices?---Yes.

10 And do you agree that that's a very regular pattern of invoices?---Yes.

And I suggest that the total invoices for this period is in excess of \$750,000 excluding GST that is being invoiced to RMS.---Okay.

And you were aware of that at the time, Mr Soliman, weren't you?---Well, I knew there was the purchase orders but I hadn't seen this many invoices before.

20 And you authorised the purchase orders?---Yes, I believe so.

And the arrangement was that each time Novation wished to invoice for spare parts it would issue those invoices to RMS. Correct?---Sorry, I didn't understand.

When Novation would invoice RMS for spare parts it would send those invoices to you or to Mr Singh?---Just generally whoever the purchase order creator was, so I think Mr Singh was for all of those.

30 You were the delegate who approved the purchase orders?---The purchase order, yes, not the invoice.

But in approving the invoice – sorry, I withdraw that. In approving the purchase order you were approving expenditure up to the total amount approved by way of the purchase order, weren't you?---Essentially, yes.

And in 2017 from 1 February I suggest WeighPack was doing the servicing and maintenance of portable weigh scales. Do you agree with that?---Okay.

40 Do you agree that it was WeighPack doing - - -?---Don't recall.

- - - the servicing?---I don't recall it if it was WeighPack or AccuWeigh at that time exactly.

And so after Mr Doherty of ELWC lost his arrangement with RMS, AccuWeigh was appointed as the maintainer of the portable weigh scales. Do you agree with that?---Yes.

And then you conducted – I withdraw that. You made a decision in December of 2016 to appoint WeighPack as the maintainer instead of AccuWeigh. Do you agree with that?---Not with the wording. I mean there was, there was RFQ process from what I recall right before Christmas.

And the result of that was that WeighPack was awarded by you the maintenance contract, wasn't it?---No. I mean there was a couple. I think it was Jai, Jai was the other one there on it.

10 Okay. Let's just - - -

THE COMMISSIONER: Jai was on what?---Just, I wouldn't call it a committee because it was just a RFQ process, but evaluation committee I guess you would call it. There's no, no, no better word really.

So you're saying it was the two of you?---Yeah.

MS WRIGHT: Well, we'll come back to that, Mr Soliman, but in any event it was AccuWeigh at the end of 2017 doing the maintenance.---Okay.
20

And then they were replaced by WeighPack. Do you agree with that?
---Yes.

And the arrangement under both maintainers was that if they needed spare parts from the manufacturer, they would need to submit to RMS their orders. Do you agree with that?---I believe so, yeah.

And - - -?---They just told – sorry, go on.

30 Is that correct?---Yeah, from - - -

They would submit their orders to RMS.---From memory they just told Jai what parts they, they need and he would order.

In other words, they would not submit their orders for parts to the manufacturer, IRD, would they?---Don't think they could, no.

And RMS would then pass on the order request to IRD, is that how it worked?
40

THE COMMISSIONER: What time?

MS WRIGHT: I'm dealing with any time after ELWC has ceased and AccuWeigh takes over and then WeighPack takes over. Under both companies the arrangement was that it was RMS that would obtain or make the order to IRD on behalf of the maintainer.

THE COMMISSIONER: Was it to Novation? Sorry, I'm interfering. I'll be quiet.

MS WRIGHT: Mr Soliman, are you aware of what the arrangement was? ---Pretty sure it changed a couple of times but I wasn't directly involved with it. I do recall one tender, I think Jai ran it for parts. AccuWeigh said they couldn't do it. Generally the order I think would go from the maintainer to Jai to Novation.

10 I see, so the maintainer would communicate its order effectively to Novation through RMS?---I believe so, but again I wasn't part of this so I don't want to kind of put words in someone else's mouth, in Jai's mouth. I don't know exactly what the workings were.

You were very much part of this, Mr Soliman, I want to suggest to you.---I don't see what part of it I was.

All right. Well, can I take you to volume 9A, page 46. Do you see here an email of 15 November, 2016 from you to Mr Mitchell?---Yes.
20

And at this stage Mr Mitchell is still working for AccuWeigh, do you agree with that?---Yes, okay.

His email address is @accuweigh, do you see that?---Yes.

And you're sending him the manual for the PAT 10A Series II scales that he has asked for from IRD.---Yes.

30 And you ask him to let you know exactly which part and numbers and quantities he wants to order. Do you see that?---Yes.

And you tell him that "The local supplier will source these for me."---Yes.

And so at this time the arrangement was that you would then convey the order from the maintainer to Novation. Is that the case?---For this one obviously Mark Mitchell told me what he needs. I don't know if I then got Jai to manage it or if I sent it straight to Novation.

40 But in any event the arrangement was that the maintainer would let you know what parts and quantities he wanted to order and that RMS would then ask the local supplier, Novation, to source those parts and quantities.---From what I can remember, yeah, basically that's what happened.

And Novation would then invoice RMS for any such orders, correct?---Yes.

And Novation would then pay IRD for those orders?---I assume so, yes.

And IRD would invoice Novation for that it supplied to it. That was the arrangement, wasn't it?---I assume so, yes.

And so when you say that you had no part of this, this email contradicts that evidence, doesn't it, because you're asking the maintainer to tell you exactly what part numbers and quantities he wants and that you will get the supplier to obtain them and source them?---I think this would have probably been the only time unless you can show me other ones.

10 So unless I can show you evidence in black and white you will deny involvement in the spare parts - - -?---I didn't deny.

- - - issue, won't you?---That's not what I said.

That's the case, though, isn't it, Mr Soliman?---I don't agree.

Now, you gave to Mr Mitchell the maintenance contract after he left AccuWeigh, didn't you?---I think that was the question of his court battle.

20 THE COMMISSIONER: No. It's before then.

MS WRIGHT: I'll take you to page 199 of volume 9A. this is an email from you to Mr Mitchell on 22 December, 2016. "Hi Mark. Thank you for your quotation for portable weigh scale maintenance for RMS. WeighPack Electrical have been successful in this tender. Congratulations. The contract will commence 1 February, 2017." See that?---Yes.

30 And so you gave the maintenance contract to Mark Mitchell of WeighPack just before Christmas 2016. You agree with that?---Again, it wasn't just, I mean, but yeah, he did win it.

And I suggest it was you that decided on that outcome, Mr Soliman.---Once again, it wasn't just me. It was just based on price.

And you wrote to him on page 219 about halfway down the page asking to touch base with him early in the new year to commence WeighPack Electrical's portable weigh scales maintenance contract.---Yes.

40 And page 233, you informed the sector managers of WeighPack's appointment.---Yes.

And I suggest that Mr Mitchell started on 2 February, 2017, do you agree with that?---If you say so that's fine. I accept that.

And when WeighPack was doing the maintenance for the portable weigh scales, AccuWeigh was not doing it necessarily, do you agree with that? ---Yes.

And nor was any other external company doing the maintenance when WeighPack was doing the maintenance. Do you agree with that?---No, I don't – yep. That sounds logical.

And WeighPack's role went until about the end of August 2017, do you agree with that?---Yeah, it was around the middle, yeah, yeah, around that time.

10 And there were legal proceedings between WeighPack and AccuWeigh arising from WeighPack's position taking over the maintenance contract from AccuWeigh as at December 2016, you are aware of that?---Yes.

And you were aware of that towards the end of 2017, correct?---Yes.

Now, during the period that WeighPack had the maintenance contract between 1 February, 2017, and the end of August 2017 or thereabouts, I'm going to suggest to you that WeighPack received certain spare parts for the portable weigh scale work it was doing, okay? And that these are the only spare parts that it received. I will take you to volume 9A at page 277. I'll
20 just take you over to page 278. This is a packing list and you can see below the IRD logo the words "date of exportation, January 31, 2017".---Yes.

And the packing list number at the top of the page, 51740, do you see that? ---Yes.

And then it lists a description of the goods received. Do you see?---Yes. Yes.

30 "Baseboard, aluminium right" I suggest for the first item.---Yep.

