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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

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OPERATION EMBER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 26 JUNE, 2019

AT 9.30AM

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

THE COMMISSIONER: Ms Wright, any administrative matters?

MS WRIGHT: No, Commissioner.

THE COMMISSIONER: Mr Soliman.

THE COMMISSIONER: Thank you.

MS WRIGHT: Mr Soliman, on Friday I was asking you about documents related to a portable weigh scales maintenance tender dated December 2016. ---Yes.

10 And your evidence was that it came to your attention that a subpoena had been issued to RMS. Do you recall that?---Yes.

And you gave evidence that a solicitor telephoned you to tell you about the subpoena. Is that the case?---That's what I recall, yeah.

And you were told that a subpoena had been issued in the proceedings between AccuWeigh and WeighPack. Is that the case?---Don't know what she told me exactly but I remember she called about the matter. I don't know if she said there was a subpoena.

20

Well, your evidence was that someone called you and it was a solicitor and that's how the subpoena came to your attention. Is that not the case? ---I don't recall exactly what she said, but yeah, it was a solicitor that called me about the matter. I don't know if she said, spoke specifically about the subpoena.

Well, how is it that you say the subpoena came to your attention in about August 2017?---I don't know if, could have been the Roads and Maritime Services legal team that got in contact with us or it could have been that lawyer that got in contact with us, one or the other.

30

And if it was the Roads and Maritime Service legal team it would have been a lawyer within that team that contacted you?---I assume so, yeah.

But in any case it was either an RMS lawyer or an external solicitor who telephoned you and brought the subpoena to your attention. Is that the case? ---I assume it would be, yes.

Did you already know there was a legal dispute between AccuWeigh and WeighPack?---I don't recall having knowledge of it, no.

40

And when you became aware of the subpoena you were aware that it was a legal dispute between those two companies?---I would have become aware sometime after I guess, yeah.

THE COMMISSIONER: After what, the subpoena being received?---After the phone call, after the first kind of mention of it.

MS WRIGHT: And you became aware that there were court proceedings on foot between the two companies, didn't you?---I would have become after also.

And you became aware that those proceedings related to the award of the RMS maintenance contract for portable weigh scales to WeighPack. You were aware of that?---I would have become aware afterwards, yeah, after the first mention of it.

10 And it having been mentioned to you, you knew that AccuWeigh had sued WeighPack in relation to the fact WeighPack had been awarded the maintenance contract?---I assume it was, yeah. I don't know exactly what the terms of the dispute were.

Well, I'm not asking you about the terms of the dispute. I'm asking you to confirm whether you knew that the dispute arose in relation to the award of a tender or contract to WeighPack?---I don't know if I knew that at the time. Obviously I know that now.

20 Well, you knew that there was a subpoena, Mr Soliman.---Yes.

And a subpoena you understood would be issue in court proceedings. ---Yes.

And you understood that the effect of a subpoena would be to compel RMS by law to produce the documents referred to in the subpoena which were in RMS possession.---I guess so, yeah.

30 And you understood that the subpoena related to the RFQ which had apparently resulted in WeighPack being given the maintenance contract by RMS for portable weigh scales.---I think there were, from memory the subpoena was asking for a few things one of which was the RFQ I think, yeah.

And you understood that documents produced under a subpoena could be used in court proceedings.---I assume they are. I don't, don't really know, I didn't know where it was going. We were just asked for it.

40 But you knew that documents produced under a subpoena could be used in court proceedings.---I assumed it could be, yes.

And I put to you on Friday that a tender would require documents including a tender evaluation plan, ultimately a tender evaluation report and conflict of interest statements and confidentiality statements and you agreed that that documentation is generally required for a tender. Do you recall those answers that you gave?---Yeah.

And you knew that that documentation was required for a tender in December 2016, didn't you?---Is that the one we're talking about now, yeah.

And you knew that in 2017 that that sort of documentation was required for a tender.---Yeah.

10 Now, those sorts of documents, Mr Soliman – so a tender evaluation plan, tender evaluation committee report, conflict of interest statements and confidentiality statements or declarations – they are produced, are they not, from template or pro forma documents that RMS uses?---I'm not sure.

In effect, you fill out a template for the particular tender using an RMS template, don't you?---Not sure exactly.

Well, Mr Soliman, you've been involved in a number of tenders, haven't you?---Not really, no, but I assume it will be some sort of - - -

20 THE COMMISSIONER: Do you understand what the word template means?---Yeah, I do. I'm just thinking, I'm just trying to think back. There must have been, yeah, but I don't recall what the contents of the, of the template would have looked it.

MS WRIGHT: I've taken you to a number of tender evaluation reports during your evidence over five days.---Yes.

And those documents all look similar in some respects, don't they?---Yes.

30 And it's the case that the documents follow a template format that used internally at RMS.---Yeah.

Now, were you ever given a copy of the subpoena issued in the proceedings between AccuWeigh and WeighPack?---I don't recall seeing it. I don't think so.

You answer a moment ago was that the subpoena listed a number of different things.---Yeah.

40 And you would have been aware of that because you saw the subpoena at some stage?---It's possible, but it's also possible that the RMS lawyer could have told us what was needed. I don't recall seeing it.

And so it would have either been you seeing it or a lawyer – whether it be the RMS lawyer or an external lawyer – who telephones you, who told you what the subpoena required RMS to produce, is that the case?---I assume so but I don't recall exactly.

