

EMBERPUB00344
24/05/2019

EMBER
pp 00344-00403

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

Reference: Operation E18/0281

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 24 MAY, 2019

AT 10.00AM

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

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

THE COMMISSIONER: Thank you, Mr Singh. Any administrative matters?

MS WRIGHT: Not from me, Commissioner.

THE COMMISSIONER: Ms Wright.

MS WRIGHT: Thank you, Commissioner. Mr Singh, you gave evidence yesterday, this is at transcript 334, that Mr Soliman had told you that the scope of the request for quote for the procurement of the 125 scales was to only procure the scales?---That's correct.

10

And you said, "So it meant that it had to fit into the existing storage racks in the inspectors' vehicles."---Yes.

And you said that, "Some time ago he actually had me get in touch with the different regions just to get the dimensions from the storage racks." And the Commissioner asked you when, and you said, "I don't know, maybe 2015." Could we please have volume 10 at page 3 on the screen. This is an email from Michael Pepper to you in November 2016, and the last email in the chain is an email from you dated 7 November, 2016, to what appear to be the sector managers and others, asking for the dimensions of the storage racks installed in the vehicles.---Yes.

20

And were the other recipients the individual inspectors?---They would probably be the operations managers for each office and then the cc's are the sector managers, and Samer of course, and Brett Patterson who was the, I forgot what the title was back then, Senior Manager for Enforcement Operations or, yeah.

30

And Mr Pepper has forwarded to you the dimensions which Steven Rust has set out in his email.---Yeah.

And is that the, does that email represent the time that you did what Mr Soliman asked you, that was to get in touch with the different inspectors? ---Yes.

So it was in November 2016?---Yes.

40

And if that could be put aside at this point. When Mr Soliman asked you to find out the dimensions of the storage racks, did he say why you were to do that?---He said it was something along the lines of procuring new scales and just to see whether they would fit in the current storage racks and I think he gave me models to compare against, and they were PAT models, he gave me three PAT models I think to compare against and, yeah.

THE COMMISSIONER: And, what, to see if the three PAT models would fit in the current - - -?---Would fit into the current, yeah, yeah. I think two of the models were already in use by the inspectors and I think the third one was the SAW III.

MS WRIGHT: The newer series III?---The newer model, yeah.

And did that fit within the dimensions you were given for the storage racks?
---I don't recall. There should have been a spreadsheet attached to the,
yeah.

THE COMMISSIONER: To the what?---To the email, sorry, to that, oh,
there was an email.

10

Are you talking about the email you just looked at?---Not this email, but I
thought I sent an email to Samer with the actual dimensions.

MS WRIGHT: And you don't recall whether the three PAT models which
you compared the storage rack dimensions with all fit within the existing
storage racks?---Off the top of my head I can't recall if they fit or not.

Mr Soliman specifically mentioned that the purpose was the procurement of
new scales when he asked you to do that?---Yes.

20

And yesterday you were shown a business case which you sent to Mr
Soliman by email on 1 February, 2018. Do you recall that?---Yeah.

And you noted that it was dated November 2016?---Yes.

And your evidence was that Mr Soliman put together that business case
document?---That's correct.

30

There were plans being made at that stage to replace the portable weigh
scales. Were you aware of that or do you agree with that?---Yeah, but I
thought it may have started earlier than that perhaps, yeah.

How much earlier?---I don't know, because maybe perhaps before I even
started, yeah.

Now, did Mr -- I withdraw that. You gave evidence that in January 2018
funding of \$2 million was made available to purchase new portable weigh
scales?---Yes.

40

And you gave evidence at 342 that Mr Soliman told you he had a meeting
with Roger Weeks and that Mr Soliman was told he had \$2 million which
he needed and the scales needed to be delivered before the end of the
financial year.---Yes.

Are you sure it was to be delivered before the financial year or to be ordered
before the end of the financial year?---I got told it was supposed to be
delivered before the end of the financial year.

THE COMMISSIONER: By Mr Soliman?---By Mr Soliman, yes.

MS WRIGHT: Did Mr Soliman say at that stage, so I'm referring to January 2018 when the funding of \$2 million became available, did he say to you that the storage racks could not be replaced?---Yes, he did say that.

10 Did you have any conversation at that time about whether this would effectively preclude other brands of scale? By that I mean other than the existing scales used by inspectors from being selected in the tender?---No, I didn't, because I don't, I didn't know too much about weigh scales and their dimensions at that time, so I just assumed that, you know, many multiple manufacturers of scales could fit in there.

But no specific conversation about - - -?---No, there was, no, no.

- - - with Mr Soliman about that issue?---No.

20 When we adjourned yesterday, you were being asked questions about an email chain between you and Mr Jones at volume 10, page 168. Perhaps if that could be brought back up onto the screen, please. Mr Jones's email to you at 169, you recall that email in which he said he would not be signing the tender evaluation report because the RFQ was too restrictive regarding dimensions, and other applicant submissions were unable to meet specified dimensions.---Yes, yes, yeah.

30 You recall that email. And he appears to have endorsed the AccuWeigh LP788 scale subject to the fact it was untested and uncertified at that stage. And you forwarded Mr Jones's email to Mr Steyn and Mr Jansen, and you copied in Mr Soliman. Why did you copy in Mr Soliman?---Just to keep him in the loop because he was on leave during this time.

And why did you want to keep him in the loop?---Because he's the Manager of the Heavy Vehicle Programs. Craig Steyn is just the acting manager. Yeah.

And Mr Jansen told you that he'd escalated the issue to Mr Weeks with a recommendation that you seek to roll over the funding.---Yes.

40 What was Mr Jansen's role?---He's the Senior Manager for Compliance Monitoring, so he's Samer's manager. At that time it would be Craig's manager.

THE COMMISSIONER: And, sorry, did he replace Mr Hayes?---Yeah, Paul Hayes, yes.

MS WRIGHT: Did Mr Soliman respond to emails while he was on leave? ---I don't think so. I don't recall him responding to any emails, no.

Did he contact you at all in relation to this issue about Mr Jones not wanting to sign the evaluation report?---No.

The next email is at page 171, and in this email Mr Jones says that he will now sign the tender evaluation report. What occurred, or what to your understanding had occurred in the interim between Mr Jansen saying he'd escalate it to Mr Weeks and then Mr Jones saying he would now sign that report?---I heard there was a meeting between Arnold Jansen, Roger Weeks and Brett Patterson.

10

Who told you about the meeting?---Well, Brett Patterson walked out of that meeting and - - -

You saw him walk out of the meeting?---Yeah. Oh, he, he just, he told, told me that he walked out from the meeting. He just came and gave me an update of what was going to happen and he told me that they were going to, he was going to speak to David Jones and request for him to sign the report.

20

And were you told anything else about what then occurred, whether there was a meeting between Mr Jones and Mr Patterson?---No, I didn't hear anything after that. Another thing Brett did mention was, was the, also the additional request that any future procurement would be by an open tender and also appropriate time given for evaluations of scales.

An additional request by Mr Jones or by Mr Patterson?---Oh, Brett Patterson when he came over to my desk to give me an update.

That any additional purchase would be by open tender?---Yeah.

30

And what was the further matter?---Also evaluating the scales that are in the market.

THE COMMISSIONER: You said a proper evaluation of those scales.---A proper evaluation, yes.

And, sorry, who attended the meeting, it was Mr Patterson - - -?---My understanding was Arnold Jansen, Brett Patterson and Roger Weeks, yeah.

40

MS WRIGHT: And Mr Jones's email here at page 171 confirms what you've just said which is that "In the event funding is provided for the replacement of the remainder of scales currently in use, evaluation tests should be conducted on various other scale makes and models so a clear evaluation can be conducted prior to a subsequent RFQ being issued." Then the Tender Evaluation Committee's report is at 172 with a recommendation at 177 that the preferred tenderer on a value-for-money basis is Novation. The total price charged by Novation is set out at 176 as being \$1,925,400. Was any consideration given by you and the other committee members as to

how Novation came to its price?---There was no discussion about that during the evaluation that I can recall, no.

Would there normally be any discussion in any of the tender processes you've been involved in about whether the supplier had marked up the price at all?---Well, this was the first real procurement, a priced tender for procurement I was involved in so I'm not sure if the price was discussed, whether it was marked up or not, no.

10 You've been involved in a number of purchase orders in relation to the supply of parts by Novation.---Yeah.

Was any consideration given at any stage to mark-ups applied by Novation?---So again, I don't know much about portable weigh scales but when I saw the price list it did seem high and it was raised with Samer, and his response was because these scales were put together, were from 25 years old, there's no spare parts off the shelf so they need to be fabricated in, I forgot the country, Sweden or, it's wherever the PAT scales are manufactured, yeah, so - - -

20

You're referring to the spare parts that you did raise a concern with Mr Soliman in relation to - - -?---To the price.

- - - the price which you considered to be high?---It just seemed high. I mean, yeah.

When did you raise that with Mr Soliman?---It was probably when I first got the price, when I first saw a price list from Novation. I don't know the date or the year but, yeah.

30

THE COMMISSIONER: So Novation provided a price list - - -?---A price list for parts.

- - - for the spare parts?---Yeah.

And, sorry, Mr Soliman said something along the lines of, look, they're old models.---Yeah.

40 These spare parts have to be specially manufactured by - - -?---Fabricated by, yeah - - -

Or, sorry, fabricated by an entity in Sweden.---Yes. I don't know the country, sorry. Yeah, but - - -

Overseas.---Overseas, yeah.

And hence more expensive.---Yeah, because of that it's more expensive.

MS WRIGHT: Coming back to the 125 procurement tender, the next email I wish to take you to is at page 178. And in reply to Mr Jones's email confirming that he would sign the Tender Evaluation Committee recommendation, you said that you would include a specific recommendation that any future procurement be by way of open tender. Now, we will come to it, but that recommendation was not adopted for the next contract for the purchase of new portable weigh scales, was it?---No, it wasn't.

10 Were you involved in that subsequent process?---I was never asked to be involved in it. I just got told that Alex Lee was going to manage that procurement.

THE COMMISSIONER: Who told you that?---Samer Soliman.

MS WRIGHT: How did you – I'm sorry, you haven't finished.---I'm sorry.

You haven't finished your answer.---No, I was just, now I forget what I was going to say, so - - -

20

I apologise. How did you know that the recommendation which Mr Jones has made and which you said that you would insert into the report was not adopted for the subsequent contract?---It was just stuff I overheard, because I wasn't involved in the actual procurement, putting the tender docs together or anything. It's, I overheard that it was, so I overheard that Samer got in touch with Procurement, and the advice given by Procurement was for a closed tender to be issued to the panel members, and I voiced my concerns immediately.

30 THE COMMISSIONER: To whom?---To Samer Soliman, Samer Soliman. I advised him that's not what the recommendation was from the previous tender and, you know, explained why and I said my report did outline these recommendations and this report did go up, all the way up to Melinda Bailey, which she signed off on. And his response was that's the direction given by Procurement. He acknowledged my concerns and he said that's the direction that was given by Procurement.

40 Had you seen any direction from Procurement or are you just relying on what Mr Soliman told you?---I relied on Mr Soliman for that one but he, so there was another issue I raised about having someone external involved in the tender as well, because he told me that Procurement advised him that an external entity is just optional, so it was not required, and from what I recall from reading the procurement manual, tenders over the value of I think it's 2.5 million requires someone from external to be involved. So I voiced that concern and I believe he did forward an email from Procurement that actually stated that, you know, having someone external is optional. So, yeah. And also voiced concerns about no SME being on the, on that panel as well, because I did ask him, is David Jones going to be on that panel, and

he told me that, he told me that DJ didn't want to be on the panel, and, and I responded, okay, but you're going to need someone from that area on the panel and he said, okay, I'll send an email to Raymond Jenkins, who's the Sydney sector manager, to get him to nominate someone.

Do you know if that was done?---I don't know if that was done but I found out it was just only Alex Lee, Guido Zatschler and Paul Walker that was on the procurement panel for the, for the tender panel evaluation.

10 So no external person and no person from - - -?---No one with the subject matter expertise.

MS WRIGHT: Mr Singh, did Mr Soliman ever suggest to you that Novation should be selected for this procurement of 125 scales?---No.

20 You signed a conflict of interest declaration, which is at page 185 of volume 10, declaring that you do not have any financial or personal interest in the project or association with any person expected to tender for the project and declaring that you were not aware of any other situation which might lead to an actual or perceived conflict of interest or which might affect you carrying out your functions both fairly and in RMS's best interest. So you agree it refers to a perceived conflict of interest?---Yes.

And you should not have signed that document in the circumstances. Do you agree?---After doing the whole probity and ethics training, yes.

30 THE COMMISSIONER: But in the minimum you had an association with a person expecting to tender for the project or who indeed did tender for the project.---Yeah, again I guess - - -

That's not even using words like actual or perceived, that's quite straightforward, isn't it?---Yeah, so I guess it was a misunderstanding on my part but I acknowledge that, yeah, I should have disclosed it.