And "baseboard, aluminium left" for a 10A SAW scale. Do you see that? ---Yes.

And then it lists a number of items ending with "plastic handlebar" as the item on the bottom of the list.---Yes.

And then over at page 279 there's another packing list. This has a different number, 51741, but the same date of exportation, 31 January, 2017. Do you see that?---Yes.
40

And again a description of goods and the quantities like the previous page but with some differences between the description of goods exported. Do you see?---Yes.

And then at volume 9B, please, at pages 62 and 63 - - -

THE COMMISSIONER: Sorry, which volume?

MS WRIGHT: 9B. Similar looking document being a packing list, this time with a date of exportation of March 14, 2017.---Yes.

Again billed to Novation with a description of goods. And then at page 62, the next page, 63, another packing list, again March 14, 2017.---Yes.

Now, Mr Soliman, if you could assume that Mr Mitchell has told the Commission that these are all – Commissioner, I think I need a variation order before I embark.

10

THE COMMISSIONER: Yes. Yes.

MS WRIGHT: Commissioner, I have an application for a variation order in respect of an examination of 30 May, 2019 in respect of the entirety of the document.

THE COMMISSIONER: Yes. And that's the evidence recorded in the transcript commencing at 533 and finishing at page 575?

20

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: All right. It's probably easier just to revoke the non-publication order.

MS WRIGHT: Yes, yes, indeed, because it's the whole document.

THE COMMISSIONER: All right. The non-publication order made under section 112(2) of the Independent Commission Against Corruption Act on 30 May, 2019, in respect of the evidence of Mark Mitchell is revoked.

30

VARIATION OF SUPPRESSION ORDER: THE NON-PUBLICATION ORDER MADE UNDER SECTION 112(2) OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT ON 30 MAY, 2019, IN RESPECT OF THE EVIDENCE OF MARK MITCHELL IS REVOKED.

40

MS WRIGHT: And, Commissioner, I tender that document at this point, if that's convenient.

THE COMMISSIONER: The transcript of the compulsory examination of Mark Mitchell held on 30 May, 2019, being recorded at transcript pages 532 and finishing of page 575 will be Exhibit 59.

#EXH-059 – TRANSCRIPT OF COMPULSORY EXAMINATION OF MARK MITCHELL HELD ON 30/05/2019 PAGES 532 - 575

MS WRIGHT: Just returning to my question, Mr Soliman, Mr Mitchell has told the Commission that those four packing lists which I've taken you to represent the entirety of the spare parts for portable weigh scales he received during the term that he was conducting the maintenance on behalf of RMS portable weigh scales. Do you understand that?---I do.

10 I'm now going to show you a table showing the parts, a list of the parts invoiced by Novation to RMS, and that is Exhibit 49. Now, you've been following the evidence in the Commission, Mr Soliman?---A lot of it, yes.

And you would have heard the evidence of Mr Jones?---Most of his, yes.

And he was asked about this document and his familiarity with the parts and whether in his experience the parts were needed to maintain portable weigh scales, and he was asked to comment on the prices. And what I suggest to you is that Novation has invoiced RMS for parts during this period when WeighPack was the only maintainer which were not in fact delivered to WeighPack Electrical. Do you understand what I'm putting?---Are you 20 saying that they never got the parts or I don't understand what the premise is.

Novation has invoiced RMS for spare parts for portable weigh scales - - -?
---Yes.

- - - which are listed in this table.---Yes.

30 Do you see that?---Yes.

And some of these items were not delivered, there's no evidence that any of these, some of these items were delivered to WeighPack Electrical. That's what the evidence at this stage suggests. Do you understand?---No, I don't. I mean that doesn't make sense. Where did they go?

THE COMMISSIONER: Well, one inference is that they were never ordered – I'm sorry, withdraw that. One inference being is that WeighPack never ordered them, never requested them.---Hmm, I don't think so. I mean they definitely asked for parts and also AccuWeigh asked for parts.

40 Yes, they asked for parts, but the evidence which is summarised in this table and the other documents is that, and I think Ms Wright might have been being rather kind, I'll put it that the vast majority of spare parts that were paid for by RMS were never delivered – sorry, I'll start again – were never ordered from IRD, let alone delivered to WeighPack.---That's the first I've heard anything about that. As far as I know they checked everything was given to Mark Mitchell and also to AccuWeigh and I've never heard any problems with parts.

MS WRIGHT: Now, you can see that, as I've shown you with the previous table, there are numerous invoices over a short period of time for spare parts.---Yes. Yes.

And numerous invoices on one day on occasion.---Yes.

And do you have any explanation for why there were numerous invoices on a single day?---No idea.

10

You have no idea?---No idea.

As well as numerous invoices within the one week. Why would that be the case?---Don't know. I'm sure there must be a logical reason.

20

THE COMMISSIONER: And what would that be?---Don't know. I, the only thing I can think of is I know that the parts were sold in, like, I don't know what you'd call it, like a package of parts was sold in one pack, so maybe that's how he done the invoicing, but I don't know. I don't know how he done that part.

Who's - - ?---Mr Thammiah.

MS WRIGHT: Why would Mr Thammiah be invoicing RMS on multiple times in one day and one week?---Don't know. The best answer I have is the one I just gave you. It's, if they were in the packages maybe that's how he done the invoice, by the package.

30

THE COMMISSIONER: Well, you'd just include lots of packages in the one invoice.---Yeah, again I don't know exactly what his reasoning was. I never seen that before.

MS WRIGHT: See, the invoices are not consistent with what you've just suggested. They don't invoice per package. That is, a single package in each invoice.---Okay. I don't, I haven't seen the invoices before.

And did you question at the time why you were getting multiple invoices on each day?---This is the first time I even knew about that.

40

So why is it that you approved multiple large purchase orders for spare parts?---Because the parts were needed.

THE COMMISSIONER: Who told you that?---What do you mean?

Well, you said because the parts were needed. Who told you that?---What do you mean who told? I mean - - -

Well, you didn't sit back and think lots of parts are needed.---No. I - - -

You must have been told by somebody.---Not necessarily. It was both things. We knew that obviously the scales were failing, and also word was coming from the field, you know, we need this and that, these type of parts.

So are you now – I’m sorry, I withdraw that. Your evidence is you were getting information from the inspectors, is that what you’re saying?---No, I mean from the maintainer generally.

10 So from WeighPack?---Yeah, or whoever was doing the maintenance at the time.

And what about if WeighPack’s evidence is that what we ordered is reflected in the four – Ms Wright, what was the description of the four documents?

MS WRIGHT: Packing lists, Commissioner.

20 THE COMMISSIONER: The four packing lists. That’s what we wanted, that’s what we ordered, that’s what we got.---I don’t know if I agree with that because - - -

Well - - -?--- - - - first of all I didn’t see what exactly they ordered to, what they told Jai that they need. I just knew that it was happening.

Well, what we’re putting to you is that Mr Mitchell has come and given evidence, and his evidence is what he ordered is reflected and what he received is reflected in those packing lists.---Okay.

30 And over the next couple of days you can have a look at this Exhibit 49. The table.---Yes.

MS WRIGHT: Yes.

THE COMMISSIONER: And there’s a great difference in quantity between what is being paid with public money by RMS supposedly for spare parts and what was actually being ordered and delivered to the maintainer.---Okay. I’ll look at it, but - - -

40 And what I want to know is prima facie this looks – sorry, I withdraw that. It’s your area. You’re at a minimum approving the purchase orders. Mr Singh’s evidence is that he would come back to you for approval for the invoices before they were paid. How is this happening?---That’s not true. He only, if he, if he ever done that - - -

No, we’ll leave that. You’re raising the purchase orders. It’s your section. You’re the manager.---Yes.

And this appears prime facie to be occurring. How is it occurring?---I don't know. I mean this is the first time I've heard of it and everything I heard come back from Jai is that all the parts, he was checking with the maintainer and they were always, there was never any problem.