Now, isn't it the case that you approached Mr Singh and told him that you had been contacted in relation to a subpoena to produce documents relating to the maintenance RFQ of December 2016?---Contacted him? What do you mean?

You approached Mr Singh and you told him that you'd been contacted in relation to a subpoena relating to the RFQ for maintenance of portable weigh scales.---I recall that we were looking for the, the hard copy and the quotes that we had. I don't know what else I said to him about that.

10

But you told him about the subpoena?---I assume so, yeah.

THE COMMISSIONER: You didn't turn up to work one day and think, oh, let's have a look for the RFQ and the supporting documents. There must have been a basis for it.---I assume I would have told him why we were, you know, looking for it, yeah.

MS WRIGHT: And you told Mr Singh that you had put together the documents and required his signature?---I don't recall saying that to him, no.

20

Didn't you present some documents to him for him to sign relating to the subpoena?---That's not what I recall happening, no.

Can I show you Exhibit 50, please. Might assist if we have a hard copy for the witness. Do you see here, Mr Soliman, on the first page, a conflict of interest statement?---Yes.

30

And a table towards the top of the page which contains your name in the third row?---Yes.

A conflict of interest statement part 1 is supposed to be signed by Assessment Panel members or Evaluation Committee members at the start of a tender process. Do you agree with that?---I don't know what part, if it's the beginning or the end, but, yeah, it's meant to be signed I think, yeah.

You're aware that there's both a part 1 and part 2 conflict of interest statement?---No.

40

That is required to be signed, Mr Soliman.---I'm not sure. I'm just looking at this one here, part 1.

All right. This is a part 1 document, and what I'm asking you is your awareness that a part 1 document is signed at the start of the tender process. ---Okay.

And a part 2 document is supposed to be signed at the end of the tender process.---I'm not aware of that.

You're aware of that, Mr Soliman.---No, like I said, I don't know when they were meant to be signed.

THE COMMISSIONER: How about at the beginning of the document, "Note, this undertaking is signed by all project staff and their advisers at the start of a project." Is that a bit of an indication of when you were supposed to sign it?---It's the first time I'm reading this, this part now, yeah. Okay.

10 MS WRIGHT: This document contains a signature at the bottom of the page and a handwritten date, 9th of the 12th, 2016. Do you see that?---Yes.

And that is your signature, do you agree with that?---Looks like it, yes.

And then if you could turn to the next page, do you see here the same type of conflict of interest statement but this time in Mr Singh's name?---Yes.

And it carries the same date?---Yes.

20 And do you see that it carries the same correction to the date as contained on the conflict of interest statement signed by you?---Yes.

In that someone has written over another number and inserted 9 for the date?---Yes.

Now, those documents, were they in fact signed in 2017?---That's not what I recall, no.

30 Do you in saying, "It's not what I recall," deny it or do you accept that it's possible they were signed in 2017?---I don't have any memory of us signing in 2017 so I mean that's all I can say.

Do you see that this pro forma or template document carries a date of 1 May, 2017 at the bottom of the page?---Yes.

And that suggests that the template first existed in this form on 1 May, 2017?---I guess so, I'm not sure.

40 You accept that, don't you, Mr Soliman?---I guess so, yeah, it looks like that, yeah. I don't know.

And that suggests quite strongly, doesn't it, that this document must have been signed at the earliest, 1 May, 2017, doesn't it?---I don't know, but I don't recall signing in 2017. I don't see what the point would be.

Well, you don't recall it but you're not denying that that's in fact the case. You don't deny it, do you?---Like I said, I'm trying to recall what happened

in that period and I don't recall why we would even have to sign it in 2017. I thought we found the hard copies there.

It would be a significant thing, wouldn't it, something that stands out in your memory, if you had backdated policy documents of this nature, wouldn't it?---I guess so, but I'm just thinking, I don't see what the point of it would have been, I mean - - -

10 No, if you could just deal with my question, which I think you've agreed with. It would be a significant thing that would stand out in your memory if you had backdated policy documents of this nature, wouldn't it?---By backdated do you mean changing the date on which it was actually signed or - - -

You know what backdating means, don't you, Mr Soliman?

THE COMMISSIONER: Mr Soliman, really, you know what backdating means.---I'm just asking a question. Like, is backdating, like, I don't know.

20 What, you don't know what backdating means?---I'm just trying to confirm what you mean by backdating, exactly like.

Well, you tell me. What's your understanding of backdating?---Well, it could be a couple of things in my mind. It could be changing the date - - -

No. You've been asked a question, did you backdate the document. What is your understanding of the word backdated used in that sentence? Just answer that question for me.---Well, that was my question so - - -

30 No. Mr Soliman, please answer my question. When you were asked whether this document had been backdated, what do you understand backdated means?---Changing the date of the, on, of which an action took place, which I don't recall me doing that.

All right.

40 MS WRIGHT: And, Mr Soliman, if you had dated something on a past date, it would be something that would stick out in your memory, wouldn't it?---Perhaps, but as I said, I don't recall doing that. I don't see what the point would be.

The reason it would stick out and be significant is because that would be an unethical thing to do, wouldn't it?---Hmm - - -

To backdate?---If I changed the date that the tender took place I guess that's unethical but I mean - - -

I'm not talking about changing the date the tender took place, Mr Soliman. I'm talking about backdating a document. And I'll tell you what it is, that is dating a document on a previous date, when something did not in fact occur on that date.---Okay.