MS WRIGHT: Who would you report to if Mr Soliman, your manager, was somehow incapacitated or you had to report something about him?---It would be Arnold Jansen.

40 At this time?---You mean after he got suspended?

I mean at this time when you signed this conflict of interest.---Oh, it would have, oh, it was, Craig Steyn was the acting manager, yes.

You could have gone to Mr Steyn at any time and said, I'm aware of a friendship between Mr Soliman and Mr Thammiyah, the company who's about to be awarded a \$2 million contract?---I could have, yes.

Now, you then informed Mr Thammiah at page 211 of volume 10, by email that the company's tender was accepted by Roads and Maritime Services. You copied Mr Soliman.---Yes.

And then at page 213 Mr Thammiah sent you a quote for \$2,117,940 for 125 series III 10A portable weigh scales and 21 chargers.---Yes.

You then on 16 March sent an email to Mr Soliman, page 217, saying, "Hey, mate, which WBS should I be charging this against?"---Yes.

10

You then signed the purchase order at page 224.---Yes.

That needed the approval of Ms Bailey because of the value of the contract. ---Yes.

You sent a memo to Ms Bailey on 7 March, page 225.---Yes.

By this stage you'd been to Mr Soliman's wedding?---I don't know the date of Mr Soliman's wedding but if it was around that time then, yes.

20

Was it 17 February, 2018?---I don't recall the exact date, sorry.

But you agree you'd been to the wedding by the time - - -?---Yeah.

- - - you sent this memo?---Yes.

Now, your memo to Ms Bailey sets out some of the background, that's at page 225, and you've said in the comments section that, "Any future procurement of portable weigh scales should be advertised via an open tender process to enable further competition and value for money."---Yes.

30

You refer to the request for quote issued to the Heavy Vehicle Programs Maintenance Panel and the three tenderers were AccuCorp, NEPEAN and Novation. Then over the page at 226 you told her the cost of Novation's submission. You didn't tell Ms Bailey about the significant price difference between Novation's quote and that of AccuCorp and NEPEAN.---In the actual memo?

In the memo.

40

THE COMMISSIONER: Yes.

THE WITNESS: No, I did not.

MS WRIGHT: Why wouldn't you? You set that out in an email to others at page 168 which I took you to yesterday where you, sorry, not 168, 164, where you noted that AccuWeigh's options came in, one of them well under \$1 million and the other just over \$1 million.---Yeah.

So almost half Novation's price. And also you had done your own research about the cost of additional or replacement storage racks which you gave evidence yesterday would have been about \$150,000 but you'd doubled it - - -?---I doubled it, yes.

10 - - - to \$300,000. Was that not significant information to tell Ms Bailey?
---I didn't know I had to relay that message to Melinda because that purpose of that memo was the recommendation of the Evaluation Committee, so yeah, but the prices I believe were in the report that I sent to Melinda Bailey as well.

The prices, are you referring to the tender evaluation report?---Yeah, the tender evaluation report.

Well, we've just been to that report and I'll be corrected if I'm wrong, but I don't believe that the competitors' prices were referred to in that report.
---Okay, okay.

20 It refers at page 176 to Novation's price with no reference to the substantial difference in prices by other competitors.---Okay.

Do you agree it's substantial?---Yeah, it was substantial, I agree with that. I'm not sure why I didn't put the price in here, though. Okay. Let me see. Okay. So I put, "The following tenderers were put aside and were not considered further in the evaluation process as at this time" - - -

30 THE COMMISSIONER: Sorry, which page?---Same page, but I'm just reading the above. So I'm guessing because they were put aside then the next stage 4 is the pricing schedules for the remaining tenders, so that's possibly why I didn't put the price in.

How did you determine that Novation was cost-effective if you didn't look at mark-up?---I, yeah, I couldn't determine that.

MS WRIGHT: You also gave evidence yesterday that you knew and had a concern that HAENNI were not on the Heavy Vehicle Maintenance Panel.
---Yes.

40 Yet RMS used some of their scales.---Yes.

And you haven't raised that with Ms Bailey or in the tender evaluation report.---No, I did not.

Nor the cost of replacing the scales. You haven't set that out in your report to Ms Bailey?---Cost of replacing the scales?

Sorry, I meant the storage racks. I apologise.---Oh, the storage racks. Yeah, like I said. I thought the purpose of that memo was just to provide the recommendation and the cost of that recommendation. I didn't realise how to, yeah, include all that other information. Yeah.

Ms Bailey didn't have the full picture, would you agree, in this memo and the tender evaluation report?---If I knew I had to also supply that, all the other information, I would have. But, yeah, she will, I'm, I don't know, unless, because the email I sent to Arnold, when I had a discussion with
10 him, when I touched base with him again regarding David Jones's, after the second meeting he said he brought it to Roger, that email with the costs and the storage rack replacements. So I don't know if Roger had a chat with Melinda or not. But, yeah, but you're right, that information was in the memo because I didn't realise I needed to put it in there.

There's just one other matter. Could I draw your attention to, at page 226, the paragraph in which you say, "Following the technical assessment, the submission by Novation Engineering was deemed suitable based on
20 feedback from the subject matter expert."---Yes.

That was Mr Jones.---That's correct.

In fact he had raised a significant issue with the submission and the tender process because of the dimension issue. Do you think, looking at it now, that this memo suggests that he's fully endorsed Novation's being selected? ---So, I mean, that was in referring to the scales itself because David Jones did say that the scales met the requirements and he's used the scales before. But, yeah, it says the TEC recommends Novation Engineering, so David Jones was on the TEC. So, yeah.
30

And it also says that feedback from the subject matter expert end user on the TEC deems the nominated scale, that's in respect of AccuCorp, not suitable for RMS operational requirements, and yet Mr Jones had said, subject to the certification of the LP788 scale, it was probably the best one.---Yes, so that couldn't be considered at the time because it was uncertified, but I did chat, that's when I got in touch with AccuWeigh after DJ's feedback regarding the LP788 and I asked them when could these be certified, and at that point it was still months away. But then I did also request for them to send a set of scales of the LP788 for DJ to evaluate and, yeah, so that was also, I think
40 it was about a six to eight-week turnaround time because it's got to be sent from Intercomp, who's located in the US. Yeah.

THE COMMISSIONER: How did you determine that Novation's price of just over 1.9 million was the best value for money?---In that, in that evaluation we couldn't consider NEPEAN because they weren't an authorised distributor.

I'm sorry, I didn't - - -?---NEPEAN Transport because they weren't the authorised distributor, so all we had was AccuWeigh, Intercomp scales and the Novation's IRD scales. And because the Intercomp scales couldn't - - -

I know all that.---Yeah, yeah.

But you made a - - -?---But in terms of best value for money, we couldn't, we couldn't, because they were, Novation was the only supplier left on the, on the, on the tender evaluation.

10

So if they included some absolutely astronomical mark-up, say they were going to charge you \$5 million - - -?---Yeah.

- - - and putting to one side I realise you only had a bucket of 2 million - - - ?---Yeah.

- - - but how do you, I suppose my question is going to, you have to look or assess that it's the best value for money, and that must involve looking at, look, even if you are the only supplier left standing, are we being ripped off.
20 Doesn't it involve that at a minimum?---There's no process that I'm aware of on confirming that. It did bother me that pricing the - - -

Why did it bother you?---The significant difference. So if we go back to when we were putting the tender requirements together and Samer Soliman told me that the average price of scales was between 13 to \$15,000. So I was expecting the submissions, the price of the submissions to fall within that range and then I noticed that, you know, the only one that did fall into that range was Novation and the rest of them was, yeah, less than half.

30

Were cheaper.---Much cheaper. So I remember that we did, I do, I recall at that time we did procure 24 IRD scales from ELWC. So I went, I thought I probably raised that purchase order so I went looking through my computer to find that purchase order and I couldn't find it so I realised, so I was just guessing that I was the one. I wasn't the one that raised that purchase order so I think I did check Objective as well and I couldn't find anything. Then I decided to go online and then see if I could find a price online, and I couldn't find any prices online for these scales and it did occur to me that I know that, you know, Samer is friends with Novation. So that was bothering me as well at that time. And then around that time I happened to
40 bump into Ali at the gym. This is Anytime Fitness Baulkham Hills. And when I bumped into him it was around this time and this time and this was bothering me so I kind of raised that concern with him. I told him what was going on. I've told him about the significant price difference and I just, I asked him is it possible that something could be going on here between Samer and Steve. And he told me at that time that can't be possible because Samer is no longer talking to Steve. Apparently there was some personal issues between the two. So when I heard that I thought, okay, maybe I'm just over thinking this and, yeah, so, and then another incident that happened

was when he came, when we were talking, when the payment. So I raised, when Samer was back I raised it with him that paying \$2 million upfront for, for this procurement I had concerns about that. I think there should be at least milestone payments. So Samer agreed with that approach and he said that we'll go with 50 per cent upfront and then 50 per cent on delivery. And then something else he dropped, a comment he dropped was that he didn't, he also didn't trust Steve in paying him upfront. So, and I was just guessing that's related to whatever these personal problems they had so, yeah.

10

MS WRIGHT: There was a lot there.---Yeah.

THE COMMISSIONER: A lot there.---Yeah.

MS WRIGHT: Just to clarify the timing of some of those things.---Yes.

You raised a couple of concerns with Mr Soliman?---About?

20

About, well, about what you've just said about the payment upfront to - - -?
---Yes.

So that was after he came back from leave?---Yes.

That's in around March?---Yeah, it would have to have been around March.
2018.

THE COMMISSIONER: The wedding was in February, wasn't it?

30

MS WRIGHT: Yes.

THE COMMISSIONER: And Mr Thammiah was at the wedding?---He was at the wedding.

MS WRIGHT: And you gave some evidence that you went online to try and check for a price?---For pricing.

You couldn't find a price?---Yeah.

40

Did you do that before you submitted the tender evaluation report?---I don't recall. I can't recall, sorry.

THE COMMISSIONER: Also on that, you spoke about you had a recollection that 24 of the same scales had been - - -?---Procured from ELWC.

Yes.---Yes.

Did you have a role in that?---I thought I did, so that's why I went back and looked at my purchase orders, but - - -

You thought you might have raised - - -?---Yeah, I thought I might have raised a purchase order so I thought I could get the price from that, but I didn't have the purchase order.

All right. But surely, but you had a recollection they were purchased?
---Yeah.

10

There must have been some way through the RMS computer system that you could have determined or found out what ELWC had charged?---Yeah, so that's, I believe I tried checking Objective because it would have been stored on Objective, but I don't, couldn't find anything, yeah.

You didn't ring Finance or Procurement or - - -?---No, it didn't cross my mind, at that time it didn't cross my mind, yeah.

20

And that query was done before the Evaluation Committee report had been finalised?---The, the searching of the price?

Yes. When you're sitting back thinking, this evidence is, you get the tenders and you notice that Novation, the other ones are much cheaper.
---Yeah.

You also remember that Mr Soliman had said to you, we're looking at this range, and Novation tender is within that range, the others are much cheaper.---Yes.

30

And then from what you said, the impression I got was that you then kind of sat back and started doing a little bit of detective work.---Yes, yes.

So this was before you had finalised with your panel members the evaluation report.---I'd say so, yes, yeah.

MS WRIGHT: You referred to a conversation with Mr Hamidi in which he told you he thought that there had been a falling out or an issue between Mr Soliman and Mr Thammiah.---Oh, he told me that Samer's no longer talking to Mr Thammiah.

40

When did you speak to Mr Hamidi about that?---I don't have the exact date, sorry.

Relative to your signing of these documents.---I think it may have been prior, yeah.

So prior you thought that perhaps something was up between Stephen Thammiah and Mr Soliman, and what you mean by that is that there was

some form of collusion between them.---That was, yeah, that's what was going through my mind.

You had that concern prior to signing the tender evaluation report?---See, I don't recall, oh, the concern was prior?

Yes.---Yes, possibly.

10 And yet you did not raise that concern of collusion, possible collusion between the tenderer and your manager with anyone in RMS?---Well, yeah, because like when I had a chat with Ali I guess, you know, back then he was a trusted friend and what he'd told me I just thought, okay, maybe I'm just overthinking things.

You raised it with Mr Hamidi because you had a concern about possible collusion between Mr Soliman and Mr Thammiah?---Yeah.

20 Yet you didn't raise that with anyone in RMS.---No, I didn't. In hindsight I probably should have but I guess I trusted the feedback I received from Ali about it and, yeah.

Not probably, do you agree that's a very serious matter, Mr Singh?---Again I guess it was just trusting - - -

THE COMMISSIONER: But it's a serious matter, isn't it?---Yeah.

Because you're suspicious, you're doing some detective work.---Yeah.

30 You've got an opportunity to raise it, because I take it, was this conversation with Mr Ali, or sorry, Mr Hamidi, I'm sorry for that, was when Mr Soliman was on his honeymoon?---He was on leave during that time.