That wasn't his evidence here. Are you saying that - - -?---That's what I know, yeah.

10 Sorry, when you say that's what I know, what do you mean by that?---So he would basically tell me if there's any problems and I remember there was only one problem where - - -

No, can I stop you there. When WeighPack was the maintainer is it your evidence that at the time Mr Singh would raise with you problems?---If there was a problem he would bring it up with me, yes.

All right.

20 MS WRIGHT: Can I take you to volume 9A, page 100. Do you see here a purchase order which you signed in the amount of \$220,000?---Yes.

And this is for the purchase of spare parts, isn't it?---Yes.

And if the previous page could be shown, and that's in favour of Novation? ---Yes.

So this is November 2016. And you hadn't even received an invoice for spare parts from Novation by this point, had you?---Don't recall.

30 And you didn't even have a specific quote from Novation anywhere near \$220,000, did you?---Don't recall.

All you had I suggest is at page 85, a quote received on 16 November, which is at the next page, which is essentially a pricelist, it's not even a quote. Do you see that?---Yes.

And yet you approve a purchase order in the amount of \$220,000 at page 105.---Yes.

40 Where did that figure come from?---Don't know. Maybe it was just whatever budget's left or I don't know exactly.

And so you were quite content for Novation to start invoicing up to the amount of \$220,000 for spare parts at this time, weren't you?---Well, yes, because the scales were failing.

Yes, if there was a failing. Is that your answer?

THE COMMISSIONER: I think he said, "Yes, because the scales were failing."

MS WRIGHT: Yes, because the scales were failing. And yet you didn't have anything from the maintainer at this point telling you how many parts or what parts were needed?---Don't recall exactly when that started but we knew obviously heaps of the scales were beyond their failure point so - - -

10 And scales needed to be calibrated, didn't they?---Separately, yes.

And calibration wouldn't require spare parts, would it?---It's a separate process.

And what did you base your decision to approve this purchase order to \$220,000 on?---Don't recall.

Just a general vibe that scales were failing, was it?---It wasn't a general vibe, it was a very well-known fact.

20 And this is just days, Mr Soliman, just days after IRD has given its exclusive distributorship to Novation in New South Wales, isn't it, 21 November, 2016?---Now we had somewhere we could purchase the parts and it was rather urgent.

And so hot off the press you're giving your friend, Mr Thammiah, licence to invoice RMS up to \$220,000 worth of parts, without any specific information about which parts and what quantities are required.---I don't, I don't recall if there was any speak of exactly which parts, but I'm assuming there must have been.

30 THE COMMISSIONER: Must have been what?---Some chat for probably years about which parts and things like that. It was a very known [sic] fact that the scales were all failing, all failed.

I know, you keep on repeating that, but - - -?---Yep.

40 - - - you're now saying there was general chat over the years about parts and that, as Ms Wright has put to you, has allowed you or you think it's justified in allowing you to raise a purchase order to allow your friend Mr Thammiah to charge up to \$220,000 in spare parts?---Basically, yes.

MS WRIGHT: Could I just take you to an email at page 91 of volume 9A. In fairness to you, Mr Soliman, you had received an email from Mr Mitchell saying parts that he required on 21 November, 2016. Do you see that?
---Yes.

And you forwarded that to Mr Thammiah. And then on page 92 there is a list. But I suggest it is certainly not \$220,000 worth of spare parts that Mr Mitchell is telling you that he needs.---Don't know.

Well, you knew that that was not \$220,000 worth of material, didn't you. ---I don't know what period he needed these for, even.

And you received a price list, and this is page 112, from Novation I suggest on 1 December, 2016. Do you see this email?---Yes.

10

And it's bcc'd to you.---Yes.

Why was it blind-copied to you?---I don't know.

That was so that you could keep tabs on Novation's invoicing and quoting of parts to RMS?---I didn't send that email. I don't know.

20

Mr Soliman, you were colluding with Mr Thammiah in relation to the procurement of portable weigh scales in 2018, weren't you?---I don't know about colluding but I was favouring him.

I've taken you through extensive WhatsApp messages which lay bare your - - -

THE COMMISSIONER: Do you remember the WhatsApp?---Of course I remember them. But, I mean, that's favouring him, yes. Something that needed to get done, but - - -

30

MS WRIGHT: And he's blind-copying you to this email because you're keeping tabs pursuant to the agreement you had that he got the spare parts and scale contract from IRD and RMS, isn't that the case?---I don't think so. I mean, he could have just told me this. I don't know why he bcc'd me.

You discussed the prices that he would charge with him. That's why he's bcc'ing you, isn't it?---Don't recall ever talking about prices for the, for the parts.

Didn't you ask him to get IRD's prices?---For parts, I don't know.

40

And if we could turn to the next page. You see here the price list by Novation.---Yes.

And did they seem odd at all to you, those prices?---Don't even think I looked at them.

Are you suggesting you didn't know what Novation's prices were?---I'm not saying I didn't, but I didn't kind of scrutinise it or - - -

Looking at the prices now, do you think they're odd?---It's hard to tell 'cause they're packages. They're not just single parts.

They're unit prices for each item described, are they not?---Packages. (not transcribable) package, you know, 1A, 1B.

Let's take package 2B, "weigh pad, platform board only" as an example. ---Yeah.

10 It's a weigh pad platform board only. Do you see that?---Yeah.

Nothing else in it but a weigh pad platform board.---Okay.

According to this.---Okay.

And it's \$20,780. Do you see that?---Yes.

20 Does that strike you as unusual at all?---Not particularly because I'm pretty sure they weren't making the weigh pad anymore so I'm pretty sure IRD said it has to get specially made for these weigh pads if you still want them for the old scales.

THE COMMISSIONER: What about page 114, the battery pack?---Yes.

If you go to page 116 you can see the batteries. See down the right-hand bottom corner?---Yes.

And I think Mr Jones's evidence was that they were AA batteries.

30 MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: Could have gone to Woolies. But here we seem to be paying \$600 for a battery pack.---I don't know what the requirements for the batteries are but it's not as simple as going to Woolies when you go to court you know.

40 Oh, I think Mr Jones might have said it was.---Well, I said about the batteries, I don't know if you can just get Woolies batteries, but for the rest of the parts, you know, try to, try to say that you changed 20 parts on a scale to a magistrate and see how that turns out.

To a magistrate?---Yeah.

Mr Jones' evidence was that the batteries were basically a AA, maybe not Woolies, maybe he said Bunnings or you could get rechargeables. How on earth anybody could charge, as reflected at page 114, \$600 for that is beyond me. And trying to raise questions of evidence in a magistrate's court on the question of AA batteries where the only variable appears to be

whether they are rechargeable or not, does not appear to be very credible evidence, Mr Soliman. Can you explain why a battery pack is being charged at \$600?---Well, again I don't know what the battery specifications are, I don't know if you can buy it at Woolies, I don't know what the batteries are exactly, so no, I can't really give any answer to that.

10 MS WRIGHT: You see by this stage you had been discussing with Mr Thammiah that you both I suggest should compare IRD's prices with the prices Novation would be charging, hadn't you?---I don't recall saying that.

And you'd been discussing with him comparing IRD's prices with the prices formerly charged by ELWC, hadn't you?---Don't recall that.

Well, I'll take you to page 88. See you sent an email to Mr Thammiah - - -?
---Yes.

- - - forwarding a quote from Mr Doherty for spare parts?---Yes.

20 And you said, "Parts cost from Glen, let's compare with IRD's costs when you get them." See that?---Yes.

So you'd discussed with Mr Thammiah that he should obtain from IRD its prices. Correct?---Probably, but - - -

Well, it's clear here, isn't it, "Let's compare with IRD's costs when you get them."---There might have been a different issue here because I knew that Glen was charging for OEM parts but he was manufacturing his own cheap ones, so maybe that's what this is about.

30 And you wanted to see what he had been charging for parts, didn't you?

THE COMMISSIONER: Who, Glen?