You understand that?---I do now, yes.

And you know that to do that on policy documents of this nature would be an unethical thing to do, don't you?---Guess so, yeah.

10

And so when you say that you don't recall doing it in 2017, I suggest that your evidence is false and that in fact you do recall very well, Mr Soliman, that that's what occurred.---Don't agree with you. I don't recall changing the date, but I'm looking at these dates and these are the dates that the tender happened, so - - -

And this document is nevertheless dated May 2017.---Yeah.

20 You seem to be looking down a lot, Mr Soliman. Are you - - -?---I'm just looking at the, the document which you've handed me.

Now, you accept, don't you, that it's more than likely that this document was dated sometime after 1 May, 2017 by reason of the date of the template which has been signed by you.---Don't think so because again I don't have any memory of that happening.

THE COMMISSIONER: But, Mr Soliman, you've got a document that on its face did not come into existence until after 1 May, 2017, correct?
---That's what's here, yes.

30

So how possibly could your signature, with a date of 9 December, 2016, have been applied to this document on 9 December, 2016?---I don't know but I had a, a copy there I know which I was, which was signed. There was obviously a mix-up during the period where we were looking for the documents, so - - -

40 So now we've got that there's a mix-up when you were looking for the documents in answer to the subpoena. Is that your recollection now?
---Maybe mix-up is the wrong word, but we were looking for it and I recall that we found the hard copies and the quotes.

So you recall that you found the hard copies - - -?---And the quotes, yes.

- - - and the quotes.---Yes.

And then you decided, what, to create new documents and backdate them?
---Don't recall doing that. I just, I, I thought I told Mr Singh.

So what was the mix-up?---That we couldn't find them for, for a while because after – this happened right, I think the day before the Christmas break and we left and we obviously couldn't find it and we were looking for them.

So you were looking for them, you couldn't find them and then you found them?---That's what I recall, yeah.

10 And in the meantime we have a document which obviously came into existence, a template in May 2017, which has your signature with a date of December 2016.---Yes.

And you have no idea how that's occurred? That's your evidence to me? ---Well, I mean, I don't know exactly. All I can tell you is what I recall, and I recall finding the hard, hard copy.

20 MS WRIGHT: When you say you found the hard copies, are you referring to the conflict of interest statements and the tender evaluation plan and the Tender Evaluation Committee report and confidentiality statements? I.e. all of the tender documents?---Don't know. I didn't go through all of them. There was just, just a bundle there.

And this is in August 2017, is it?---Approximately somewhere in that period.

Well, that's just a lie, Mr Soliman.---Don't agree.

30 This document makes it abundantly clear, I suggest, that this document was produced in 2017.---Like, that's what it looks like for this one but that's not the one I found, obviously.

So you've gone from not recalling to now asserting that in fact you found them in 2017?---I've already said that.

No, but your evidence was that you didn't recall whether you had signed these in 2016 or 2017.---Okay, I'm confused now.

40 They were your initial answers to this line of questioning I suggest.---I recall your question now was whether I found the documents and my answer was yes.

I asked you when you signed these documents and I put to you that you had signed in 2017 and you said I don't recall that happening.---That's correct, yes.

So you deny, do you, signing this document in 2017, this conflict of interest statement?---Once again, I don't have any memory of me signing it in 2017. I don't see what the point would be.

THE COMMISSIONER: So, sorry, is your evidence now that around the time you were looking for documents to answer the subpoena you found a bundle of documents which answered the subpoena and those documents were what included the conflict of interest statement signed in December? ---I don't know if it included the conflict of interest statement. I just remember seeing a bundle there.

10 Well, you must have looked at them. If you've been given either a copy of the subpoena or told by the RMS lawyer these are the documents that the court is compelling RMS by force of law to produce to it, you must have had a look through the documents surely.---At the time I definitely would, would have.

All right. So your evidence is there was a bundle of documents. You don't know what that bundle contained?---I don't remember now but it would have been something to do with the tender. That's what I asked Mr Singh to upload. I thought these were the ones. I'm not sure.

20 And we've now got being produced, potentially produced to the court a conflict of interest statement which on its face has been backdated and you can't assist me in any way in telling me how that arose?---I don't recall backdating this. I mean - - -

You keep on saying I can't see the purpose. Do you have any understanding what a subpoena is?---Just a document that's asking for records I guess.

30 It's a document by which the court is compelling your employer to produce documents to the court and that does not anticipate somebody creating documents to try and create a façade or a particular perception that documents existed at the relevant time. Do you understand the seriousness - - -?---No, I - - -

- - - of backdating a document in this way when a court is demanding it to be produced? Do you understand that?---I do now.

40 But you didn't at the time. Is that what you're saying?---From what I understood the subpoena was just asking to know when a tender happened and things like that. I mean - - -

It wasn't explained to you by the lawyers within RMS?---No.

MS WRIGHT: Mr Soliman, you know that the award of a maintenance contract would require a tender process to be engaged in. You know that. ---Generally, yes.

And a tender has the purpose of ensuring fairness in the award of contracts by RMS and best value for money for RMS, doesn't it?---Yes.