But Mr Thammiah had gone to the wedding. That's not very consistent with two people - - -?---Yeah, yeah, so - - -

- - - not talking to each other.---Yeah, so that was a bit strange, but again, Samer, you know, the same comment Samer dropped about not trusting Mr Thammiah and what Ali told me I, yeah.

40 But that conversation I thought - sorry, I should have asked that. The conversation about whether it's going to be \$2 million paid upfront or in some other way, when did that occur? I assume that must have been post-tender.---Post-signing, yeah.

Yes.---Yeah. Post-signing of the report.

So that was when Mr Soliman had returned from his leave.---Yes, yes.

And was that implemented, the 50 per cent upfront and the 50 per cent on delivery?---Yes.

MS WRIGHT: Did Mr Hamidi say how long that there had been an issue between Mr Soliman and Mr Thammiah or - - -?---He, he didn't say how long.

10 Or what it was about?---He gave me one reason and it's about Stephen's family, so I know this is all being streamed and I don't feel too comfortable
- - -

THE COMMISSIONER: All right, hold on.---Especially if it's not true.

MS WRIGHT: Yes. We're grateful for that, Mr Singh.

20 THE COMMISSIONER: I think what I'm minded to do is cut the streaming at the moment, hear what you've got to say, and – where's Mr Lonergan? Mr Lonergan, are you okay with that? I would like to hear the answer. Depending on what the answer is, I can then make a further order under section 112 that the answer isn't included in any transcript that goes to the public.

MR LONERGAN: Well, I mean, we don't know what the answer is and I also, even before an answer is given, the probative value of any such answer I raise as a question of relevance.

THE COMMISSIONER: I think the relationship between the two gentlemen is very germane to this inquiry.

30 MR LONERGAN: Yes.

THE COMMISSIONER: I am interested in what the answer will be. I am just concerned that if it is of a very personal nature, my concern is Mr Thammiah's privacy should be protected. So we've stopped the live-streaming, can I just confirm that?

MR LONERGAN: Commissioner, sorry - - -

40 THE COMMISSIONER: And then I am minded, depending on the answer, to restrict it just to legal reps currently in the hearing room.

MR LONERGAN: Yes. But even an answer still in relation to persons related to Mr Thammiah, not Mr Thammiah necessarily himself. So again I just raise the objection of relevance even before an answer is given to the question.

THE COMMISSIONER: I'm against you on that.

MR LONERGAN: Please the Commission.

[REDACTED]

10

[REDACTED]

[REDACTED]

[REDACTED]

So, Ms Wright, I'm minded to make an order under section 112 concerning that.

20

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: The evidence just given by Mr Singh concerning the relationship between Mr Thammiah and some members of his family, I make an order under section 112 of the ICAC Act that it not be published.

**SUPPRESSION ORDER OVER ANY EVIDENCE BY MR SINGH
CONCERNING THE RELATIONSHIP BETWEEN MR THAMMIAH
AND MEMBERS OF HIS FAMILY**

30

MS WRIGHT: Mr Singh, just going back to your concern that there was something going on between - - -

THE COMMISSIONER: Can I just stop. Can I check, are we back to live streaming? Okay, thanks. Right, we're fine.

MS WRIGHT: Mr Soliman, just going back to your concern - - -?---Mr Singh.

40

- - - that there was something going on between Mr Soliman and Mr Thammiah, you suspected or believed that there could be something going on?---It was just, yeah, it was just, it was just suspicion at that time, yeah.

Was it the case that with respect to your relationship with Mr Soliman you didn't want to rock the boat, in terms of you didn't want to raise any concerns you had with him?---It was more so I didn't want to, yeah, raise it with him, just in case, oh, well, if it was not true, you know, it's, it's a

massive, it's a big accusation to make and if it wasn't true then, you know, it's just the impact of that, so yeah.

Do you agree that by this stage you'd been involved in quite a number of contracts awarded to both Novation and to Mr Hamidi's company?---Yeah.

And Mr Soliman was your boss.---Yes.

10 And you never raised concerns that you had with him. Were you concerned about your employment position or did you ever feel that you were just going along with Mr Soliman's say-so?---I was, I mean I was following his directions, I mean he's my manager, I didn't feel that way though.

Well, this was a very big concern in relation to this 125 scale procurement worth \$2 million, and yet you didn't even raise that as an issue with him. Is that, is that how I should - - -?---With Mr Soliman?

Yes.---No, I didn't raise that with him.

20 Were you intentionally and deliberately keeping a low profile in terms of raising concerns that you had?---No, I wouldn't say that.

In order to maintain your employment with RMS?---No, I wouldn't say that. I did voice concerns about the whole open tender, I voiced concerns about the second tender, yeah.

30 But this was a more personal issue, wasn't it, this is, as you say, would be a serious accusation.---Yeah. I, I mean, I don't know about my employment but just the relationship with my manager, it could severely impact if it, if, you know, if it's not true, so yeah.

THE COMMISSIONER: Mr Soliman was instrumental in your getting the job, wasn't he?---He did assist me, yes.

He helped you write your application?---Yeah.

He was on the interview panel?---Yes.

40 And you're now working in his team and he seems to be involving you in things.---Yeah.

You're now on a panel, a Tender Evaluation Committee, that must be good for future job prospects or enhancement?---Yeah, it's development, as we call it, yes.

Following on from Ms Wright's questions, did you feel some kind of that you were beholden to Mr Soliman?---No, because there was also other projects I was working on and then in late November 2017 he reassigned me

to work under the Safe-T-Cam and Average Speed Camera program managers, to support them with their delivery.

And, sorry, are they part of your team?---They are part of my team. And so at that point I was really just working with them, so I was pretty much separate to what Samer was doing.

10 Again that was Mr Soliman doing something or was instrumental in assigning you some work that was going to help you with your job prospects.---Well, he reassigned me because he told the team that senior management wanted to get rid of 10 people in the area and they were targeting people who weren't on funded programs, and at that point in time I wasn't on a funded program so that's why he reassigned me to - - -

To a funded program.---To help, yeah, Alex Dubois and Craig Steyn because they're on funded programs so, yeah, so that was his reason for assigning me there.

20 So that's actually not job enhancement, that's keeping your job, he's helping you.---Yeah. That's what I felt like at the time but I was talking to my acting manager later on and I raised that whole getting rid of 10 people. Apparently that wasn't true so - - -

But he told you that?---But he told, he told, he actually had a team meeting and he raised that in the team meeting so, yeah.

Can you recall when that was?---The team meeting?

30 Yes.---I can't recall, it was late November 2017. I can recall the members that were there. It was myself, there was Craig Steyn, there was Alex Dubois, there was Theepan Thevasathan and there was Barry Everson.

Sorry Theepan?--- Thevasathan. That's his surname.

Oh, I'm sorry. Yes.---Yeah, yeah. And Barry Everson. The three, Guido, Alex Lee and Paul Walker weren't invited to that meeting even though at that point they were part of the team.

40 They were working on unfunded projects or - - -?---Yeah. So he, he mentioned that those three guys were being looked at as, you know, possibly being made redundant so, yeah.

And no redundancies ever occurred?---Not that I was aware of, yeah.

MS WRIGHT: Could we have page 237, volume 10 up on the screen. You created the purchase order for the procurement for 125 scales.---Yes.

You asked Mr Soliman what the funding bucket would be. He sent that to you and then he, you had included his name on the document as requester. ---Yes.

10 Why did you do that?---Because I was in Europe at the time so the way this form works is you've got to fill it in then you've got to print it out then you've got to sign it and then scan it and then, yeah. So I don't think I had any facility to print the page out so I thought I would just put Samer's name and get him to just print it out and he can sign it and progress it. And then, yeah, then he changed it back to me and he said I should be the requester so I think what he did was he printed, all he did was he printed the page with my name on it and then scanned it and then sent me the scanned copy. So then I had to electronically sign the scanned copy.

Were you the appropriate person to be the requester?---I'm not sure. I'm not sure what the requirements are for, for someone to be a requester so - - -

20 It wouldn't have been inappropriate that it be Mr Soliman in your view?---I saw no reason why it couldn't have been Mr Soliman. I mean, he did sign purchase orders as a delegate so, yeah.

Then at 241A you've sent all of the supporting documentation for the purchase order request to the Transport Shared Services area and you copied Mr Soliman.---Yeah.

30 THE COMMISSIONER: Sorry, when you were overseas, were you on holidays?---Initially, initially I was there for a convention. It's called Intertraffic. It's basically where all the vendors, all the intelligent transportation system vendors meet and showcase their products. And then I extended it as personal leave after that.

MS WRIGHT: I'm now returning to AZH, Mr Singh. Were you the person in the Heavy Vehicle Programs team who looked after scoping studies and trials?---I was involved in some of them, but Samer would be the one managing what scoping studies, what trials that needs to be done. Yeah.

40 I anticipate that the Commissioner will hear evidence from other members of your team. I'm just giving you an opportunity. Do you think they would describe you as a person who ran the scoping study trials?---So they knew I attended some trials, so their impression could be that, yeah, I ran the, the scoping studies, but I attended a few trials and I did tell them about the trials that I attended, so - - -

And you recall you gave some evidence that your area was cameras?---Our section is Compliance Monitoring, so it involves all the camera programs, but the Heavy Vehicle Programs we've got two camera programs and then the safety stations, which is not, oh, it's got a safety cam but it's, it's a different program, and we've got a speed limit program, yeah.

Now, I took you yesterday to a document, perhaps if we could have it up on the screen again at volume 8 of page 118, which looked like the AZH tender submission for the PSC Panel, and you said that you didn't recall some of the information in the document.---Yes.

If I could show you this document, please. And I have a hard copy. Do we have it electronically? Yes. It will come up on the screen, but perhaps if I could give the witness a hard copy.

10

THE COMMISSIONER: And have I got one as well, please?

MS WRIGHT: There's a hard copy for the Commissioner and Mr O'Brien.

THE COMMISSIONER: Thank you.

MS WRIGHT: Mr Singh, this document is the AZH tender submission for the PSC Panel. You'll see it includes the covering note and a covering letter signed by Zoe Hamidi. Do you recognise that?---Yes. I recognise her, so you mean her signing the - - -

20

Do you recognise the letter?---The letter. I mean, it was, you know, it was almost two years ago so I don't recognise the content but - - -

You would have read it at the time.---I would have gone through it, yes.

Then if you could turn to page 9. It includes the qualifications and competence of key personnel, Ali Hamidi and Zoe Hamidi.---Yes.

30

And if you skip down to the middle of the page, "As the technical lead, Ali draws on 10-year career in the technology industry, including the ITS industry."---Yeah.

You knew that to be false, didn't you?---That is false. I don't know how I didn't pick that up, sorry.

Well, it goes on to describe an extensive IT project management and data analysis reporting career. Do you consider that to be a true statement?---I wouldn't be able to confirm the project management, but the data analysis and reporting career, I mean, he did tell me about.

40

From Optus?---From Optus, yes.

"Detailed knowledge of worldwide best practices in the ITS industry drawn on from international ITS consulting."

THE COMMISSIONER: "For road government agencies throughout the world."---Yeah, that's, yeah, that doesn't - - -

That's false.---Yeah, that's false.

MS WRIGHT: International ITS consulting is false.---International ITS consulting, I'm not aware of, yeah, AZH Consulting internationally.

It's not just a matter of not aware, you know he doesn't have international ITS consulting experience, don't you?---Yeah. Yes.

10 And no experience with road government agencies throughout the world?
---That's correct.

“Has enabled AZH to be an industry leader in ITS consultation.”---Yes, that's false.

20 “Especially providing governments advice regarding best methods to go from potential ITS solutions to actual implementation while meeting all legislative requirements.” False?---I mean in terms of government advice there was only one, I mean RMS, but it's in plural so I would say that, yeah.

It goes on to repeat that, “AZH is an ITS industry leader.”

THE COMMISSIONER: Is this under Methodology?

MS WRIGHT: Under Methodology.---Yeah.

You didn't miss that, Mr Singh?---I didn't miss all of it, I missed that 10-year career, though.

30 It repeats a number of times his experience in the ITS industry. Next paragraph, “We understand the majority of our customers do not possess a detailed understanding of the ITS industry.” In other words, we do. Do you agree that's what he's saying?---Well, yeah, I mean like, there was work raised to him before that, so, which were ITS-related, so - - -

By RMS?---By RMS.

Where you attended three trials - - -?---I attended three.

40 - - - and he took some data?---Yeah.

Hardly a “world leader,” or a “detailed understanding of the ITS industry”.
---Yeah, I wouldn't consider that but - - -

They're lies, aren't they, Mr Singh?---Um - - -

Outright lies?---It is.

You read this at the time.---I guess I didn't read it properly, though.

If it was written, then you read it, didn't you?---Because I should have read the technical skills and methodology, yeah.