MS WRIGHT: Glen.---I guess I wanted to see something about it, I don't know exactly what it is.

40 And you also wanted to see what IRD's costs were in comparison in order to work out what Novation should charge for parts?---Don't know about that. I don't know why I asked him but obviously I did.

Well, can I just take you to one of the items on Mr Doherty's list, page 89 is the first page which was sent to you pursuant to the email I just took you to, and then page 90, do you see the bottom item, "Two weigh pads at \$2,750 each?"---Yes.

Part number 510873.---Yes.

And then if we go back to page 110 – 113, rather – being the Novation price list I took you to, the quote 101, I suggest that this package 2B weigh pad is the same item, okay, for \$20,780. Do you see that?---I see it but I have no way of knowing it's the same part.

Well, I will take you to the item number. You see how it says package 2B?
---Yeah.

10 And then if we go to page 115, do you see right at the bottom of that page, in the table, "PT part 510873".---Yes.

A 10A pad. You see that? And then across at package it says 2B.---Yes.

I suggest that is the same item as Mr Doherty has quoted for \$2,750 at page 90, which Mr Thammiah has quoted for at page 113 for \$20,780, because the part numbers are the same. Do you understand?---The part summary, the wording is different, though. So again I have no way of knowing.

20 But these prices, do they strike you as excessive as you sit here now giving your evidence? For example, \$20,780 for one weigh pad platform board.

THE COMMISSIONER: You could buy a new scale for that, couldn't you?---Yeah, but we weren't, we couldn't buy scales then.

MS WRIGHT: And so do you say that that price is justified because the 10As were difficult to or, you say, impossible to procure as at this time?
---No. I think we just needed the parts and we weren't allowed to use operational funding for capital for a short period. I don't know exactly.

30 So is your evidence that this price is reasonable?---I'm saying I don't know. I don't know what this part is.

You don't know, is that your evidence? You do not know whether this price is reasonable?---Yeah, I don't know what the weigh pad platform board only is, if there's anything else in the package. I don't know.

40 And as at 1 December, 2016 you didn't know, having received Novation's quote, whether this price was reasonable, is that your evidence?---My evidence was that I didn't scrutinise it at the time. All I knew was that some of the parts – probably this one – had to be specially, specially manufactured.

And did you turn your mind to whether there was a mark-up and the extent of it being applied by your friend Mr Thammiah?---I assumed there was some sort of mark-up. I don't know how much.

Mr Soliman, Mr Thammiah sent you IRD's price list, didn't he?---Sent me?

Yes.---He could have. I don't recall if he did.

And if he did, you would have looked at it and you would have seen what IRD's cost price was, wouldn't you, being charged to Novation?---Don't recall seeing that.

And you would have ensured that whatever Novation charged RMS would ensure a handsome profit to both you and Mr Thammiah on that price, wouldn't you?---Don't recall speaking to him about prices.

10

All right. Well, I'll take you to it. Volume 18, page 306.

THE COMMISSIONER: Sorry, which page number?

MS WRIGHT: 306. You'll see an email of 28 November, 2016.---Yes.

This is to your personal email address, do you agree?---Yes.

20

And it forwards an email at page 307 from Mr Garza of IRD to Novation, copied to Mr Malhotra, containing IRD's parts lists.---Yes.

"Enclosed you will find three parts lists which enclose all the hardware we are able to supply. SAW 10A Series I. Please disregard the previous one you have. SAW 10A Series III and SAW 10C and 15C Series III." You see that?---Yes.

And then if we turn over, just if we could just move through the pages of the email, and then to page 311. Do you see here IRD's price list?---Yes.

30

For example, package 1B, \$█.---Yes.

For a handle weigh pad coupling hardware. Do you see that?---Yes.

And I suggest that quote 101 by Novation, which I took you to at volume 9A page 113, quotes \$█0 for the same item.---Okay.

Do you understand?---I do.

40

And then package 2A, \$█ is what IRD is charging.---Okay.

And one assumes that's in Canadian dollars. Do you understand?---Okay.

Perhaps even US dollars.---Not sure.

But Novation's price list is charging \$█0 for the same item, Mr Soliman. ---Okay. Okay.

And you received that price list on 1 December, 2016.---Yeah, I would have received it, but this is the first time I'm looking at the prices.

And so your evidence that you had no idea effectively what IRD was charging to Novation and had not discussed this with Mr Soliman, that was false, wasn't it?---No. Like I said, this is the first time I'm reading through this list.

10 You received this at your personal email address, didn't you?---Yes.

And you'd already sent an email, which I took you to, asking Mr Thammiah, "Let's compare Glen's prices with IRD's prices," hadn't you? ---Okay. Yes.

So you were very interested in IRD's prices, weren't you?---Like I said, I think that was for a different reason.

20 I see. So you want to slice that up and say, well, for this one I didn't look at this. Is that what you're saying?---This is, when I read this now, this is the first time I'm seeing this, so - - -

Within a matter of days you received Mr Thammiah's price list applying a zero to every figure on this price list.---What do you mean, sorry?

A zero. \$ [REDACTED] becomes \$ [REDACTED]0. You see that?---Okay.

THE COMMISSIONER: If you want to have a look at page 113, we can do it.---That's okay. That's okay.

30 But Ms Wright's correct.---That's fine.

\$ [REDACTED] becomes \$ [REDACTED]0. [REDACTED] becomes \$ [REDACTED]0.

MS WRIGHT: There is one exception I should point out. \$ [REDACTED] becomes \$20,780. That appeared to you both to be slightly excessive, did it, to be charging \$ [REDACTED]0 for that item?---I don't know.

40 THE COMMISSIONER: For the weigh pad platform board, which ELWC charged \$5,500 for.

MS WRIGHT: For two. That was for two, Commissioner.

THE COMMISSIONER: Two.

THE WITNESS: No, I don't know what that one, why that one specific was different.

MS WRIGHT: Was it because you thought that \$ [REDACTED] 0 would appear obviously too excessive, but \$20,780 may pass muster within RMS for a scale?---I don't have a thought on this. I mean, I didn't price it.

Is it your evidence that it was Mr Thammiah who came up with the Novation prices?---Who else can it be? Yeah.

10 THE COMMISSIONER: And also on that page can we just note the battery pack, their advice is "get locally", which would support Mr Jones's evidence of going to Bunnings or Woolworths.

MS WRIGHT: Yes. And on that basis the \$600 being charged by Novation appears to be arbitrary, doesn't it, Mr Soliman?---Which way?

If we go back to page 114.

THE COMMISSIONER: I don't know if I agree with arbitrary.

20 MS WRIGHT: Well, they're all arbitrary in my submission, Commissioner.

THE COMMISSIONER: Exorbitant?

MS WRIGHT: Exorbitant.

THE COMMISSIONER: Excessive? Sorry.

MS WRIGHT: Page 114, 9A. Do you see this is part of Novation's list for a package 3D, it is charging for a battery pack \$600 per battery pack?---Yes.

30 And yet on the IRD list, IRD is suggesting they get locally.---Yes.

So - - -

MR LAWRENCE: Commissioner, I'd like to interrupt.

THE COMMISSIONER: Yes.

40 MR LAWRENCE: I think there's something that needs to be clarified. The exhibit before this, I think it said six NiCad batteries, that's the IRD's list.

THE COMMISSIONER: Yes.

MR LAWRENCE: And they are, my limited knowledge on batteries, they're rechargeable batteries.

THE COMMISSIONER: Okay.

MR LAWRENCE: So perhaps - - -

THE COMMISSIONER: Mr Jones gave evidence that the batteries could either be, they were AAs and they could just be a normal one or a rechargeable one, but you're saying the NiCad are rechargeable.

MR LAWRENCE: That's to my knowledge, so just to be in fairness to the witness when you're comparing prices, as I understand there's a significant difference. It may not be to the extent that's quoted here.

10 THE COMMISSIONER: Yes, I don't think we're talking up to \$600.

MR LAWRENCE: I'm talking about \$2 to maybe \$10, I don't know.