You understand that is the whole purpose of having a tender evaluation committee, a tender evaluation plan and no conflicts of interest in that process, don't you?---Yes.

And you were aware of that throughout 2016 and 2017, weren't you?---This could have been the first tender that I'd ever worked on actually so I may not - - -

10 And, Mr Soliman, you knew that if there was no fair tender and allocation of the maintenance contract, that that would have or could have a significant effect on the proceedings between AccuWeigh and WeighPack, didn't you?
---If there wasn't a fair process, yes, but there was a fair process.

And you knew that AccuWeigh was complaining about the award of the contract to WeighPack and the manner in which it had been awarded, didn't you?---Only after we found out about the subpoena, yes.

20 And so there was a point I suggest in you backdating the tender documents, wasn't there?---What was the point? I don't understand.

Let me tell you, and I suggest you're already aware of this. Because in backdating you were representing that a tender involving an evaluation committee and a fair process had in fact taken place in December 2016.
---That's what I recall happening, yes.

30 And that would be the whole point in backdating, wouldn't it, to represent that a tender had properly taken place in December 2016. That would be the point of backdating, wouldn't it?---That's not what I meant. I mean I don't see what the point of backdating, I mean if it was done in 2017 why not just write the date as 2017?

Mr Soliman, that's not a serious answer, is it? You know that WeighPack took over from AccuWeigh the maintenance of portable weigh scales from just before Christmas 2016, don't you?---Yes.

And that WeighPack commenced its maintenance from 1 February, 2017, didn't it?---Sometime in February.

40 And AccuWeigh in effect lost its maintenance contract, didn't it?---Yes.

And AccuWeigh therefore had reason to be upset about that, didn't it?
---I don't know if upset is the wrong word. They lost I guess fair and square.

And if it could prove that there had been a flawed process, an unfair process in the allocation of the work to WeighPack and in AccuWeigh losing that

contract it might have some valid legal claim. You knew that, didn't you?
---I don't understand the question. The process was fair and square.
Nothing was done wrong from what I know.

I'm sorry, I can't hear you.---I don't understand the question because from
what I, from what I remember happening, everything was done fair and
square and AccuWeigh lost the tender fair and square.

10 Could we go to the third page of Exhibit 50, being a tender evaluation plan.
Now, this document purports on the front page to be dated 9 December,
2016. Do you see that?---Yes.

And on page 2, if we could turn the page, it names at the bottom of the page
Mr Singh as the convenor of the Tender Evaluation Committee.---Yes.

Do you see that? And as him being the sole committee member in that
section of the document. Do you see that?---Yes.

20 And then if we could turn to page 4 of that report, it sets out that it is a 100
per cent weighted pricing tender.---Yes.

That is that the only criteria for the tender is pricing.---Yes.

And on page 6 of that report there are two names here for the Tender
Evaluation Committee, being Mr Singh and yourself.---Yes.

And there are signatures next to both names. You signed adjacent to your
name. Correct?---Looks like it yes.

30 And then on page 8 of that report there is a conflict of interest form
including a declaration and agreement at the bottom of the page and you've
then signed that document?---Looks like my signature, yes.

And those dates are 21 December, 2016.---Yes.

Then the next page is a conflict of interest statement, again in your name,
being a part 2 conflict of interest statement. Do you see that?---Yes.

40 And then on the next page, being page 2 of that conflict of interest
statement, you have signed the document.---Again that looks like my
signature, yes.

And it purports to have been executed on 12 December, 2016.---Yes.

And again this document carries a template, revision date of 1 May, 2017.
---Yes.

And I suggest it's therefore extremely likely that this document was not signed on 12 December, 2016 but was in fact signed in 2017. What do you say to that?---Once again I don't recall signing it in 2017.

And then the next document in Exhibit 50 is a counterpart conflict of interest statement part 2 signed by Mr Singh. Do you see on page 2 Mr Singh's signature?---Yes. Yes.

10 And Mr Singh, when he signed this and the other documents I've taken you to, did he sign in front of you?---I don't recall seeing him sign that.

Did you present the document to him for the purposes of having him sign the documents?---I don't think so. What I, what I recall is the papers I found I just asked him to put, put on the system. I, I would have thought that he had already previously signed, but I don't know.

20 Then the next document is a confidentiality statement. Again you signed this confidentiality statement, Mr Soliman?---Yeah, that looks like my signature, yes.

And see the date, 21 December, 2017 - - -?---Yes.

Do you accept that that is a typo, a typographical error, in relation to the year?---Yeah, that makes sense.

So you say, do you, that you did not sign this document on 21 December, 2017?---Doesn't sound right, no.

30 And when do you say you signed this document?---I recall doing these things right before Christmas in '16.

I suggest that you would have signed this document at the same time as the two conflict of interest statements that I've taken you to. Do you agree? On the same occasion.---That makes sense but I'm not sure exactly. I just remember signing some things right before Christmas on '16.

40 And, Mr Soliman, the next document is a tender evaluation report which purports to be dated 21 September, 2016 and authored by Mr Singh. Do you see that?---Yes.

And the next page contains an executive summary which recommends the appointment of WeighPack as the preferred tenderer.---Yes.

And it represents that the tender box was opened on 21 December, 2016 at 10.00am. Do you see that?---Yes.

And then going to the next page, it sets out various information representing that there was an eligibility assessment. You agree with that?---Yes.