Over the page. "Essentially we manage any ITS field trials, consultation, scoping study end-to-end by determining the following. Legislative guidelines and requirements of the ITS technology in question."---Sorry, where - - -

10

THE COMMISSIONER: Sorry, we're on page 10 now at the top.---Okay. This would be related to again the work that was raised previously.

MS WRIGHT: Remind us how many - - -?---Again I was there for three trials.

- - - trials you were aware of that AZH had participated in?---I was there for three, but there was other works raised to AZH as well.

20

You weren't aware of any other trial that AZH had participated in, were you?---I raised the work, I heard the outcomes from some of them, so - - -

Well, you gave evidence that Mr Soliman had said that there was a Houston Radar trial.---Yeah.

And you weren't involved in the trial.---I wasn't involved in the trial.

You were not?---I, I didn't participate in the trial, no.

30

And what did Mr Soliman tell you about Ali Hamidi's involvement in the trial?---I don't recall what he mentioned. He just told me the outcomes of the trial which was I think Houston Radar didn't perform, didn't meet the requirements, yeah.

So that's not one of the other ones that you heard about. Which other ones had you heard about?---So there was the - - -

Told you nothing about Mr Hamidi's participation in the trial?---I don't recall him mentioning anything like that, no.

40

So that's not one of the other ones that you heard about. Which other ones had you heard about?---So there was the - - -

THE COMMISSIONER: Which page are you looking at, Mr Singh?---I'm just looking at the list now - - -

So you're on page 12.

MS WRIGHT: Well, we're not quite there yet.---Oh.

I'm just asking you at this stage what trials – apart from the three you attended – have you heard that AZH participated in?---I heard there was the, you had the, the thermal camera, the Optus, the TIRTL, Optus thermal camera trial. My understanding is that Samer provided Ali with the data to analyse and I don't, I think the outcome wasn't positive.

10 The outcome for the technology?---Yeah, because the images were blurred as the vehicles were passing by.

You approved the invoice for that trial?---At Samer's direction.

That's not one of the trials you attended?---No.

To your knowledge, did Mr Hamidi attend?---Well, he got provided the data but I don't know if he attended. But when he got supplied the data I assumed he would have attended the trial.

20 It sets out on the same page - - -

THE COMMISSIONER: Are we - - -

MS WRIGHT: This is page - - -

THE COMMISSIONER: 10, is it?

30 MS WRIGHT: Move forward, but we're on page 10. The methodology that we follow in all ITS consultation projects and field trials/scoping studies. Consultation. Customer business requirements documentation. You had never seen any business requirements documentation by AZH, do you agree?---I agree. But again, when you're evaluating the tender, you've got to evaluate from what you read.

THE COMMISSIONER: But you just don't accept it, do you? Especially when you know something to the contrary.---Yeah, I mean, I should have picked up, especially on the industry leader and the, all that, yeah, I should have picked up on all that. But - - -

40 MS WRIGHT: You knew at the least this was all gross exaggeration. ---Yeah, it was exaggeration but, I mean, I would expect the same from other tenderers as well to sell themselves.

THE COMMISSIONER: But it goes beyond – I'm sorry, Mr Singh. I interrupted you. It goes beyond exaggeration. There are lies in this, and lies that you knew that they were – assertions that you must have known were lies.---Well, based on the three trials you went to, yes, but, again, like I said,

there was other works also raised so perhaps these items were addressed, but I can't confirm that, of course.

MS WRIGHT: Mr Singh, isn't it obvious that this is full of lies and that AZH were defrauding the RMS?---I mean, I wouldn't say that. I mean, it's exaggeration but there was some false statements, I agree.

Didn't you know that at the time, that there was a scam on foot - - -?---No.

10 - - - where AZH was being given work by RMS which it was not doing and which it was not capable of doing?---I didn't know it was a scam. I was just following my manager's directions to raise work. And, again, I was at the three trials and in those three trials I was, you know, explaining Ali the, you know, everything. Yeah, I know, but I guess I trusted, this is, it comes down to trusting, you know, people I considered friends, and I considered that, you know, the right thing was happening. But, yeah, now in hindsight, obviously, yeah.

20 You're saying you were trusting Mr Hamidi that he had this experience?
---Well, I was trusting that he was doing the work that we were raising the work for, yeah.

And why on earth would you not raise an issue about all of this false information, report it to a more senior manager or raise it with your own manager?---I guess I didn't think of that at the time.

30 Isn't it because you knew that Mr Soliman was giving work to his friend and your friend's company and you were trying to favour your friend's continued relationship with RMS?---No, that's not true.

If you can turn to the table which is, you've already looked at that, which is at page 12. It lists seven field trials and scoping studies where AZH has said it's performed work in the past two years. First, the two years. AZH didn't even exist two years before this submission, Mr Singh.---When did they start? I didn't, I don't recall when they started.

THE COMMISSIONER: November 2016, wasn't it?

40 MS WRIGHT: Yes, Commissioner.---And when was this tender?

October 2017.---Okay. Okay. That's something I missed, yeah.

I suggest you didn't miss it, Mr Singh. You blindly closed your eyes to what was going on.---No, that's not the case.

Because you were trying to favour your friend's company at this stage.
---No.

THE COMMISSIONER: My recollection is the panel committee, as part of their deliberations there was some kind of appendix D where I thought you verified details of when companies were established, Australian business names, et cetera, from - - -?---It was just, it was - - -

- - - independent sources from, for example, ASIC.---It was ABN Lookup. It was just a look up of the ABN.

10 That would have revealed surely that this company was only in existence from November 2016?---Yeah, but that would have, the ABN Lookup would have occurred post-evaluation so obviously when I saw that I didn't go back to the, the submission.

MR YOUNG: Could I object. I realise he is not my witness but it potentially does affect Mr Soliman as well. If the page could just be put on the screen again. I think there may be - - -

THE COMMISSIONER: Is this page 12?

20 MR YOUNG: Yes. I think there may be an unfairness in the question or at least something that's being overlooked because what it is responding to is a requirement for, if one looks at the heavy type, what has been done in the last two years. It does not as such involve a representation by AZH that it had been in existence for two years.

THE COMMISSIONER: Look, I take your point. The in bold, which I take it is the criterion, is during the past two years.

30 MR YOUNG: Yes. So it takes it back to a point and says what have you done from that point onwards.

THE COMMISSIONER: The actual submission is AZH has performed in the past two years?

MR YOUNG: During the period required by that stipulation, yes. So I think there is a potential unfairness at least because it's been suggested that AZH

- - -

40 THE COMMISSIONER: It was an assertion that - - -

MR YOUNG: They had been - - -

THE COMMISSIONER: - - - they had done work throughout?

MR YOUNG: That they had been in existence. Yes, and they'd been in existence for two years.

THE COMMISSIONER: Ms Wright, I - - -

MS WRIGHT: I can see that interpretation but Mr Young can't speak for what - - -

THE COMMISSIONER: No, no, no.

MS WRIGHT: - - - Mr Hamidi meant by it. There's a similar reference on page - sorry, I have an unpaginated, I'll just check the, at page 6. "AZH has
10 been operating in the ITS industry in Australia for two financial years." Now, its work crossed over two financial years, but it could be read as suggesting that it's been operating for two years. Do you agree with that, Mr Singh?---It was operating over two financial years.

Yes, I understand it was operating over two financial years.---Yeah, but it could be interpreted saying that they were in, in operations for two full financial years is what you're saying.

Yes. Yes. But - - -?---Yeah, that's, I guess, you know, it's open to
20 interpretation that, that question, I guess.

Anyway, that's - I suggest that's a minor matter when one has regard to the rest of the content of this, which is full of, I suggest, outright misrepresentations, lies, falsities, which should have been patently obvious to you as the convenor and a member of the Tender Evaluation Committee, and were apparent to you because you read this.---I mean, I did read it. Unfortunately, yeah, I did read it. I didn't read through all of it.

And surely you would have remembered this yesterday when I asked you
30 about the tender submission.---No. Not until I saw the actual submission.

Isn't this a very significant submission because of the extent of the misrepresentations made by AZH about its experience? Wouldn't this have jumped out at you at the time?---Again I just thought they were just selling themselves. But, yeah, I mean, now in hindsight, yeah.

Page 5. AZH says, under subparagraph B, "As this is a niche industry, it takes years for a person to skill up for this relevant area of knowledge."
---Okay.

40 Suggesting that it has years of experience in the niche industry.---Yeah, so when we evaluated, we only evaluated the, the criteria, so that's what we were looking out for, so I most likely didn't read this part and I was following the format from the Heavy Vehicle Maintenance Panel tender evaluation, which was again just looking out for the criterias itself. So, yeah.

And didn't the criteria include its past experience?---Yeah, so I believe past experience - - -

And you scored AZH very highly on past experience, didn't you?---I don't recall what I scored.

Well, just before we move to that, the same page, at page 6, it says, "As demonstrated in section B5 of this tender response, all our previous work in ITS field trials/scoping studies have been accepted and praised by the customer." Did you have any knowledge that RMS had praised its work?
10 ---I didn't have any knowledge but, again, if someone was praising it would have been, yes, Samer.

At page 11, it refers to the reporting and analysis phase. "This phase is the most complex as we ensure we translate technical data into layman terms for our customers."---Where is that on page 11?

Page 11, up the top.

20 THE COMMISSIONER: Second sentence.

THE WITNESS: Okay, this is just a report, the reporting of the data.

MS WRIGHT: "Translating technical data into layman's terms."---Okay.

You hadn't seen any examples of AZH doing that?---Well, the reports were provided there but before that, no.

And you even had a concern about Mr Hamidi's expertise in ITS matters
30 which you raised with Mr Soliman at the beginning of the process of AZH being involved in RMS work and you've given evidence about that.---Yes, I did.

So this would have been obvious to you, that AZH couldn't translate technical data into layman terms for its customers.---But again by this point, you know, there was a couple, there was work raised to AZH which I trusted was being delivered, so - - -

40 What other customers did it have?---Other customers? I'm not sure if AZH had other customers.

Did you know that RMS was the only customer?---That what my belief is, yes.

And at the time that was your belief?---Yeah.

Down the bottom of this page it refers to the Houston Radar over-length vehicle detection system required to be mounted at Galston Gorge, which

was a high-risk road for pedestrians/humans to attend. “AZH proposed a safe and lower cost option for RMS to achieve the outcomes without any human needing to” – over to page 12 – “physically attend site for the field trial. We added mobile communications and CCTV functionality in the Houston Radar technology to enable us to run the field trial remotely and provide a safer option and lower cost to RMS.”---Yeah, when I look at that now, that, yeah.

10 THE COMMISSIONER: Yeah what?---It, yeah, it doesn’t look right. Like I said, when I was looking through it I was just looking for whether it addressed the criteria, so yeah.

MS WRIGHT: Weren’t you just pushing this one through?---No, that wasn’t the case.

20 There was never the remotest prospect AZH would not be selected to join this panel, was there?---That was not my belief. I thought, when I raised the concerns about the demonstrated experience I thought that did give vendors like AZH and SGS an advantage because they’ve worked with us in the past, but I didn’t believe that, you know, that guaranteed them onto the panel, but yeah.

SGS you said hadn’t done any work for your group, the Heavy Vehicle - - -? ---Not for our group, but they have done for other groups at RMS.

And – sorry, Commissioner.

THE COMMISSIONER: No, no, you keep on going.

30 MS WRIGHT: Page 13 they provide two scoping studies and these were the two first projects which you attended, and I’ve already taken you to those reports. I can take them to you again, in fact they’re annexed to this submission at page 16, and I suggested to you yesterday that this first report about the FLIR thermal camera trial which you attended is so technical that you would have known that Mr Hamidi could not and would not come up with this report himself - - -?---Yes.

40 - - - based on your knowledge of Mr Hamidi and - - -?---Based on my knowledge, yes, but as I said, I assumed he would have done further research on, on this technology.

You thought he went home and - - -

THE COMMISSIONER: Googled?

MS WRIGHT: Googled?---Or, googled or get in touch with the vendor or, you know, just further research. Yeah, that was my understanding, but yeah.

THE COMMISSIONER: An expectation that he'd get in touch with the vendor, doesn't that defeat the purpose of having an independent entity there?---Well, they still need information about the equipment, so I mean if you want information you need to get in touch with the vendor.

But this goes beyond. The technical sections that Ms Wright is referring to goes beyond just information about the piece of equipment. It's evaluative in quite a technical way.

10

MS WRIGHT: It provides opinions, and if it was just information from a vendor, it wouldn't be his report, as the Commissioner suggested.---Yeah, but as I said, what I witnessed at the site was that Ali was, you know, having discussions with the vendor and inspectors. So that's all I saw, so I don't know what was being collected but - - -

You had no idea what was being said. It could have been talking about the weather.---It could be. You're right. But it could also be talking about items in this report.

20

Are you being truthful in your evidence, Mr Singh?---Yes, I was just – again, I was not favouring AZH.

Did Mr Hamidi ever give you any money?---No.