THE COMMISSIONER: Okay. Thanks, Mr Lawrence.

MS WRIGHT: Now, Mr Soliman, you also received from Mr Thammiah the Series III pricelist which is at page 316, as an attachment to the same email to you on 28 November, 2016.---Okay.

20 You know that, Mr Soliman, you received the email. Page 316 of volume 18. You know that, Mr Soliman, that you received that.---I know that now. I can see it.

You knew that at the time. You received this at your personal email address.---I may have seen it, I just don't recall now if I saw it.

You know full well that Mr Thammiah was charging a very substantial mark-up on prices compared to his cost price through IRD, didn't you?
---Not necessarily. I think back now I don't recall him telling me what the
30 prices were.

You were receiving money from Mr Thammiah during this period, weren't you?---That's what I've already said yes, the loan.

And he was getting money from RMS through his invoicing for spare parts, wasn't he?---Yes, but the agreement wasn't based on that.

He was sharing some of that money with you.---Don't agree with that.

40 You also received a Series II pricelist from Mr Thammiah on the same date I suggest. Do you recall that?---No.

Page 244 of volume 18. This is an email at 8.00pm on that date, attaching the document at page 245.---Yes.

Being the Series II pricelist.---Okay.

You see those figures are all low relative to prices charged by Novation.
Would you agree with that?---Yes.

And having received those emails on 28 November, 2016, did you discuss
with Mr Thammiah the prices - - -?---Don't recall.

- - - that Novation would charge RMS?---I don't recall talking to him about
parts.

10 THE COMMISSIONER: I'm sorry, I couldn't hear that.---I don't recall
talking to him about the parts.

This is Mr Thammiah?---Yes.

MS WRIGHT: Did you discuss the prices with him?---I can't recall talking
to Mr Thammiah about the prices for the part.

Well, then can I take you to volume 18, page 280. See here an email with
the subject line, "Parts list in progress," at 9.18pm?---Yes.

20

From your personal email address to Novation saying in the body of the
email, "Complete Series II and Series 2.5 listings." You see that?---Yes.

And then if we go over the page at page 281 is the attachment to the email,
you accept that?---Yes.

Quote 101, applying a zero to IRD's price list which Mr Thammiah has sent
to you only an hour or so before.---Okay.

30 So, Mr Soliman, you prepared the Novation price list, did you?---I don't
recall doing that, but again he was at my house a lot during that period,
during the, his separation from his wife.

You have inserted the subject line, "Parts list in progress," haven't you?
---What do you mean, in the email?

Yes.---I don't recall sending this email or even drafting this so no, I don't
know. My, my guess is that he was at my house a lot and he would have
been working on it.

40

So your evidence is that if anyone produced this it was not you, it was Mr
Thammiah, both the email and the attachment?---Well, I don't recall doing
it.

The same day as he has sent you the price list sent to him by IRD.---Okay.

Why would, if he's at your house at 8 o'clock that evening, he send from the
Novation BigPond email account to your ducktape personal email address

the price list sent to him by IRD?---I don't know. Maybe he knew that he was going to come over that night or work from there, whatever. I don't know exactly. I don't recall that far back.

And then you're suggesting that a little over an hour later, using your personal email address, he would send to himself at his Novation BigPond address the Novation quote addressed to RMS?---That's what I assume.

10 Is that your evidence?---That's what I assume happened but I don't recall exactly.

And if Mr Thammiah were to deny that that was the course of events in his evidence to come before the Commission, would you agree that it's possible that it was you who was the person who produced this quote, 101?---I don't agree because it doesn't make sense. Why, why would, why can't he just do it?

20 Mr Soliman, I suggest that your answers are false and that it was you who, based on IRD price lists sent to you by Mr Thammiah that he'd received from IRD, produced the Novation quote 101 parts list which you then sent to Mr Thammiah at page 280 of volume 18.---I don't agree because it doesn't make sense but like I said I don't recall that, that far back. It just seems silly to, to do that.

Well, I suggest it makes perfect sense because you were conducting yourself as though Novation was your own company from which you would profit by the award of business by RMS to it.---It wasn't my company.

30 And you approved a second purchase order on 16 January, 2017, based on quote 101, I suggest, being the quote I just took you to. I'll take you to the purchase order if you need to see it.---No, that's fine.

It's at page 236.

THE COMMISSIONER: Of which volume, sorry?

MS WRIGHT: Of volume 9A. Now do you see here this purchase order request in favour of vendor Novation Engineering?---Yes.

40 And at page 237 this is again for \$220,000.---Yes.

On 16 January, 2017.---Yes.

And at page 235 is the email which Mr Singh copied to you, sent to TSS, attaching a number of documents, including quote 101. Can you see the attachments listed there?---Yes.

And you see it includes quote 101.---Yes.

And just to be absolutely clear, that document is at page 240, and it's the quote which I've just taken you to which you sent to Mr, I suggest you sent to Mr Thammiah at 9.18pm on 28 November, 2016, but which you've said Mr Thammiah sent to himself from your house. Do you see it's the same document?---Yes.

And you approved that purchase order, correct?---I believe so, yes.

10 And Mr Singh raised the prices being charged by Novation with you and queried them, didn't he?---When?

THE COMMISSIONER: Do you recall that or not?---I don't recall anyone saying anything about that.

MS WRIGHT: And you told him that it was fine, that the prices were okay, didn't you?---Don't recall him ever asking me anything like that.

20 Now, there were a number of invoices, and I don't propose to take you through each of the invoices, but they mostly applied these prices which I suggest were a 10-time mark-up on IRD's prices. You agree that there's a 10-time mark-up on at least the prices that I've shown you?

THE COMMISSIONER: I suppose with the exception of the weigh pad.

MS WRIGHT: With the exception of the weigh pad. Do you understand what I mean by 10-time mark-up?

THE COMMISSIONER: Just add a zero.

30

THE WITNESS: Yeah, but I mean I don't know if the other one was US or Canadian dollars and whatever costs or duties to bring them in. I don't know.

MS WRIGHT: That's a fair point, Mr Soliman, that if it was not in Australian dollars that it would not be exactly 10 times, but it's a very substantial mark-up, do you agree with that?---On the face of it, yes, but again I don't know whatever costs or duties or whatever else it is. I don't know what a normal mark-up is for these things.

40

And really Mr Thammiah's not doing anything apart from just putting in an order, is he?---For the parts I'm not too sure what else was involved.

THE COMMISSIONER: Well, Novation can't maintain.---(not transcribable) don't know what else he done for the parts, though.

There's nothing else for him to do. It was basically to receive – if it was a genuine order it would go from WeighPack to RMS, from RMS to

Novation, and we're just talking paperwork, paperwork Novation to IRD, then IRD would actually deliver the goods to WeighPack, who would use them, and invoice would go IRD-Novation, Novation then RMS. So Novation's role, as far as I can see, is just facilitative by either doing some paperwork.---Yeah, it seems like that but again I don't know exactly what the - - -

What else could it be?---I don't know. I'm just saying, I don't know what the background working was of those things.

10

The what?---The background workings was to get these parts here exactly.

MS WRIGHT: Now, this purchase order that I took you to of 16 January, 2017 for another \$220,000, how did you justify authorising a further purchase order for \$220,000 when you had already approved a purchase order for \$220,000 and had received nowhere near even the first \$220,000 in invoices from IRD by that point? From Novation.---Sorry, can you repeat the question?

20

By 16 January, 2017, you had not received from Novation anywhere near \$220,000 worth of invoices for spare parts.---Okay.

And yet here you are on 16 January, 2017 raising a second purchase order for \$220,000 authorising Novation to invoice RMS for spare parts, effectively up to \$440,000 at this stage.---Okay.

How did you justify approving a second purchase order for \$220,000?
---Must have needed more, more parts, but

30

And how was that need conveyed to you or communicated to you?---I guess same as the evidence I gave previously.