And if we could just go to the next page, it represents that there were two tenderers, WeighPack and AccuWeigh.---Yes.

Was it the fact that you did in fact receive quotes from WeighPack and AccuWeigh in December 2016?---Yeah, I think that was with Jai also when we were finding, looking for the hard, hard copies.

10 So you recall that you did receive quotes from the two companies in December 2016?---Yeah, we must have, yeah.

By this tender evaluation report, the report is representing that there was a Tender Evaluation Committee process involved in the tender. Correct? ---Yes.

And you signed that document on page 5 of the report, do you see?---Yes.

And it carries the date of 21 December, 2016 again.---Yes.

20 Now, I suggest, Mr Soliman, that you signed these documents upon becoming aware that a subpoena was to be issued in the proceedings initiated by AccuCorp against WeighPack in relation to the tender.---That's not what I recall but, I mean, I can see what you've given me and I'm confused myself but I know that right before Christmas in '16 I signed the documents relating to, to this tender so - - -

And if we could go to the next page within this exhibit is some correspondence from Wilde Legal dated 30 August, 2017 in fact serving the subpoena on RMS to produce the tender documents.---Okay.

30 Do you see that?---Yes.

And if we could just turn to the schedule which is page 5. Just back a page. Do you see here the subpoena consistent with what you said earlier does list a number of items that RMS is required to produce? You see that?---Yes.

Including submissions and responses received by RMS.---Yes.

40 Notes and evaluations assessing submissions.---Yes.

Do you see?---Yes.

And other items. Now, are you familiar with this list here? Do you think you've seen it before, Mr Soliman?---Either this or paraphrase from one of the lawyers. I don't know.

And I suggest that upon becoming aware of this subpoena you prepared the documents that I've taken you to and you presented them to Mr Singh at the

Octagon Building in Parramatta where you both were working.---Once again, that's not what I recall happening. What I recall is that I've signed tender documents the day before Christmas in '16 and I found what I thought were those copies later on.

And I suggest that Mr Singh asked you if it was the right thing to do for him to be signing the documents.---Mr Singh asked me that?

10 Yes. I'm suggesting it to you, Mr Soliman. I'm giving you a chance to respond to that. Mr Singh asked you if it was the right thing to do for him to be signing the documents.---I don't recall even asking him to sign so, no.

And you assured him that it was, he was signing just to show that the RFQ was awarded based on price. Do you recall telling him that?---No, I don't recall that.

20 And you told him, I suggest, that the date of the documents showed when the evaluation report should have been completed.---I don't recall speaking to him at all about any of those things.

Mr Singh was not a member of a Tender Evaluation Committee for an RFQ in December 2016 relating to the maintenance of portable weigh scales, was he?---I don't agree with that because he had the quotes with him from what I recall and he was speaking about it right before Christmas and he was the raiser of the purchase order from what I can recall. He was - - -

30 Do you accept, Mr Soliman, that even accepting that you received quotes from the two companies and you or Mr Singh raised or approved respectively a purchase order, that that does not mean that there was a proper tender evaluation process engaged in, does it?---From my point of view it does. That's specifically what it means.

You can award a contract, you had the capacity or power to award a contract without engaging in a tender evaluation process, didn't you?---I don't know.

Well, you did, because you awarded a contract I suggest to WeighPack in December 2016 for maintenance.---I awarded it to them but we spoke about it also.

40 And you had the capacity to do that without convening a Tender Evaluation Committee and going through the process of signing conflict of interest statements and a tender evaluation plan.---Could you repeat the question, please?

You had the capacity, Mr Soliman, as manager of the Heavy Vehicle Programs Unit, to award the contract for maintenance without, rightly or wrongly, signing conflict of interest statements and a tender evaluation plan

and the Tender Evaluation Committee report.---I'm not sure if I had the power to do that but - - -

Well, I'm suggesting that's what you in fact did in December 2016. So you awarded the maintenance contract to WeighPack without going through that process of engaging and convening a Tender Evaluation Committee, having conflict of interest statement signed, preparing a tender evaluation plan, having a tender evaluation report, assessing the recommendation made by the committee. That whole process was omitted, although - - -?---I don't recall that happening.

- - - you had the capacity to award the contract without doing those things. ---Once again, that's not what I recall. What I recall is before that Christmas - - -

I'm not asking whether you recall, I'm asking you whether you agree that you could do that.---I don't agree or disagree. I don't know what the rules were.

20 Because no one was looking over your shoulder, I suggest, to check whether there had been a proper tender process in December 2016.---I don't think anyone was asking about this specific one, no.

And it was only in 2017 when the subpoena came to your attention that you knew that that documentation was missing and that it needed to be created in order to create a pretence that a proper tender had been engaged in. ---I don't agree.

30 Do you agree that you selected WeighPack as the maintainer at the end of December, 2016?---I just recall telling Jai to raise a purchase order but we had already spoken about it and he had seen the quotes and to me that was the, the process which we went, went by. I don't see anything wrong with that.

In telling him to raise a purchase order, you were authorising the appointment of WeighPack as the maintainer.---Yes, they won the tender, fair and square, from what I saw.

40 I suggest there was no tender, Mr Soliman.---I don't understand your question.

There was no tender as represented by the documents that you dated in 2017.---I don't agree with that. We got the quotes, we looked at the quotes, the lowest price would, would have won it. The lowest price won it.