Now, you gave some evidence yesterday about a request for quote which you sent to AZH - - -

30

THE COMMISSIONER: Can I just stop you. Are you moving off this - - -

MS WRIGHT: I'm sorry. I need to tender – yes, I've been reminded.

THE COMMISSIONER: That's okay. Now, do we describe this as the AZH tender for the Heavy Vehicle Programs PSC Panel?

MS WRIGHT: Yes.

40

THE COMMISSIONER: All right. The signed AZH Consulting Pty Ltd tender for Heavy Vehicle Programs PSC Panel, dated 25 October, 2017, is Exhibit 38.

#EXH-038 – SIGNED AZH CONSULTING PTY LTD TENDER FOR THE HEAVY VEHICLE PROGRAMS PSC PANEL DATED 25 OCT 2017

MS WRIGHT: Mr Singh, you gave some evidence yesterday about a request for quote which you sent to AZH around the time it was appointed to the PSC Panel. That was at volume 4 of page 15. You emailed AZH and you attached the RFQ. Do you recall the one?---Yes.

And you were the manager of that RFQ.---Yes, I believe so.

Yes. You were named as such at page 23 and your evidence was that you issued this only to AZH.---Yes.

10

You received a quote from AZH and that is at page 28B. And I asked you at transcript 319, “Would the value of this contract normally require more than one quote?” and you said, “Only if it’s above 50,000, then you need multiple quotes.” And I asked was it 30,000 and you said from your understanding it was 50,000 and that you checked the procurement manual. ---I checked, I don’t know if it was the procurement manual but it was somewhere in the intranet. Yeah, and I saw the 50,000 including GST.

20

I suggest that the procurement manual requires competitive quotes above 30,000.---Okay.

And you were told by Mr Soliman in 2016 that all work over 30,000 required three quotes.---He may have told me that but then he did tell me later on that it’s 50,000.

Well, I’ll show you an email, please. I have a copy for the Commissioner. ---Yeah.

30

So you agree Mr Soliman told you in 2016 that - - -?---It was 30K.

30K.---Yeah.

And when do you say that he suggested it was 50K?---I would say sometime in 2017. He used to have regular meetings with Finance and the Contracts teams so, yeah, he communicated that it’s 50K.

When in 2017?---I don’t know the exact date, sorry.

40

THE COMMISSIONER: The second paragraph, “There will be special cases with niche works where only one vendor has skillsets knowledge which I will go through on a case-by-case basis.” Do you see that?---Yes.

What was your understanding what that meant?---Reading that now it could be something like an authorised distributor if you need equipment. Instead of getting multiple quotes you can just go to that one distributor or if it’s like a, if it’s, if I give examples. There’s a device called the TIRTL.

The what, sorry? TIRTL?---A TIRTL, yeah. So that is an infra-red scanner which collects vehicle classification and speed, captures speed and all that, and there's only one - - -

One maker of the TIRTL?--- - - - one maker of the TIRTL. So, and they kind of, I think they have a patent on that technology, so if you need anything like that you have to go to CEOS, the vendor, yeah.

10 And the way this email is written, does it suggest that Mr Soliman has a discretion where it involved a niche work to approve the purchase even though it was over 30,000 but with one quote?---Yes.

MS WRIGHT: Going back to the RFQ which you issued in November 2017, which you issued only to AZH, I suggest that you were intending to favour AZH in issuing that RFQ.---I was just directed to raise the RFQ to AZH.

20 You issued it only to AZH in circumstances where there were other vendors who were in the process of being appointed to the PSC Panel?---But under Samer's instructions.

And not only that you breached the policy in issuing an RFQ only to AZH. ---Well, I didn't realise that. Again, I was just following my manager's instructions.

And if Mr Singh could be shown volume 3 at 284A. This is an RFQ that you issued, this is an email, covering email issuing an RFQ to AZH in July 2017 for future RMS field trials.---Yeah.

30 And then a quote is sent to you at 284B for the HAENNI dynamic portable scales.---Okay. Yeah.

You didn't issue that RFQ to anyone else other than AZH?---I don't think so. Again, my manager directed me to issue it just to AZH.

And that came in over 50,000 including GST, didn't it?---Yes, it did.

40 And the procurement manual referred to prices on a GST-inclusive basis. ---So Samer's understanding was excluding GST?

He specifically said that to you, did he?---He said excluding GST. And, and that's, I think that's why I went looking myself, and somewhere I stumbled upon it was 50K including GST. And I did communicate that to Samer.

You should have issued this RFQ to more than one company, shouldn't you?---In hindsight, yes, it should have gone to more than one company.

But it didn't because you were favouring AZH in work that was being allocated.---No.

And AZH - - ?---I wasn't the one awarding the work.

AZH didn't do a HAENNI portable scale trial, did it?---Well, as I said, you know, I had my conversations with HAENNI and, yeah, and the Ballina Shire Council and everything, and I did ask Samer what was going on with this and he said AZH was going next week.

10

And then you had a conversation with someone from HAENNI who suggested that Steve from the shire council said no one else came.---And that's when I asked Samer what - - -

THE COMMISSIONER: And Samer said they're going up next week. ---Going next week, yes.

20

And you never saw any evidence that AZH had gone there?---I didn't follow it up after that because, yeah, yeah. I trusted what he was telling me and, yeah.

Trusted who? Mr Soliman?---Mr Soliman, yeah.

MS WRIGHT: Never asked your friend Ali whether he's had a trip up to the north coast?---No, I don't recall ever asking him.

Commissioner, I just have two small additional topics to deal with with Mr Singh. Should I - - -

30

THE COMMISSIONER: I think we might just take a short break because we did start early. Look, we have a morning tea adjournment. And we'll resume at quarter to 12.00.

SHORT ADJOURNMENT

[11.27am]

40

THE COMMISSIONER: Now, can I just inquire, the email, did we tender that?

MS WRIGHT: Not yet.

THE COMMISSIONER: Okay.

MS WRIGHT: I tender the email relating to the three quotes and understand that should be Exhibit 39.

THE COMMISSIONER: Right. The email from Samer Soliman to a number of persons, including Mr Singh, dated 12 September, 2016 with the subject matter "Purchase order/shopping cart" will be Exhibit 39.

#EXH-039 – EMAIL FROM SAMER SOLIMAN TO A NUMBER OF PEOPLE, INCLUDING MR SINGH, DATED 12 SEPT 2016 WITH THE SUBJECT MATTER PO'S/SHOPPING CARTS

10

MS WRIGHT: Mr Singh, I'm going back to the under-vehicle camera project awarded to Novation in 2016. You've given evidence about the procurement of the 21 cameras by Novation and then the need to obtain the custom bags and followed by the negative feedback about those cameras. Did a trial of the 21 cameras actually take place to your knowledge?---I recall I had to schedule a trial and it was with one of the inspectors, probably Ray, Ray Tabet perhaps, and I know Samer went to the trial.

20

How do you know that?---Well, he told me he went to the trial because there was feedback given by Ray, Ray Tabet, regarding I think the storage of the camera in the vehicle. There were some issues with that so he came, when he came back the next day I see him in the office he met, he gave, gave me that feedback.

Mr Soliman did?---Yeah, Mr Soliman did.

30

Did Ray Tabet attend the trial to your knowledge?---I never asked him directly but I think I was, there was probably email correspondence with Ray, yeah.

And to your knowledge did Novation participate in the trial?---I, my understanding is that Novation did participate, yeah.

I'll just show you some emails if I could. I have a copy for the Commissioner and Mr Lonergan has a copy. Mr Singh, this is an email chain dated 19 May, 2016 relating to some scheduling for an under-vehicle camera trial in May.---Okay. Yeah.

40

When you referred to you scheduling a trial are these the emails?---This would probably be the email trail.

And what do you base your belief that Novation participated in the trial on? ---I believe Samer did tell me that Novation was there.

So it was what Samer told you?---Yeah, what Samer told me, yes.

Commissioner, I tender that email. Just before I do there's one further email. Perhaps they could be part of the same tender on this topic. If I could show you another email, Mr Singh, of 19 May, 2016.---Yeah.

And that will come up on the screen shortly. Novation, Stephen Thammiah informed you that the dates of the trial were fine and then did Mr Soliman tell you that Novation would attend on their own?---I don't recall that. Yeah, I don't recall him telling me that.

10 Well, you can see that in this email here, "Jai, please lock in 10.00am attendance for all three sites. Novation will attend on their own."---Yeah.

Do you recall getting the email?---Well, it was a while ago but I'm looking at it now so I would have had to, I may have sent a calendar invite out to, to lock in those dates, yeah.

I tender that email along with the other email chain of 19 May, 2016, Commissioner.

20 THE COMMISSIONER: All right. The emails in May 2016 concerning the under-vehicle camera trials will be Exhibit 40.

#EXH-040 – EMAILS IN MAY 2016 CONCERNING THE UNDER VEHICLE CAMERA TRIALS

MS WRIGHT: You can put that aside, Mr Singh. I'm now going to ask you further questions about the SICK trial which you gave evidence about involving Novation where you had to attend in the place of Mr Thammiah. 30 ---Yes.

Mr Soliman having told you that Mr Thammiah had an injury.---Yes.

You raised a purchase order request, and that was on 9 May, 2016.---Yes.

Does that date assist you at all to remember the date you attended at this trial?---No, it doesn't.

40 This was the fifth contract awarded to Novation. Is it likely to have been in May or June 2016 if you raised a purchase order on 9 May?---Possibly, but I can't confirm, because it depends if the equipment was installed to begin with. If the equipment wasn't installed then you've got to organise that first and then from what I recall that took some time. So yeah.

Do you recall dealing with Steven Down of SICK at all?---Yes, he's, I think he's the sales manager at SICK.

In relation to this particular SICK technology-related trial?---Yes.

Did Mr Down attend the trial that you attended?---He did.

And do you recall whether Mr Down sent any data or information to Stephen Thammiah about the trial afterwards?---I mean I just saw an email now, so I mean - - -

10 How did you see an email now?---It was provided to us.

By?

MR O'BRIEN: Mr Lonergan.

MS WRIGHT: By?---Oh, by Stephen's lawyer, sorry.

THE COMMISSIONER: What, during the morning tea break?---It was prior to that.

20 When, when?---In the morning.

Before - - ?---Yeah, yeah.

Sorry, this morning?---Yeah, this morning.

Before the hearing commenced?---Yes, yeah. But before, if I'm thinking, my recollection, I don't recall SICK sending the data to Novation.

30 MS WRIGHT: Did anyone talk to you about the email and your evidence about the email?---No, I don't, I didn't recall seeing that email.

No, I'm talking about this morning.---Oh, did anyone talk to me about that email?

Yes.---No, it was just handed over and I just looked at it, yeah.

THE COMMISSIONER: And what, were you, who handed it to you? ---Sorry, my, my lawyer.

40 Mr O'Brien or a legal representative for Mr Thammiah?---It was Mr O'Brien.

Mr O'Brien gave it to you?---Yeah.

And were you asked anything about it?---Just had a look at it and I mean it didn't, I mean it shocked me because of the whole evidence I've been providing how I wanted the cancellation of the purchase order, so it was just a shock to me, yeah.

A shock in that what, you didn't recall - - -?---Yeah, I don't recall seeing that email, that's what the shock was, yeah.

All right.

10 MS WRIGHT: What email are you referring to? What was the content or the gist of the email?---Basically Steven sent, Steven Down had sent an email to Novation and said, "As per Samer's request, here's the trial data," from that SICK trial, yeah.

And what shocked you about it?---I don't, I didn't recall seeing that email, yeah.

THE COMMISSIONER: In which data - - -?---That, that - - -

- - - from a trial - - -?---Was sent to Novation, yeah, I don't recall seeing that email.

20 MS WRIGHT: You attended the trial and you've said Mr Thammiah wasn't there.---He wasn't there.

And the sending of the data to Mr Thammiah, do you agree that doesn't mean that Mr Thammiah was there?---It doesn't mean he was there, no.

So what shocked you about that?---Because, because I'd been providing evidence how I, because I requested Samer to cancel that purchase order because Stephen wasn't there.

30 Yes.---And then, yeah, seeing that email and seeing that, you know, Samer requested Steven to just, Steven Down from SICK to send the email, to send the data to Novation, and I was cc'd on it. That's what, that's what concerned me because I don't recall seeing that email. That's, that's the, that's the shock.

Do you maintain – I'm sorry, Commissioner.

THE COMMISSIONER: No, no, no. You go.

40 MS WRIGHT: Do you maintain your evidence that you did raise with Mr Soliman the issue of Stephen Thammiah's non-attendance and that the purchase order needed to be cancelled?---Yes, yes.

If I could show you this email, an unmarked copy of it, that's an email that's dated 5 May, 2016 from Mr Soliman to Jean-Michel Maclou.---Yeah.

I have a copy for you, Commissioner.

THE COMMISSIONER: I'm all right, thank you.

MS WRIGHT: And you're copied to that email.---Yes.