THE COMMISSIONER: What was that?---So it was a general, general fact that all these - - -

The vibe?---No, it wasn't a vibe. It was a fact. There's lots of things in writing that these scales are failing.

40

Sorry, is this your evidence, that the scales for a number of years had been failing and there was a need for spare parts?---Yes. Or new, new ones, yes.

MS WRIGHT: And you didn't receive invoices from, you didn't receive requests from any maintainer that were anywhere near even \$220,000 worth of parts by 16 January, 2017, had you?---Yeah, at this point I don't know when the maintainer started asking, but if I recall correctly, the point of those, those orders was for the proactive maintenance, and the wording should actually be "proactive". Maybe Jai just wrote it wrong, but - - -

THE COMMISSIONER: Sorry?---The, the wording - - -

I'm having difficulty hearing you, Mr Soliman.---So I think the wording on the POs, maybe Jai typed it wrong. It's actually meant to be "proactive maintenance" rather than "reactive maintenance".

10 Okay. So what's proactive maintenance?---Well, if I recall correctly, I don't know if any of the maintenance asked at that point for specific parts, but we knew obviously most of the scales were failing, so the idea was to obviously order the parts that were needed.

So scales failed. You need parts.---Yeah.

You order parts.---Yeah.

Right. I thought that might be a description of reactive maintenance. ---Yeah, that's I think - - -

20 How would - - -?---It was typed wrong, obviously. It's more of a - - -

So it's actually described as proactive maintenance?---That's the way it should be. Maybe just, Jai just wrote it wrong or he didn't understand the difference, maybe. I don't know.

30 But the concept is the same. Scales fail, they get sent to the maintainer, the maintainer looks at them and says, "I need this spare part." A request is made to RMS. RMS goes to Novation and Novation goes to IRD, et cetera, et cetera. I can't see how that justifies, what are we looking at, two purchase order of now around, over \$400,000.

MS WRIGHT: Yes.

THE COMMISSIONER: With invoices nowhere near the first purchase order - - -?---Yeah, I just think - - -

40 - - - being sent to RMS.---Yeah, I think the point is being missed. If I recall, these, these purchase orders were for the proactive maintenance, so the point was to not have the scales out of action for weeks or months sometimes. The parts are there, you can swap them in and out, and there's no down, downtime basically. Basically, yeah.

Sorry, go on, Ms Wright.

MS WRIGHT: Wouldn't you wait until you had accumulated sufficient orders from the maintainers to justify the need for a further purchase order? ---Not necessarily because, I mean, we knew all of them were failing, basically. Most of them. There was a critical need for these parts.

And in March you received - - -

THE COMMISSIONER: But you would be reliant surely on what the maintainer is telling you.---We were also, yeah.

I need these parts.---We were also. I just don't recall exactly when the first kind of formal request from them was from the maintainer.

10 MS WRIGHT: I suggest the evidence shows there were 12 invoices issued in five business days in March worth around \$360,000 by Novation.

THE COMMISSIONER: Sorry, did you say five days?

MS WRIGHT: Yes, five business days. 12 in five business days, totalling around \$360,000 between 17 and 23 March, 2017. Do you understand?---I do.

20 And then on 29 March you told Mr Thammiah to create further invoices, didn't you?---Invoices for the parts?

Yes.---Why, no, why would I tell him to create invoices? He knew.

THE COMMISSIONER: So you didn't do that?---I don't recall saying that. I mean it's a logical thing, he knows he has to, has to do it.

MS WRIGHT: Volume 9B, page 24. This is an email from your personal email address - - -?---Yes.

30 - - - to Novation with the subject line, "Remaining Funds."---Yes.

And you tell him what the existing purchase orders are.---Yes.

And you say, "Action on Steve, create three invoices to charge random parts to each of these POs to use up the remaining funds." Do you see that? ---Yes.

And the first purchase order has \$20,000 excluding GST remaining on it. ---Yes.

40 And the second has 17,000 remaining on it?---Yes.

And the third has 17,000 remaining on it.---Yes.

Both also excluding GST. Do you see that?---Yes.

And you were asking him to invoice RMS for further random parts because you were seeking to have him exhaust the available funds which you'd

authorised pursuant to purchase orders. Correct?---I don't know why the word random is put in there.

Because it didn't matter what he ordered, he just had to order parts to make it look like the parts were needed. That's what that meant.---I don't think so. I mean we would have spoken at least about which parts were needed.

Random, because you didn't care which parts he included on invoices, did you?---I don't agree with that.

10

And in any event, whether they were parts that were needed or not, you were asking him to use up the remaining parts, the remaining funds on the purchase orders, weren't you?---I think it was getting close to the financial year so generally around this time Finance starts to ask what's happening with projects and purchase orders, so maybe it came from that.

This is 29 March, 2017, it's not anywhere near the end of the financial year. ---Normally around this time, that's when we start to get asked, March/April.

20

And - - -

THE COMMISSIONER: So why – sorry, go on, Ms Wright.

MS WRIGHT: You were in a scheme with Mr Thammiah whereby you would create purchase orders in excess of what was needed and he would invoice RMS for those parts at an exorbitant mark-up, profiting both you and him from the payments made by RMS to Novation.---I don't agree with that.

30

And having asked him to create three further invoices to charge random parts, that's precisely what he did, didn't he?---If you say he did, yep, that's fine, I accept that.

And you then authorised a further purchase order for \$190,000 around this time, didn't you?---If you say that I accept that, yes.

THE COMMISSIONER: And this email, you're sending it not from your RMS email, you're sending it from your personal email, aren't you?---This is from the personal one, yeah.

40

Again suggesting, as Ms Wright has put to you, that you were involved in some kind of scam with Mr Thammiah where you're ripping off public funds with the spare parts orders.---I don't agree with that. Whatever parts were there would have been needed.

All right. Why did you use your personal email address? If this was part of your work, it should have been in your RMS email address.---There could be several reasons, if I was at home, if I wasn't in the office.

What, if you're in office you use your private email address?---No. I meant if I wasn't, wasn't in the office, obviously.

MS WRIGHT: And you reminded yourself in this email to open a new purchase order for \$190,000. Do you see the bottom part of the email?
10 ---Yeah. I guess so.

And you were reminding yourself to do that, correct?---(No Audible Reply)

And at volume 9B, at page 29 you approved a further purchase order for \$190,000 for Novation shown at page 28 and, if we go back to page 29, you've referred to it as maintenance but really this was about spare parts orders, wasn't it?---I believe so.

And that was to continue this flagrant overcharging for spare parts, wasn't it?---I don't agree with that. Again, the parts were needed.
20

And I suggest also fraudulent charging by way of false invoices from Novation which you approved?---I don't agree with that. I don't know which, what's, what's false.

THE COMMISSIONER: Because the spare parts weren't delivered.
---Well, as far as I know they were delivered and - - -

They weren't ordered and they weren't delivered.---That's not what I know.
30 Everything - - -

Sorry, what do you know?---Mr Singh never brought up any issue except one thing where Mark Mitchell said that he lost some parts. That's the only issue with the parts that I know and Jai checked all these.

MS WRIGHT: No one's lost parts, Mr Thammiah, to justify all of the orders made by Novation to RMS. Are you suggesting that parts got lost?
---I'm just explaining to what I know. The only issue that I know of is Mr Singh said that Mark Mitchell lost some of the parts and I recall there was
40 an email about it from Jai, I think, to - - -

One pad, that is one scale went missing when it was being transferred from or to an inspector, is that what you're referring to?---I believe Mr Singh was referring to parts.

And you then suggested to Mr Mitchell that he would need to pay for that through his own insurance, that missing scale. That's what happened, isn't it?---As I said, as I recall it was for parts.

No, that had nothing to do with parts I suggest. Now, could I take you to volume 9B, page 40. Having directed Mr Thammiah to issue further invoices to exhaust the available funds, that is what he did, I suggest, page 40 on 29 March, he send a further invoice to RMS and that's at page 41 as an attachment to his email. Do you see there?---Yes.