Now I'm going to another topic. You were given code of conduct training by your employer and I took you to - - -?---Yes.

- - - that on the first day of your examination in this public hearing.---Yes.

And you undertook code of conduct training three times during your tenure at RMS.---Okay.

You accept that, don't you, Mr Soliman?---I do, yes.

10 And I want to show you that training module which you undertook online. If that could be brought up on the screen, please. Do you recognise this document, Mr Soliman?---No.

You can see it says, "Our code of conduct."---Yes.

And it explains what the code of conduct is.---Yes.

"Provides you with an ethical framework" - - -?---Yes.

- - - "to guide our actions and decisions."---Yes.

20 And it says that the module will take 15 minutes to complete.---Yeah.

And you have to click to start. Agree with that?---Yeah.

And you would have read that in order to know that you had to click to begin the training.---Probably didn't read it but, yeah.

30 Well, you must have, mustn't you? Because how else would you know how to get through it?---No one takes these things seriously like you're putting in front of me now.

You may not take them seriously, Mr Soliman, because you do not take your ethical standards seriously at all, I suggest.---That's not what my evidence was.

But you cannot speak for others at RMS.---I can, actually, because we spoke about these, these, these things.

Every employee, did you?---No, that's not what I said.

40 THE COMMISSIONER: You said nobody takes it seriously.---That's a general saying for the people I spoke to. Okay, the people that I heard from don't take these online courses seriously.

MS WRIGHT: Does that somehow assist you to exonerate yourself, does it?---No. What I done was wrong.

You know what you did was very wrong, don't you?---Which part exactly are you speaking?

I see. So when you said, "What I done was wrong," what were you referring to?---Breaching the code of conduct, obviously.

In what respect?---In accepting money. Simple as that.

THE COMMISSIONER: What, from Mr Thammiah and Mr Hamidi?
---Yes.

10 MS WRIGHT: And favouring them was not also wrong?---Of course it was. That's, that's part of it, yes.

And favouring their companies was wrong, wasn't it?---Yes, that's what I meant.

You know that now and you knew that then.---At the time I didn't think of it, but I know that now.

20 If we could turn through the code of conduct training, and it applies to RMS. You see that?---Yes.

And you were obviously aware of that.---Yes.

Then if we could turn through the pages. You had responsibility to read and understand the code of conduct - - -?---Yes.

- - - and behave and act in accordance with it, seek guidance from your manager if you were unsure, report any breach of the code of conduct. Correct?---Yes.

30 They're all common sense things, aren't they?---As I'm reading them now, yes.

Then if we could turn the page. We could go through to page 24. If we could just skip through each page. The code sets out very, the training sets out very clearly, I suggest, what's in the code and the responsibilities deriving from it. Do you agree with that?---Looks like it, yes.

40 If we could just skip through. Do you see how, Mr Soliman, one can't just skip through, that one stays on the same page - - -?---Yes.

- - - and it highlights certain aspects of the training on the screen - - -?
---Yes.

- - - to ensure that staff read what's being highlighted. Do you see that?
---Yes.

And I suggest you went through this three times as a requirement of your employment.---Yes.

And if we could go through to page 24. The pages aren't numbered onscreen but I'll indicate when to stop. If we could just stop there. Do you see this deals with gifts or benefits?---Yes.

10 And then if we could go through to the next page. This refers to gifts or benefits that pass between colleagues or from external organisations.---Yes.

May be perceived as being used to create favourable impressions and gain preferential treatment.---Yes.

And then if we could go to the next page and the next and the next. And it provided examples for staff to consider about what a conflict of interest could be.---Yes.

20 The next page, and stop here. And from page 34 it explained what a conflict of interest is.---Yeah.

And then skipping through again it highlights areas, stopping here. And it on the right-hand side explains when a conflict of interest exists when you could be influenced by personal interest in your official duties. This may be corrupt if you're in a position of influence and it affects your impartial decision making. And it refers to potential perceived or actual conflicts must be declared in writing and managed in accordance with the conflict of interest policy. And this particular example refers to a person being on a panel interviewing people for a position. Do you see that?---Yeah.

30 And finding out that the person who got the role is a close friend of the manager. Do you see that?---Yeah.

And then if we could go to the next page. And it says, "Kim had a conflict of interest because she was interviewing one of her friends for a position in her team." Do you see that?---Yeah.

So it sets it all out very clearly, doesn't it, Mr Soliman?---As I'm reading it here it makes sense, yes.

40 And that is what you did, you interviewed your friend Mr Singh for a position and failed to declare it, didn't you?---Like I said previously, I didn't see it as an issue at the time.

And that could come down. I suggest you used Mr Singh in implementing the schemes you devised to preference your friends Mr Thammiah and Mr Hamidi.---I don't agree with that.

You agree with that?---I don't agree with that.

You used him to raise documentation in RMS in order to assist you to implement the schemes you'd devised to preference Mr Hamidi and Mr Thammiah.---I don't agree with that.

10 And over five days or more I've put to you a number of matters in relation to projects and tenders you were involved with as manager of the Heavy Vehicle Programs Unit and the inappropriateness of your conduct and I suggest that your behaviour was completely at odds with this code of conduct and your obligations as a public officer.---Yes, they were.

Do you agree with that?---Yes.