And then if you turn to the second page, it says on 4 May that Novation Engineering will be the external vendor conducting the trial and will be attending Marulan next Thursday to have the software installed.---Yeah.

10 And then on the first page you're informed that Steven Down will attend the trial, and the top email is Samer Soliman telling you all that Stephen Thammiah will attend with you.---For the software installation?

For software.---Yeah.

So you can install the necessary software.---Yeah.

And then I'll show you – so this is the same trial you're talking about, which you then subsequently attended?---Yeah, this is the same, the same trial, yes.

20

I'll then give you an email dated 12 May, 2016, where you forward to Stephen Thammiah an email from Mr Sacchi from SICK.---Yes.

Why did you do that?---It would have been because of the software installation. So the software installation, Stephen did attend the site. I was there for the software installation but, thinking about it now, I think there was issues with the software. Sorry, I think you were going to ask me a question.

30 You said Stephen attended the site?---Yeah.

You've previously said Stephen didn't attend a trial. Was there - - -?---Not the trial but he attended the software installation, the date to install the software.

Was that prior to the trial?---That was prior to the trial.

And were you there then?---I was there then.

40 What was that software installation about?---It's to install the software for this SICK dimension system. So basically the software connects to the SICK system and gives you the user interface which will then give you the 3D profile of the vehicle as it travels through the scanners. So that's what the software was.

And why was Mr Thammiah there and what did he do?---He was there, he brought his laptop, what I recall, and he was to install the software on his

laptop so when it came to trial time he'd have the software running on his laptop. Yeah.

Is that all he did?---That's the purpose of that visit.

Now I'll show you an email dated 15 June, 2016 from Steven Down to you. Do you need a copy, Commissioner?

10 THE COMMISSIONER: Yes, I think I'd better. Have you got a spare one?

MS WRIGHT: Yes. And so this is quite a long email chain.---Yeah.

The most recent emails say that Steve from Novation will be there next week, and this is dated 15 June, 2016.---Okay. Yeah.

Is this after the software installation?---The software installation was 12 May so, yeah, that is after the software installation.

20 Because if you turn to page 2 there's an email on 9 June, 2016 saying, "Hi, Jai. When do you want to start the official trial?"---Okay.

Steven Down is asking you that and you respond that next week is difficult and suggest the following week.---Yeah.

And turning back to the first page Mr Down asks you, "Will the testing be conducted by us or a third party?"---Yeah.

30 And you say that Steve from Novation will be there to conduct the trial. ---Yes.

Was the intention that Stephen from Novation do the testing?---Yeah. So that was the reason why he wanted the software installed on Stephen's laptop.

What would the testing involve?---Well, that would be running the software and capturing the measurements from the vehicle and also capturing the, the manual measurements which is the current process from the inspectors.

40 THE COMMISSIONER: Is this linked with some evidence you gave yesterday that the idea of having this independent third party there was that they would somehow attach their laptop to the mechanism that's generating - - -?---The measurements.

- - - the electronic measurements?---Yeah.

So there was no question of it being filtered or changed by the actual vendor?---I guess because you're using the software there's still the risk that

the data could be filtered. If you want it to be raw you'll probably connect straight to the server and download the actual log files.

But that wasn't - - -?---That wasn't part of the scope.

That procedure wasn't adopted here?---No, no, no.

10 MS WRIGHT: Then an email dated 22 June, 2016 – I'll move on to an email dated 23 June, 2016. And at the bottom of that email there's an email from Mr Down to Novation, copied to you and Mr Soliman, "Hi, Steve. Samer from RMS asked me to send you over the trial data from the last couple of days." There's a few typos there but I suggest that's what he intended. Do you see that?---So that was on 22 June. Okay. So, yeah.

And you see that, and then Mr Soliman asks Mr Down, "If you have any photos or videos from the trial days could you please send them to Stephen Thammiah."---Yeah.

20 So by this stage the trial has occurred?---Yes, yes.

And Mr Thammiah wasn't there?---He was not there. That's correct.

And Mr Soliman is asking Mr Down of SICK to send Mr Thammiah the data and any photos or videos?---Yes. I think I can kind of picture what may have happened. So the next time I saw Samer may not have been on 22 June. It may have been a couple of days later when I raised that issue about the, cancelling the purchase order. So it seems like this email was sent the next day after the, the trial itself so, yeah.

30 Okay.---Just, yeah, starting to picture it all together so, yeah. So I did raise that concern.

After the trial?---After the trial, but yeah, it may not have been on 22 June, it could have been the Thursday or the, yeah.

THE COMMISSIONER: And, sorry, what date was the trial again?
---20th, the 20th and the 21st.

40 20th and 21st.---And then the 22nd of June looks like Samer's got in touch with Steven Down and asked him to send the data to Novation.

MS WRIGHT: You attended over the two days?---I was there over the two days, yes.

I tender all of those emails, Commissioner. I can read out the dates.

THE COMMISSIONER: The collection of emails which commence on 12 May, 2016 and conclude on 23 June, 2016, which concern the SICK VPS trial - - -

MS WRIGHT: Commissioner, I'm sorry to interrupt, they commence on 5 May, 2016.

10 THE COMMISSIONER: Which one is 5 May? Oh, sorry, it does. Yes, thank you, I didn't see that. I'll start again. The various emails which were sent during the period commencing 5 May, 2016 and concluding on 23 June, 2016 concerning the SICK VPS trial will be Exhibit 41.

#EXH-041 – COLLECTION OF EMAILS WHICH WERE SENT DURING THE PERIOD COMMENCING 5 MAY 2016 AND CONCLUDING 23 JUNE 2016 CONCERNING THE SICK VPS TRIAL

20

MS WRIGHT: I have no further questions of this witness.

THE COMMISSIONER: Thank you. Ms Hogan-Doran?

THE WITNESS: Sorry, you guys, yeah.

MS WRIGHT: Sorry, Commissioner. I should note at this time, because there is another topic I need to deal with, with Mr Singh at a later time in relation to spare parts.

30

THE COMMISSIONER: All right. Thank you. Ms Hogan-Doran.

MS HOGAN-DORAN: With your leave I'd seek to cross-examine if necessary Mr Singh after Mr Lonergan and Mr Young have questioned the witness.

THE COMMISSIONER: All right. On what basis?

40 MS HOGAN-DORAN: I don't have anything at this point but something may arise, because I understand that Mr Lonergan I assume is to put some positive position, which has already been foreshadowed in just the evidence just now.

THE COMMISSIONER: All right. I will allow that. Mr Young?

MR YOUNG: I've had a discussion with my learned friends, Ms Hogan-Doran and Mr Lonergan, and it was thought by us, subject to what you

think, Commissioner, that the best course was for Mr Lonergan to ask questions first, followed by me and then Ms Hogan-Doran.

THE COMMISSIONER: All right. Mr Lonergan. You're looking surprised.

MR LONERGAN: No, no, no, it's all good. Perhaps we'll deal firstly, do you still have Exhibit - - -?---Oh, it's all gone.

10 So perhaps if Exhibit 41 can be returned to the witness. This is the email chain regarding the SICK dimension scanner, Mr Singh. Do you have that? ---Sorry, I've got a few emails here. Okay. I'm guessing it's this really big one.

Yes. We'll go through that in a minute.---Okay.

But I just want you to have that to hand. So you agree that there was a day where the scanner needed to be set up, and you agreed that that was 12 May. ---You mean the software has to be installed.

20

Sorry, the software has to be installed. And there was, that occurred on the site, right?---Yeah. That did occur on the site. SICK was also there.

And do you recall that you weren't present, but there was a trial that occurred on 16 and 17 May, so a few days after the software was installed. ---There was a trial that occurred?

Yes.---Not that I was aware of. Could it have been commissioning? It could have still been commissioning works.

30

THE COMMISSIONER: Well, you were asked whether a trial, to your knowledge, occurred on the 16th and 17th.---To my knowledge, to my recollection, I don't recall, but - - -

MR LONERGAN: So, Mr Singh, if you go to – it's towards the back of that document. There should be a page 6 number on the bottom of it.

THE COMMISSIONER: I think the problem might be there's a number of – Exhibit 41 is a number of kind of bundles of documents.

40

MR LONERGAN: The first page of the email is an email dated 22 June, 2016 from Steven Down, and that should have a page number 1 on the bottom.---Yes.

And then there's a, the next page is a spreadsheet printout.---No.

No. Sorry, the email I'm looking for starts with Steven Down, dated 15 June, 2016. It has page number 1 on the bottom. You have that?---15 June, 2016. I do have the email trail, yeah.

So if you have that document and if you go to page 6 of that document, and you see down the bottom the number 6 for the page, and then just slightly above that there was a, from Steven Down, Monday, 23 May, to Samer Soliman/Jai Singh. Do you see that?---Um - - -

10 THE COMMISSIONER: Subject, "SICK VPS follow-up." Is that it, Mr Lonergan?

MR LONERGAN: Yes.---I'm looking at that, yes.

Right. So just above that there is an email from Samer Soliman to Steven Down, yourself, dated 26 May, 2016, "Re: SICK VPS follow-up."---Yes. I think that's what I'm looking at.

20 All right. And you'll see there - - -?---Yeah, sorry.

You'll see that Mr Soliman has said, "Thanks, Steven. Jai is organising a cherry picker again for the second round of tuning so SICK can get the accuracy within the documented tolerances."---Okay, yes, now, that does - - -

Is this refreshing your memory of what happened?---That does ring a bell.

30 Now can you please explain to the Commission, what bell did that just ring?---So there was two, there was two rounds of trials and I, I don't know the dates but the, you said 15, 16 May.

THE COMMISSIONER: 16th or 17th.---16th, 17th of May.

40 MR LONERGAN: That's what I put to you, Mr Singh, yes.---And then there was the 21. So I would have been present for the 16th, 17 May, because I recall the issue was that the sensors haven't been set up correctly and they were throwing the length out. So what needed to be done was Jai's organising a cherry picker again, second round of tuning needs to be done, so, yeah, so we had to, it had, SICK had to retune or realign the sensors because, yeah, the, the measurements were off. So then there was another trial which, that was performed.

THE COMMISSIONER: Sorry, so the software is installed on 12 May, correct?---12 May, that's correct.

Then by 26 May – hold on. Sorry, and now you're saying you can recall a trial on the 16th and 17th of May.---Don't, yeah, I don't recall the dates but there was a trial and the, the, we found out that the measurements were off.

And that was because there was some deficiency with the way the software had been installed?---Yes, that's correct, yeah, and then yeah, so it had to be retuned and then there was another round of trials and I believe I was present for that as well.

And that was on 20 and 21 June?---Yeah.

10 So does that mean the data from 16 and 17 May wasn't useful?---No, it wasn't useful because, yeah, the measurements were off.

MR LONERGAN: But the point there, Mr Singh, is that data was collected on 16 and 17 May, wasn't it?---By SICK, I'd say so, yes.

And Mr Thammiah was there as well, wasn't he, on 16 and 17 May?---I don't recall him being there on 16 and 17 May.

20 So your evidence is that you now remember - - -?---That there was two trials.

- - - that there was two trials.---Yes.

Your evidence before was that there was only one.---To my recollection, yes.

30 And now you're not sure whether Mr Thammiah was there on the first trial, being 16 and 17 May?---Because I remember him being there for the software installation but I don't recall him being there for the 16 and 17 May.

THE COMMISSIONER: Is any record kept of who attends?---Yeah, if you go to Marulan there's a site attendance, you've got to sign in, so yeah, that wasn't always filled in all the time, especially if you're known to the inspectors, yeah.

40 But other than if that is completed there was no other record kept?---There's, no, just a site attendance sign-in sheet, because yeah, I think they've got to give you a, one of the inspectors have to give you a bit of a WHS - - -

Induction?---Induction and, yeah.

But that wasn't always followed?---That wasn't always followed, especially if you're, if it's the first time then you fill it in, but yeah, if you're known to the inspectors they normally don't ask you to fill it in, yeah.

MR LONERGAN: So you would expect that if Mr Thammiah was there that he would have filled in the attendance at Marulan?---That's correct.

Now, and sorry, on 12 May when the software was installed – sorry, can you explain to me, what was the software that was installed and what was it installed on?---It's a, the software is SICK proprietary software, I think they developed it specifically for us, basically it connects to the vehicle dimension scanners that was installed under the shed, and it's just a graphical user interface, so it just captures the measurements and provides a 3D render of the vehicle that's just travelled through the scanners. So that's what the purpose of the software was, and also provide the measurements for that vehicle.

THE COMMISSIONER: If you go to, we're going to have difficulties with this, I think it's part of Exhibit 41, and if I hold that up - - -?---That's the software.

Right. Mr Lonergan, I'm looking at one of the emails that was part of Exhibit 41 from Mr Down on 22 June, 2016 which attaches a number of scan reports.

20 MR LONERGAN: Yes.

THE COMMISSIONER: Mr Singh, you spoke about the graphical user interface.---Yes.