10 12 battery packs are included on this invoice among other items at the cost of \$7,200. And then on the same day, at page 43, just one and a half minutes later he sends another invoice, and at page 44 is the invoice with two steel baseboards and other items, each baseboard being \$ [REDACTED] 0, notwithstanding that IRD charged \$ [REDACTED]. And at page 46, a few minutes later, another invoice. Page 47 is the invoice itself, charging for a SAW 15C III scale and an alignment flex frame. Do you see that?---Yes.

Now a SAW 15C III scale is not a scale which RMS even uses, is it?---No.

And there was no 15C scale actually delivered by IRD, was there, Mr Soliman?---I don't know.

20

You've never known a 15C to be used within RMS.---I think there was some talk of it for a trial. I don't know if we got it.

And the evidence would suggest that that item has been charged with no order being made to IRD or delivery made to AccuWeigh or anywhere for the 15C scale. That's what it suggests. Do you have any way to assist the Commission with that matter, the charging of a 15C scale?---It's the first time I've seen this. No.

30 You had asked Mr Thammiah to charge for random parts.---First of all I said parts, not a scale. I mean - - -

Now, by this stage there are so many invoices and the invoices are all around the \$30,000 figure. Was that approach taken in order to invoice split to avoid the procurement manual requirements for an open tender?

---Thought the open tender is about the purchase order, but again I don't know why he done it that way.

40 There's no panels yet on foot in the first half of 2017. For example, no Heavy Vehicle Maintenance Panel has been established by this point. Do you understand?---Yes.

And there's been no tender process at all relating to procurement of parts. ---Yes.

Do you understand?---Yes.

And there's evidence of small-sized invoices on a regular basis being issued by Novation to RMS, apparently unnecessarily in the sense of multiple invoices on the one day when it could have been done in one invoice.
---Okay.

Do you understand?---I understand.

10 And was that done intentionally in order to split up the values to avoid the procurement manual requirements for a tender process relating to the procurement of spare parts?---I don't know. I didn't create the invoices.

You were integrally involved in the authorisation of the expenditure and I've taken you to an invoice of 10 January which was sent to you by Mr Singh, Mr Soliman.---Yes.

You would have been aware of the multiple invoices coming through from Novation during the first half of 2017.---No, I knew there were - - -

20 Do you deny that awareness?---It's not what I said. Again, I knew there were several purchase orders but didn't know he broke it up in those chunks, but there must be a reason. Maybe it was per region or I don't know, I don't know.

So you are denying knowledge of the multiple invoices?---I'm saying I don't recall Jai ever saying that or Mr Thammiah ever saying that to me.

30 I suggest you knew full well what was going on, namely that multiple invoices were being submitted to Transport Shared Services in order to avoid the procurement policy requirements for a tender process.---Don't recall that, no.

You see, the total - - -?---This is the first time I've seen so many.

The total invoices exceeded about \$750,000 between January 2017 and 15 May, 2017.---Okay.

40 And you'd agree that that would have required some form of tender process, preferably an open tender process, wouldn't it?---Don't know. I don't know if there's, what the rules are around the single, around the sole vendor sort of thing.

I'm just going to show you a table. Now, do you see here a table, and we'll try and scroll in. This records payments from RMS to Novation as well as payments from Mr Thammiah or Novation to IRD. Now, if I could draw your attention to the last column, which says Payment AUD.---Yes.

Do you see that? And the first payment \$32,775.39.---Yes.

Now, what I'm going to suggest to you is that in that column, if you were to tally the figures going down to June, 26 June, 2017, do you see the date column on the left-hand side?---Yes.

And on 26 June, 2017, if you follow that row along to the last column, which is \$20,741 - - -?---Yes.

- - - they are payments, you can take from me, made to IRD by Steven Thammiah, all right.

10

THE COMMISSIONER: Sorry, so that's 32,000-odd, 41,000-odd, 47,000-odd, 25,000-odd, 20,000-odd?

MS WRIGHT: Yes.

THE COMMISSIONER: Right.

MS WRIGHT: Totalling around about \$165,000. Do you follow, Mr Soliman?---Yes.

20

And taking it up to 26 June, 2017, the evidence suggests that Mr Thammiah had paid to IRD approximately \$165,000. Do you understand?---Yes.

And yet he has received from RMS in excess of \$750,000 pursuant to the invoices.

THE COMMISSIONER: Seven hundred and?

30

MS WRIGHT: In excess of \$750,000 he has received from RMS between 10 January, 2017 and 15 May, 2017.

THE COMMISSIONER: For spare parts?

MS WRIGHT: For spare parts.---Okay.

So he's making a significant profit, given he has paid to IRD only about \$165,000, and that's including a transaction which is outside the period of time I've been taking you to because it goes up to 26 June, 2017. Do you understand?---Yes.

40

So about \$500,000 of profit is being derived by Mr Thammiah on what he is charging to RMS for spare parts.---Okay.

Do you understand?---Yes.

And were you two to split that profit, fifty-fifty?---No, we never spoke about that.

But you would accept that Novation was making a very large profit off what it was charging to RMS.---It's a large profit, I don't know if it's out of the ordinary. I don't know what his taxes were. I don't know. I don't know.

Now, you were aware, weren't you, that AccuWeigh and WeighPack were involved in a dispute in the second half of 2017?---Yes.

10 And you became aware of a subpoena being issued by AccuWeigh to RMS seeking documents relating to an RFQ issued in December, 2016?---I don't know if, I don't know if it was by AccuWeigh or WeighPack was one of them. I don't know who.

One of the companies had issued a subpoena?---Yep.

Correct?---Yes.

And you became aware of the subpoena seeking documents from RMS?
---Yes.

20 And you were aware that no tender documentation required for the RFQ issued in December, 2016, was in existence?---Mmm, no.

You came to sign some documents related to the request for quote of December, 2016, in 2017, didn't you?---Don't agree with that.

And you backdated some documents relating to that RFQ in 2017, didn't you?---Don't agree with that. That's not what I recall happened at all.

30 And what do you recall happened, Mr Soliman?---I know the, the tender happened, I think the day before the Christmas break. Yeah. I just know I was already planning my trip to the Philippines in 2017, and we left for the holidays, I signed my stuff, but then when it came to the subpoena, I told Jai to upload the, the docs that, that, that were there.

THE COMMISSIONER: I'm sorry, you told - - -?---Jai to upload, scan and upload those, those docs.

MS WRIGHT: When did you do that?---Around the time of the subpoena.

40 And what documents are you referring to?---I think the quotes that, I think he had the quotes, or I, I had the quotes, I don't know. And the RFQ documents, I think, the tender documents.

And what are the tender documents that you're referring to?---There was an evaluation report, I think. I - - -

And what else?---I'm not sure.

Each tender requires a tender evaluation plan, does it not?---Generally, yes.

And a tender evaluation report following, containing the recommendation of the Tender Evaluation Committee, doesn't it?---Generally, yes.

And the tender requires that a committee be appointed.---Yes.

10 And it requires the Tender Evaluation Committee members to sign conflict of interest declarations.---I believe so, yes.

And confidentiality statements or declarations.---I believe so, yes.

And you had awarded the RFQ of December 2016 to WeighPack without completing or having completed that documentation in relation to the tender, hadn't you?---That's not what I recall as I just said.

20 So do you recall that you completed the documentation in 2016 at the time of the tender?---That's what I recall because I know it was the day before the Christmas break.

And do you say that you signed a conflict of interest form in relation to your involvement prior to Christmas 2016?---I must have all at the same time.

THE COMMISSIONER: So all the documents were created and signed by you before Christmas, the Christmas break?---That's what I thought because remember we had the quotes, I thought Jai had the quotes but I could be wrong.

30 But sitting there, that is your evidence, that all the documentation that Ms Wright has just taken you through had been prepared and signed by you before you left on a Christmas break in December 2016?---That's what I recall, yes.