And I suggest your behaviour was all part of a scheme premeditated by you to preference two friends with the ultimate goal of deriving financial advantage for yourself.---That's not the way it started, no.

20 But that is how it eventuated. You agree with that?---I got money but it wasn't some scheme like you were saying.

And I suggest that you did that by means which were completely at odds with your duties as a public officer, Mr Soliman.---I don't really agree with that either. I mean, I was trying to do my job and there were lots of changes and problems happening.

30 You're aware that your conduct in awarding contracts to AZH and Novation was at odds with your obligations as a public officer, aren't you?---As I've read the code of conduct after all this has happened, yes, it was wrong. It was very wrong.

And you knew it at the time, didn't you?---Once again, it wasn't at the front of my mind when this, these things happened, but obviously I know it's wrong now.

And you knew that it was wrong at the time that you undertook the various projects and tenders and actions that I've taken you to over five days. ---As I said, at the time it wasn't at the front of my mind. I didn't think it was a major issue, but I know that now.

40 That completes my examination-in-chief of Mr Soliman, Commissioner.

THE COMMISSIONER: Right. Thank you, Ms Wright.

MS WRIGHT: If I could tender that online training.

THE COMMISSIONER: Yes.

MS WRIGHT: And also, although it has little to do with Mr Soliman's examination, I tender volume 7A and 7B of the brief, and that material relates to the involvement of Mr Chehoud and WSP.

THE COMMISSIONER: The code of conduct online course that you just took Mr Soliman through, has that got a date?

10 MS WRIGHT: Not on the document, but we've been informed reliably by RMS that it applied as at the dates that Mr Soliman undertook training online, which is 2015 to 2017 from memory.

MR LONERGAN: Sorry, Commissioner, our observation looking at the document online as it was brought up by Counsel Assisting was that it was 2018 December 13, or something to that effect.

THE COMMISSIONER: Did you see that date on one of the pages?

MR LONERGAN: Nearly all the pages.

20 THE COMMISSIONER: I didn't observe that.

MS WRIGHT: It may be on the document, and perhaps counsel for RMS can correct me if this is significant, but we were told that that applied as at the date Mr Soliman undertook that training.

THE COMMISSIONER: And the evidence is, it's somewhere in one of the exhibits, we had that kind of table which sets out his training.

30 MS WRIGHT: Yes.

THE COMMISSIONER: And as you put to Mr Soliman he undertook the training on three occasions during the period 2015-17.

MS WRIGHT: Yes. And it may be that the document has a 2018 date but it's the same format or same content as what had applied. But we'll seek to clarify the position.

THE COMMISSIONER: Sorry, you can assist?

40 MS HOGAN-DORAN: Commissioner, I might be able to assist. I'm instructed, and we can have it confirmed in writing, I'm instructed that what Counsel Assisting has said is the position, that the document that was shown to the witness was the document in that form or substantially in that, so was that release date prior to 2015 and that is the version of that presentation that he would have seen.

THE COMMISSIONER: All right. Mr Lonergan, does that satisfy you or
- - -

MR LONERGAN: Yes, Commissioner. Just it was brought up that there was no date and I'm just identifying there was a date.

THE COMMISSIONER: You're more observant than I am.

MS WRIGHT: I thank Mr Lonergan for that. I must say I can't see the date, but - - -

10 MS HOGAN-DORAN: Commissioner, I think what Mr Lonergan was saying, I think he was saying it, not to contradict Counsel Assisting substantively but rather to assist you, which was to say that it was originally drafted in 2013, there was a subsequent version, the version is 2015 and that's the one that Mr Soliman saw.

THE COMMISSIONER: All right.

MS HOGAN-DORAN: If there's any error in what I have said I understand and I did see some instructions about that a couple of weeks ago when this
20 issue first arose, we'll advise you.

THE COMMISSIONER: All right. That would be good. Can you just confirm what you've informed me?

MS HOGAN-DORAN: We will.

THE COMMISSIONER: On that basis, the code of conduct online program that Mr Soliman undertook during the period 2015 to 2017 on three
30 occasions will be Exhibit 60.

#EXH-060 – ONLINE CODE OF CONDUCT COMPLETED BY SAMER SOLIMAN THREE TIMES DURING THE PERIOD 2015 – 2017

THE COMMISSIONER: Now, volumes 7A and 7B, should they be included as part of - - -

40 MS WRIGHT: Exhibit 34.

THE COMMISSIONER: All right. Exhibit 34 will now include volumes 7A and 7B.

MS WRIGHT: Thank you, Commissioner.

THE COMMISSIONER: Thank you. Ms Hogan-Doran.

MS HOGAN-DORAN: Yes, Commissioner. Mr Soliman, I act for Roads and Maritime Services, and I also appear for some Roads and Maritime Services employees who have given evidence – Mr Walker, Mr Lee, Ms Lemarechal and Mr Thevathasan.---Okay.

In 2014 you were hiring for a new role, a new recruit to your group. Do you recall that?---Yes.

10 And you saw that as an opportunity to bring someone in who you could trust to work in your team, agree?---Don't agree with your wording. There was, there was a role there that had, had to be filled and it was filled by myself and Mr Willoughby.

Well, you saw this as an opportunity to bring someone who was a friend, someone you could trust, isn't that right?---Don't agree with your wording.