That first scan report for vehicle number 2817, that's the 3D kind of capture of the vehicle?---Yep, and anything that's shaded red is breaching.

Oh, yes?---Yeah, so yeah, so if you - - -

30 And is green all right?---Is there any greens? I don't think there's any greens, I think - - -

How about 2818?---Oh, 2818.

The next one.---Sorry, I've gone too far ahead. 281 (not transcribable) 281, sorry, I'm still - - -

It's right at the beginning.---Oh, 2019, oh, there's three 2019s. Okay. 2818, oh, it's not a shading, I think it's just a, just a scanner line, like a 3D laser.

40 Okay.---Yeah.

And just of interest, 2918, the second one - - -?---Yeah. (not transcribable) So in the, in the user interface you can actually like use your mouse to kind of get a, like move around the view, if that makes sense. So this is look at the top of the, top of the truck.

Sorry, this is the second 2819 with all the red - - -?---Oh, oh. Oh, sorry, I was looking at the first 2819. So the second 2819, what that's saying is that it's the width of the vehicle has breached - - -

Oh, okay.---Yeah.

Right. Sorry, Mr Lonergan. I'm getting carried away with the technology.

10 MR LONERGAN: So if you then go to page 5 of that document, so just back over the previous page.---Sorry, which, the - - -

So you were on page 6 and we were, yes, so - - -?---Oh, okay, yeah, yeah.

- - - sorry, just while you're on page 6, what is a cherry picker? Just - - -?
---Oh (not transcribable)

THE COMMISSIONER: I think we know what a cherry picker is.

20 MR LONERGAN: It's one of those things - - -?---Yeah, it's like a boom lift that you, yeah, stand in and, yeah.

So just going back over to page 5, and you'll see there at the top there's an email from Samer Soliman cc'ing yourself, dated 2 June, and signed, well, has Samer Soliman down the bottom of that email, which is about halfway down the page. Just the paragraph above that he says, "Until I have the trial unit at Marulan calibrated," and then he goes on to say, "I would not yet have proven concept and definitely cannot procure more units." You see that?---Yes. That, that last paragraph.

30 So is that consistent with your now-recalled memory that there was calibration problems with the testing that occurred on 16 and 17 May, is that right?---Yeah, that's the dates those trials, that trial occurred then. It would have been - yeah, there was problems with the calibration.

So step one, 12 May, there was the installation of the software at site.
---Yeah.

And Mr Thammiah was there.---Yeah.

40 You accept that?---Yeah.

Step two was on 16 and 17 May. There was a testing that occurred at Marulan.---Yeah.

And there were calibration problems with the SICK technology.---Yes.

And your evidence, if I understand it, is you're not sure whether Mr Thammiah was there or not.

THE COMMISSIONER: I think his evidence was you didn't recall.---I don't recall. I don't recall him being there, yeah.

MR LONERGAN: And then there was a subsequent testing that occurred and that was on 20 and 21 June.---20th and the 21st, yes. Yes.

And your evidence, if I understand it, was that Mr Thammiah was meant to be there but he was sick. Sorry, sick, I should - - -?---But he was, injury.

10

Injured.---Injury, yeah.

Yes.---That was, yeah, that's, so now, now that I know there's two trials, I'm a bit, I think it was for the 20th, 20th and the 21st that the injury, I got asked to go down because of the injury, because if you look at the email trails it does have Novation included, scheduled to attend the site on those dates. But I don't think, I don't know if there's any emails suggesting Novation was scheduled to attend on the 15th or 16th of May.

20

Well, I'm asking the questions, Mr Singh.---Yeah, well, I don't see - - -

Let's just stay on the topic.---Yeah, sure.

So on the 20th and 21st, are you saying that you weren't scheduled or you were scheduled to go down to this site?---I don't believe I was scheduled. It was as the email states, Novation was scheduled to go down onsite.

So you accept that Novation was - - -?---Scheduled.

30

- - - scheduled to attend the site.---Yes.

THE COMMISSIONER: And, sorry, that was 20 and 21 June?---20, 20 and 21 June, yes.

MR LONERGAN: And your evidence is that you were not?---No. Well, that's what the email states. Stephen from Novation will be attending the site and managing the trial, and that's why on the days, oh, or maybe the day before I got, Samer got in touch with me and said Stephen's suffered an injury and if I could go down instead.

40

Can you just flick back over to – we're in the same email bundle there. Can you go back to page 2?---Page 2?

Yes. About halfway down the page, we'll start there. There's an email from Steven Down, 9 June, to yourself, cc Samer.---Yeah. Yes.

And he says, "Hi, Jai. When do you want to start the official trial?" And he says, "I'm free to start Tuesday," that being Steven Down to you.---Yeah.

You see that?---Yes.

All right. Now, above that at the top is the response from you to Mr Down cc'ing Mr Soliman.---Yeah.

And you say, "Hi, Steven. Next week will be difficult for me. How about the following week 20 and 21 June."---Yes.

10 So you just gave evidence before, Mr Singh, that you weren't scheduled to attend this trial.---Yeah.

But here you accept that you are scheduling in to attend the trial?---So at that time I guess my expectations was because I went on the 15th and 16th that I would also go on the 20th and the 21st.

Sorry, just stopping you there. So hang on, you were or you were not scheduled to attend this trial - - -?---I was not - - -

20 - - - being 20 and 21 June?---I was, I don't, I don't believe I was schedule because I remember Samer getting in touch with me saying Stephen suffered an injury and I need to go and meet with the vendor.

Now, Mr Thammiah suffered an injury to your knowledge just before the trial occurred. Is that right?---Just before or on the day. I'm not sure. I'm not sure when it occurred.

Yes, the day of/the day before?---I'm not sure when it occurred but - - -

30 Well, it was the day of or the day before.

THE COMMISSIONER: Well, you were informed by Mr Soliman either - - -?---On the day. It was actually on the day.

MR LONERGAN: On the day?---In the morning. I remember I - - -

THE COMMISSIONER: Mr Soliman contacted you and said Mr Thammiah has had an injury or whatever?---I need to go meet SICK onsite.

40

You have to go?---Yes.

MR LONERGAN: But, Mr Singh, this email is on 10 June. This is - - -

THE COMMISSIONER: But I think to be fair, Mr Lonergan, if you look at the email on page 1 of that bundle which is dated subsequently 15 June from Mr Singh he says, "Hi, Steven. Steve from Novation will be there next week to conduct the trial."---Yes.

MR LONERGAN: Yes.

THE COMMISSIONER: Now, is that consistent with you now not attending or - - -?---Yeah. So that's consistent with me not attending, yeah.

MR LONERGAN: Sorry. So let me just understand this. So on 10 June you are attending?---My expectation was that I was attending because I went on the first 15th and 16th when obviously there was the calibration
10 issues.

And now on the 15th you've changed your mind or - - -?---I, it wouldn't, I wouldn't - - -

- - - now it's Mr Thammiyah that is attending and you're not?---I wouldn't have changed my mind. It would have been Samer that said that Novation will be attending and they'll be conducting the trial.

But this is you then saying in that same email on page 1 that the
20 Commissioner just took you to, "I'm also trying to get my hands on a laptop to have the VPS software installed on so we can continue trialling."---Yeah, continue trialling afterwards because the - - -

Continue trialling on the 20th and 21st?---No, no, afterwards, after the trial was all over because the system's already there. It's all installed so it will be good to have one of our own laptops with the software to use whenever we choose to trial it again.

THE COMMISSIONER: So once the software, was this the big kind of
30 gantries, was it that one?---No. So I'm not sure if you've seen Marulan checking station. There's a big shed over the, the actual inspection office and the trucks would drive under there and that's where you have the static weighbridges which will give you the mass of the vehicle. So it was installed on the shed, like, on the shed structure so as the trucks drove in to get their mass measured they would also be scanned and would get the reading profile of the vehicle.

MR LONERGAN: So the installation of the software has to happen on the
40 site, doesn't it?---No, it doesn't. The only reason it was scheduled to be on the site because SICK was at site doing the commissioning and there was a couple of guys from SICK and one of them was the software developer so the software developer was going to install the software on Stephen's laptop.

And so you're saying here in this email page 1 that what, there's going to be more trialling that continues after the 20th and 21st?---Yeah, just internal trialling, just for RMS. Just for RMS to use, yeah, have access to the system and use it if we choose to for just our own analysis.

Your own analysis of what? Are you going back out to Marulan to test the site, your data?---It could be going back out to Marulan. It could be giving the laptop to the inspectors and they could plug it in and play around with it themselves.

10 This is the case, isn't it, Mr Singh, until I asked you questions this morning you were adamant in your evidence to the Commission that there was only one test date, and that being 20 and 21 June, that you attended.---Yes.

That's what you gave evidence to the Commission, right?---Yes.

And then Mr Thammiah never attended any of the test dates or site.
---As I - - -

That's what your evidence was, wasn't it?---I don't recall him being there on the 15th and 16th and - - -

20 Or the 16th and 17th perhaps.---Oh, 16th and 17th.

Right. But you can't be sure.---Like I said, I can't recall, unless there's a sign-in, unless he'd signed in on those dates, yeah.

So you're depending on the records of the Marulan site because you don't know.---I don't recall seeing him there on the 15th and 16th. I believe it was just me and SICK.

30 Right. But until this morning you didn't even know or remember that that site test even occurred.---Yeah, I didn't.

So how are you now saying, I guess you are saying that you can't remember effectively anything in relation to these two dates.

40 MR O'BRIEN: Well, I object to that. It's unfair. These events happened some time ago and what's been helpfully done and usefully done and appropriately done by Mr Lonergan is the provision of certain emails being provided by his client to this witness and his memory's been tested and refreshed. It's not then necessary or appropriate to say you didn't have memory of it, you don't recall, how can you recall now. The exercise has been gone through, submissions can be made if they are sought to be, but that sort of proposition is not right.

THE COMMISSIONER: Mr Lonergan, I agree with Mr O'Brien in a sense. You made your point.

MR LONERGAN: Yes, Commissioner.

THE COMMISSIONER: If this is going to learn to certain submissions down the track then well and good.

MR LONERGAN: I withdraw the question, Commissioner. So then just going over to the larger email that attaches the various scans.---Yeah.

You've been taken to that by the Commissioner. Your evidence was before today you'd never seen this.---Seen, what haven't I seen?

10 THE COMMISSIONER: I'm sorry, what are we looking at?

MR LONERGAN: Sorry, the email that attaches the data.---Oh, that email trail. I don't recall seeing that.

Right. And your evidence was that yesterday I believe that the report couldn't have been put together without this data. Is that right?---That's correct.

20 All right. But the data in the hand of Mr Thammiah would facilitate his ability to put together that report, wouldn't it?---That's right, but as I said, I did also raise because Mr Thammiah wasn't at the site that the purchase order should have been cancelled, but if he had the data then, yes, he can put the report together.

Right. So - - -

30 THE COMMISSIONER: Well, he could put a report together but it undermines the satisfaction of the requirement that you have an independent person there making everything kosher, doesn't it?---That's right, that's correct. So there was just myself and SICK and the inspectors.

MR LONERGAN: So your evidence is that there is a requirement of an independent person there, being a non-RMS employee, and a non, well, in this case SICK employee to ensure that the test is done properly.---That is correct, and also to collect the data and do their own analysis.

40 So absent an independent person the validity of the testing to your evidence would be in question. Is that right?---If we made a bid for funding to procure this device that would be correct, because, yeah, Novation wasn't present on the site to collect the data, the data was sent to them the day after, yeah.

So if there's an oversight here, the oversight is that Mr Thammiah should have been on the site - - -?---Yeah.

- - - to observe the data being collected - - -?---That's - - -

- - - and that was - is that yes, sorry?---That's right.

And that's an essential component of the independent testing of, of the equipment?---I believe that was included, that was supposed to be the scope of the purchase, the quote, on the purchase order.

Now just go to the previous exhibit. I think that was Exhibit 40. Do you have that?---Thanks.

So we're moving on to a new topic here, Mr Singh.---Yeah.

10

It's just the under-vehicle inspection camera that you've given evidence about.---Yes.

So do you recall any of these – sorry, let me just, I withdraw that. I'll step back. So the idea here was that cameras were to be purchased for looking underneath vehicles, is that right? To - - -?---That's correct.

And the evidence that you've given is that there were two cameras that were purchased.---Yes.

20

The cameras were modified and then were used, at least initially, to see whether the equipment worked.---That's correct.

And then there was a, well, effectively then Novation then went and purchased 21 cameras and they were then to be used by RMS. Is it for further testing?---It was for further testing as per that memo that was shown. It was for further testing across the, all the sectors.

30

So the initial two cameras were, I guess, almost like a sort of, I don't know, how would you describe it, like an almost proof of existence, proof of concept?---I guess so, because it was the inspector from Mount White that sent the – it wasn't a request but just a bit of an FYI to Samer that these are under-vehicle cameras. They could be beneficial for - - -

THE COMMISSIONER: This was Mr Nash, was it?---Yeah, Mr Nash, yeah. And I think he sent a link to the actual camera. And then, yeah, Samer directed me to procure two of them to begin with.