MS WRIGHT: And so when you heard about the subpoena in 2017, it was your view that the documents could be produced because they had been prepared and existed, is that your evidence?---Yeah, so just, just on paper.

40 THE COMMISSIONER: They were what, sorry?---Just on paper. They weren't scanned yet.

Why hadn't they been scanned?---I think it was just the day before Christmas and, you know, everyone just dropped and ran.

MS WRIGHT: And the subpoena came to your attention from a solicitor? ---I think so. I don't recall her name but I think someone called me to tell me.

Was that in about August 2017?---I'm not sure, but if you say so that's, that's fine.

Well, I suggest it was in August 2017.---Okay.

You accept that that would be the case?---I accept that.

And you say that you asked Mr Singh to obtain the documents relating to the tender, is that what you said?---Just upload them.

10

You asked him to upload them. Did you tell him where to obtain them?---It was already there on our kind of, like, like a filing cabinet where we always have papers.

And did you see him get those documents and do anything with them? Did you - - -?---No, I wasn't looking or anything like that.

So you, at the time of the subpoena requiring these documents relating to the tender, do you say you didn't see the documents at all?---Just told him to upload it, basically.

20

Upload it to where?---The file management system. Objective I think it's called.

And what would you expect to happen to them once they were uploaded? ---That's all.

THE COMMISSIONER: You're just scanning them in, in a way.---Yeah, basically.

30

And in answer to Ms Wright's question, you didn't see the documents, you just instructed Mr Singh to do that?---Yeah.

MS WRIGHT: And what did you expect to happen to the documents once they were uploaded?---That's all.

Did someone request the documents from you?---I don't know if it was before or after that. I think Jai was talking to one of the lawyers or I was talking to one of the Roads and Maritime Services lawyers and they just said kind of give me a copy of the tender documents and the contracts and things like that, so something along those lines.

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Commissioner, I have some further questions. I'm conscious of the time.

THE COMMISSIONER: It's been a long day.

MS WRIGHT: Yes. And it's Friday.

THE COMMISSIONER: It's Friday. I think we're going to conclude for today. We return next Wednesday on the 26th.

MS WRIGHT: Yes, and I expect to be very short at that stage.

THE COMMISSIONER: All right.

MS WRIGHT: I'm almost finished my examination of Mr Soliman, if that assists.

10

THE COMMISSIONER: I anticipate, I think there might have been a little bit of a survey of how long people thought they would be.

MS WRIGHT: It was indicated to me this morning, it may have changed since this morning, but that certain counsel would not expect to be terribly long with Mr Soliman. That may not be the case of all counsel as I haven't spoken for example to Mr Lawrence or Mr O'Brien.

THE COMMISSIONER: Mr Lonergan's leaping to his feet.

20

MR LONERGAN: I've just got a slight problem, Commissioner, in that there seems to be a disconnect between the content of some of the documents that are in the public exhibit versus the private. So for example, today volume 9B, page 24, was not, it was shown as left intentionally blank in the private and it was, when we downloaded it in May from the public exhibit, from the public profile, showed intentionally blank, but today when we checked after we saw the email come up, it was in the public but not in the private, so we're just trying to - - -

30 THE COMMISSIONER: I think that particular issue I suspect, Mr Lonergan, may only have arisen in respect of that document, I'm hoping.

MR LONERGAN: It's not the first time we've had that problem.

THE COMMISSIONER: There's been some others, have there?

MR LONERGAN: Yes.

40 THE COMMISSIONER: Whatever the issue been, has it been rectified in respect of the other documents?

MR LONERGAN: I believe the volume 1 issue was resolved because we're now having to reconcile and see the private versus the public and - - -

THE COMMISSIONER: When you say private, are you talking about the restricted website?

MR LONERGAN: Yes, sorry, the restricted website, yeah.

THE COMMISSIONER: Page 24 I think was in an unusual position and it should now be on both?

MS WRIGHT: It would not have been on the public website, I - - -

MR LONERGAN: It is on the public website, but it's not on the restricted.

MS WRIGHT: Page 24, if I could ask my friend?

10

THE COMMISSIONER: Of volume 9B.

MS WRIGHT: Well, that comes as a surprise to me.

THE COMMISSIONER: All right. There's that issue, Mr Lonergan. We'll have a look at that particular page and make sure that it's on both websites, but other than I suppose raising as a general concern that on occasions these differences appear, is there any other particular document that you need to raise with me?

20

MR LONERGAN: Not presently.

THE COMMISSIONER: Okay.

MR LONERGAN: But we can provide a list of other ones, if that's convenient.

THE COMMISSIONER: All right. If there's still a difficulty, please raise it and we'll try and work out what's gone on with it. Can I just say to you, say to everybody, the plan is that we have to finish Mr Soliman's evidence next Wednesday. I was hoping that we could start at 9.30 instead of 9 o'clock. Is it an indication, and I know Mr O'Brien's not here, but I think previously he thought he'd be about an hour.

30

MS TOLLEY: And that sounds about right I can say, Commissioner. I've had a look at his notes and I don't want to speak for him but he does want to cover a few areas, so about an hour sounds about right.

THE COMMISSIONER: You think about an hour.

40

MS TOLLEY: Yes.

THE COMMISSIONER: Ms Horan-Doyle?

MS HOGAN-DORAN: Hogan-Doran.

THE COMMISSIONER: Hogan-Doran, sorry.

MS HOGAN-DORAN: It's all right, it's late in the day.

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: Commissioner, I had said to Counsel Assisting this morning I thought I would be shorter than I have anticipated. In light of some of the material that's come out this afternoon, I'll take some instructions on the weekend and aim to still be short, otherwise I think I may be about 40 minutes.

10

THE COMMISSIONER: All right. I'll put you down as 40 minutes and I hope you're not losing your voice.

MS HOGAN-DORAN: No, no.

THE COMMISSIONER: Now, yes, sorry, Mr - - -

MR MAHON: Mr Mahon for Ali Hamidi.

20 THE COMMISSIONER: Mahon. I'm terribly sorry, yes.

MR MAHON: I can anticipate at this time there'll be no questions.

THE COMMISSIONER: All right. Mr Lonergan?

MR LONERGAN: We won't be very long.

30 THE COMMISSIONER: And Mr Lawrence. Look, I'm pretty confident, knock on wood, that we'll finish Mr Soliman's evidence on the next occasion, so I'm quite happy for a 9.30 start. Mr Lawrence, you're okay with that?

MR LAWRENCE: Starting time, I'm fine. At this stage, look, it's hard to give an estimate because I think it'll depend on where my colleagues go in terms of their questioning, and also we'll have to take further instructions over the weekend or between now and the 26th as well.

THE COMMISSIONER: Okay.

40 MS HOGAN-DORAN: Commissioner, just to facilitate taking instructions, the Mitchell transcript which has been tendered, the private hearing of Mr Mitchell, will that be made available on the public site today? It may be that - - -

THE COMMISSIONER: I'll have to make an inquiry.

MS WRIGHT: My instructing solicitor will make inquiries about whether it can be urgently done. It's just the time of day, et cetera, could make it quite difficult.

THE COMMISSIONER: We'll try and achieve that.

MR LONERGAN: Sorry, one more. In light of if Mr Soliman is going to be most of the day, if not all the day, on the 26th, there then is a substantial break until I think it's 1 August. So is it the case, Commissioner, that Mr
10 Thammiah won't start until 1 August?

THE COMMISSIONER: I just need to have a think about that. On the basis that Mr Soliman was going to be most of next Wednesday, I would say no, but I'm just a little – can I just consider it, consider that issue, and the Commission's solicitor will inform Mr James of whether that position has changed and we'll let you know as soon as possible.

MR LONERGAN: Please the Commission.

20 THE COMMISSIONER: Okay, anything else? All right, then. This public inquiry is adjourned until Wednesday, the 26th of June at 9.30.

THE WITNESS STOOD DOWN [4.47pm]

AT 4.47PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.47pm]