40

And can I confirm, the modification was the extension of the handle, was it?---Yeah, so I, I saw Mr Nash. I took one, I think I took one to Mr Nash and I gave it to him as per original, as it was delivered to me. And then Mr Nash had it modified with the extended arm, arm and, yeah.

MR LONERGAN: So Mr Nash is at Mount White, is that right?---I don't know if he's still at Mount White.

Sorry, he was at the time that you - - -?---At the time, yes.

And then subsequently, when the 21 cameras arrived, each of them had to have their handle modified to be longer. Is that right?---Yes, which was done not by Mr Nash, but by our team internally.

And that was, if I understood your evidence, the devices were given to Mr Steyn, Craig Steyn.---Craig Steyn, yes.

10 And did Mr Steyn go external to RMS to have them modified?---Yeah, I believe he went to a contractor, gave them the requirements and had them modified.

And your evidence was that Novation, the only thing they did was provide the cameras, is that right?---To my understanding, yes, because, yeah, just deliver the cameras. Ordered the cameras and have it delivered to our office.

20 Now, sorry, just taking you to this Exhibit 40. Did you, if you go to page 1 of that, you'll see halfway down there's an email from Mr Singh to Mr Soliman and Novation, dated 19 May.---What page, sorry?

It was the first page of Exhibit 40.---First page - - -

THE COMMISSIONER: And, sorry, it's the one dated 19 May.

MR LONERGAN: Yes, so - - -

THE COMMISSIONER: Is it halfway down the page?

30 THE WITNESS: I've only got two - - -

MR LONERGAN: So there's two, so you should have - - -

THE WITNESS: Oh, is it the other side?

MR LONERGAN: The top of the first page should be from Stephen Thammiah, dated Wednesday, 22 May.---Okay, I think I, yeah.

THE COMMISSIONER: Got it?---I think so.

40 MR LONERGAN: And then about halfway down, there was an email from yourself to Mr Soliman, Novation, dated 19 May.---Yeah. Yeah.

And below that you'll see there was another one from Mr Soliman dated 19 May.---Yes.

So if you go over, sorry, I'm just putting in the scope. So if you go over to page 2.---Yeah.

You'll see there, there's again an email from yourself to Mr Soliman and to Novation where it sets out that, you know, so far Twelve Mile Creek and Mount White have received their cameras.---Yeah.

Do you recall these email chains now, Mr Singh?---I mean, I don't recall them but I'm reading through them now.

I just want to draw your attention to the second page. It's the email from Mr Soliman to yourself, dated 19 May, 2016 at 10.34am.---Yes.

10

And it says, "Okay, two sites we'll do for next week. Can you please," I'm paraphrasing, lock in these terms, these times with the site manager so they can, they know when Novation will attend to kick off the trial.---Okay, yeah.

And then there's two days, Mount White and Twelve Mile.---Yes.

Do you recall - - -

20 THE COMMISSIONER: And then you respond, "No worries. If we want to capture a trial on the roadside, I can organise one with Ray." You see that at the top.---Yeah.

MR LONERGAN: Yes. And then the email chain then goes back over to page 1 and - - -

THE COMMISSIONER: Mr Soliman says, "Yep, please do that also. Lock in 26," I think it's "or 27 May".---Yeah.

30 MR LONERGAN: And then the one before that there's, the trialling will, be trialling the camera in Canterbury on Monday. And then there's the schedule changing, et cetera. So I'm just going through this so that you're refreshed in your memory of this.---Yeah, yeah.

Now, the case is this, isn't it, Mr Singh, that you were fully aware that after the 21 cameras were purchased, that there was trialling that happened across the state in relation to those cameras, is that right?---Yeah, the cameras were sent out and for the purpose of trialling.

40 Yes. And you're aware that Mr Thammiah, Novation Engineering, were to go out and to assist and observe the trialling of these cameras, is that right? ---That's correct. But I thought that would have been, that was a separate engagement.

All right. That's, that's what you think now or that's what you thought then?---That's what I thought. That's what I thought. It was a separate engagement. So if that was all under the same scope for the quote, then I guess, you know, that was my error.

THE COMMISSIONER: What's your recollection now?---My recollection, I knew, I know Novation went out to trial these but I didn't – I thought it was a separate engagement. I didn't realise it was all under that same quote.

So does that mean, sorry, do you know if it's under the one quote or are you - - -?---I'm guessing now it was probably all under the one quote. I think - - -

10 Why are you guessing that?---From what - - -

Because Mr Lonergan's asking you questions?---Yeah, what, yeah, yeah, from his questioning, his line of questioning.

MR LONERGAN: Well, let's go to the volume 1, page 100, if that may be brought up on the screen.

THE COMMISSIONER: Sorry, volume - - -

20 MR LONERGAN: 1, page 100. And we might need to go also to page 104. Let's start at 100. You remember that purchase order, Mr Singh, that you see on the screen there, volume 1, page 100.---Yeah.

If we go down to page 104. Now, that's the quotation that you recall Novation Engineering providing?---Yes.

And you see point 2 there, Mr Singh.---User support (not transcribable) vehicle. Yes.

30 THE COMMISSIONER: The lifetime hardware and user support. That, is that what you're referring to?

MR LONERGAN: Yes. You see that, right?---I do see it.

So does that refresh your memory of the scope of what the purchase order was for?---How does that user support mean a trial?

40 Well, let's go back up to the top, to the introduction, Mr Singh, and you'll see there that it talks about the below hardware procurement and support - - -?---Yes, I see that.

- - - for the under-vehicle inspection camera and additional peripheral devices?---Yeah, I see that.

So the point here is simply that this wasn't just about the procurement of the under-vehicle cameras, there are other services that were to be provided by Novation to RMS under this quote.---Okay.

Is that right?---I didn't realise that at the time, because like I said, Samer presented me the purchase order and just explained it was to procure the 21 under-vehicle cameras.

THE COMMISSIONER: What's your understanding of point 2, "Includes lifetime hardware and user support for vehicle inspection camera and additional peripheral devices?"---Well, if an inspector has an issue they do, yeah, they can get support from Novation.

10 What, if the thing's not working or if it's broken or - - -?---If the thing's not working or, yeah, if there's an issue with the software on the device, that's, if I'm looking at it now, that's how I interpret that as.

Did you interpret that as including some kind of scoping study or study?
---Well, that's what I don't think I read this quote properly if I was shown it, it's just what Samer, how Samer explained it to me, so - - -

20 So you didn't read the quote properly, you relied on what Mr Soliman said to you?---Yeah, what he told me, yes, yes.

Which was what?---This is to procure 21 cameras.

Cameras.---Yes.

MR LONERGAN: Mr Singh, you are, you were employed by RMS at this point in time.---Yes.

30 Right. And so your evidence is that you did not read this at all?---It was put together by, the quote was put, not the quote, sorry, the purchase order was put together by Samer and he presented it to me and just explained it to me to sign and then I signed as the requester.

So your evidence yesterday, Mr Singh, and this is at transcript page 269, line 38, "You knew that Novation wasn't offering any additional service, didn't you?" And then you ask, "Additional service as in?" "Additional to purchasing the cameras." This is your answer, "Just purchasing the cameras, yeah, that, that's my, that was my understanding."---And that is still my understanding.

40 Right. And please tell me, Mr Singh, what was that understanding based on?---Based on what Mr Soliman had told me.

So you made no further inquiries other than simply what your manager, Mr Soliman, told you.---That's correct.

So other than that, you had no basis to say or to know what the actual quote from Novation to RMS was for?---Um - - -

MR O'BRIEN: Well, I object to that. That's hopelessly vague. I mean whether there were other bases upon which that line of knowledge might have assumed has not been put in a question, so whether there was another basis, well, there may have been, but he said what he relied on, that should be the end of that line of inquiry I would have thought.

10 THE COMMISSIONER: Mr Lonergan, it does appear that you've pursued the question of what was his understanding and why did he sign the request for the purchase order and it appears to be, look, Mr Soliman prepared it, he put it before me, I signed it. You've taken him to this, this quote, where he says either I didn't really read it or I didn't understand it. I don't know if you can really take it any further.

MR LONERGAN: Sorry, Commissioner, I'm just not ignoring you, I'm just looking at the transcript. My apologies.

THE COMMISSIONER: That's all right.

20 MR LONERGAN: I withdraw that question and I'll put it slightly differently. So what you do say in this transcript, which is page 269 again, you were asked, "And did it occur to you what is Novation doing here, what value are they adding to this?"---To that purchase order itself?

Yes. And your answer was, "At the time, no, that didn't cross my mind." ---Yep. That's correct.

30 So you have no basis – sorry, I withdraw that. Other than what Mr Soliman told you, you have nothing else, you made no further enquires as to what the work Novation was doing in relation to the under-vehicle camera?---That's correct. I relied on what Mr Soliman had told me.

And when you bought the two cameras the first time, this is the direct purchase I think, from Canada or the United States, other than Mr Nash out at Mount White doing a bit of trialling himself and giving you some feedback, there was no other testing or analysis of that camera, was there? ---Not that I recall.

40 THE COMMISSIONER: Of the two that were originally purchased?---Of the two cameras.

MR LONERGAN: Yes. Of the two original - - -?---Yeah, I gave one to Phillip Nash and I, I still don't know what happened with the other one but, yeah, to my recollection, it was just Phillip Nash.

THE COMMISSIONER: Did you – I'm trying to recall, do you think you did give it to somebody else but you just can't - - -?---I'm just wondering where it went now, now. Yeah, because we did get two. Oh, maybe I gave both to Phillip Nash. Perhaps, I don't, yeah.

MR LONERGAN: And the vendors of the product were in the United States or Canada, is that right?---Yeah, United States, Canada, that's correct.

Commissioner, I note the time. I have got a bit more to go.

THE COMMISSIONER: Have you finished that topic or - - -

MR LONERGAN: Yes, that topic I have.

10

THE COMMISSIONER: And you're now moving onto another topic?

MR LONERGAN: Yes.

THE COMMISSIONER: All right then. Mr Singh, can you be here Monday morning to commence your evidence at 9.30?---Sure.

There's just one matter I wasn't to raise but before I do that. Are there any other administrative issues anybody needs to raise?

20

MS WRIGHT: Not me.

THE COMMISSIONER: All right. Mr Lonergan, I'm just a little bit concerned, when Mr Singh spoke about being shown the documents that you had provided to Counsel Assisting yesterday afternoon, I would prefer, I was pleased that you followed the guideline, which is if a party wants to tender something they should, or wishes Counsel Assisting to tender something or to be put to a witness, you should approach Counsel Assisting beforehand and have a discussion, but while the witness is in evidence I would prefer that that line of communication remain that way instead of the documents also going to Mr O'Brien and then being shown to the witness. So I would just prefer, when the witness is giving evidence, if we could just restrict ourselves to that line of communication.

30

MR LONERGAN: Please the Commission.

THE COMMISSIONER: If that's okay with everybody else?

MR O'BRIEN: Can I – I don't mean to in any way quibble with that idea or concept. I am terribly keen in these type of proceedings always to ensure that there is a fair procedure to the witness, and I stand really in defence of Mr Lonergan's decision because it is important in relation to these type of inquiries that material that's going to be shown to a witness, particularly where it related to the interests of other witnesses, that it be provided in advance if it can be, and I think that that was correct that Mr Lonergan showed it to my client through me in advance because it provided, Commissioner, the opportunity to refresh his memory, which was the intention of Mr Lonergan's client I'm sure, and it provided some advance

40

notice as to what might be shown to him. That's appropriate in my respectful submission.

10 THE COMMISSIONER: Well, thank you for that submission, but it is my inquiry and if I make a decision whether certain material, when it will be shown to the witness, whether it will be shown beforehand is my decision and also Counsel Assisting's decision. Now, if you're concerned that there's any unfairness, it can be raised at the appropriate time, but my view is that when the witness is in examination or cross-examination, if there is a relevant document, if it can go through, be shown only to Counsel Assisting to begin with, and then we can take into account the best way of dealing with the document, taking into account the factors that you have raised.

MR O'BRIEN: I'm sure that those matters will always be understood and taken into account. Please don't believe that I am suggesting anything to the contrary. Those are obviously matters that are of immediate concern to me representing this witness in these proceedings.

20 THE COMMISSIONER: All right. Thank you, Mr O'Brien. Anything else?

MS WRIGHT: Just I take issue with what Mr O'Brien said. It's the Commission's investigation and it's a matter for Counsel Assisting to decide what's put to a witness.

THE COMMISSIONER: Yes. All right. We stand adjourned until Monday morning at 9.30.

30 **THE WITNESS STOOD DOWN** [1.05pm]

AT 1.05PM THE MATTER WAS ADJOURNED ACCORDINGLY
[1.05pm]