And you saw this as an opportunity for someone who would be grateful for the job. You agree?---No, I mean, there was a role and he was, he was asking if there's work and I said there's a role, there's a role kind of soon.
20 If you want to go for it, you can go for it.

You set out to hire Mr Singh in this process, didn't you, Mr Soliman?---I don't agree with that.

He was someone you knew from Optus.---Vaguely, yeah.

You knew him when you worked at Optus, didn't you?---Yeah, but I wouldn't call him a friend at that point.
30

I suggest to you he was someone who was a friend, at least a friend at the time that he was interviewed by you for the role at RMS.---I don't want to use the word "friend" but I did know, know him.

You knew he needed a job. He was looking for a job. You've just mentioned this to the Commissioner.---He asked me if there's work that he knows of, that I know of.

Right. You knew he'd be grateful for your help.---I assume he would be.
40

He was someone you thought could do your bidding.---Sorry?

You thought he could be compliant. He'd go along with things that you might propose.---Didn't think anything about that subject.

You were on a panel interviewing people for a position on your team. It was you and Mr Willoughby. You recall that?---Yes.

You drove that recruitment process, didn't you?---It would have been me, yes.

You were the convener of the panel.---Probably was, yes.

And you drove it to ensure that Mr Singh, your friend, was recruited to the team.---I didn't drive anything. Myself and John both thought that he was the best for, for the role.

- 10 Could the witness be shown volume 16A at page 128. And while that's being pulled up, Mr Soliman, you recall that you interviewed just two people for the role that Mr Singh ultimately assumed?---I don't recall but I accept that. That's fine.

And there were indeed 21 applicants for that role, wasn't there, Mr Soliman?---Don't know.

Well, that's what the document says.---Oh, yes. Yes. Yes.

- 20 Do you see that? You don't doubt the document, do you?---Yes, that's fine.

And you recall that only two people were selected for that interview. Do you recall that?---Must be if that's what it says here.

And it was you who selected those two people?---Don't know. Would have been me and John Willoughby, I guess.

I suggest that it was you.---I don't recall.

- 30 Then after interviewing Mr Singh and the other person, do you recall undertaking those two interviews?---I recall Mr Singh. I don't recall the other one, though.

Did you actually interview the other person, Mr Soliman?---I would have.

Is it possible that you didn't? Is that what you're suggesting to the Commissioner?---I don't think so. I mean, I don't think so because Mr Willoughby would have been there and he would have signed this too.

- 40 The other person, you recall you only then checked the references of Mr Singh, though?---The referees. Yeah, probably.

Now, you say – did you prepare this report?---It's either me or Mr Willoughby or together.

You were the convenor of the panel, weren't you? ---I believe so.

I'll show you the document in a moment, Mr Soliman, but if you can take it from me that you've signed this report before Mr Willoughby did.---Okay. I accept that. That's fine.

Do you agree that that suggests that you completed the report and then signed it before he did?---I'm saying I don't recall, but it was either me or Mr Willoughby or we done it together.

10 Now, can you explain to the Commissioner how it can be that two people were selected to be interviewed, but the other person who was selected to be interviewed was supposedly so poor as to not warrant having their references checked?---Why would you check their reference if you, if the recommendation is that they didn't meet the, the, the requirements? That's doesn't make sense to me.

20 Well, couldn't another explanation be that you'd ensure that the only person who'd be competing against Mr Singh was someone who would not pass muster at interview?---Not at all. Mr Willoughby would have been there too, like, like I said.

And there were 19 other people who were not interviewed for this role. ---Looks like it, yes.

You'd helped Mr Singh put his CV together for this, didn't you?---I don't recall doing that at all.

Mr Singh suggests that you did.---He can suggest whatever he wants. I don't recall doing that. That's his CV.

30 If you, do you recall whether or not he talked to you beforehand about who the referees would be that he would put forward?---Don't recall talking to him about any of his CV.

Well, in any event, you proceeded to check the referees. Do you recall that? ---Mr Singh's referees?

Yes.---I would have for sure.

40 And do you remember who they were?---No idea.

Well, they were all colleagues of Mr Singh's from Optus.---Okay.

All right. Could you go over to page 133. And do you see there, I'm not going to mention the people's names, I don't make any criticism of them, but there is a person identified as a team leader at Optus - - -?---Yes.

- - - who had been Mr Singh's previous manager.---Yes.

Yes. And I think if you go to the next page we'll see the other person, no, I'm wrong about that. Perhaps the previous page.

THE COMMISSIONER: It's 132 and 133.

MS HOGAN-DORAN: Yes. And you'll see also another person who was a team lead at Optus - - -?---Yes.

- - - who had been Mr Singh's previous manager.---Yes.

10

On page 133 do you see that the relevant position was held and how that particular leader knew Mr Singh was from the period of 2007-2008?
---Yes.

Did you know one or the other of those referees?---The one I'm looking at, yes.

THE COMMISSIONER: Sorry, this is page 133?---Yes.

20 MS HOGAN-DORAN: Page 133. So you knew that person from your time at Optus?---Yes.

Can we go to page 135. That's the selection panel declaration. And do you see the section Convenor, and you'll see that you signed, Mr Soliman, date 3 September, 2014?---Yes.

And you recall before I said to you I would show you in a moment - - -?
---Yes.

30 - - - that Mr Willoughby signed on 16 September, 2014?---Yes.

And you made a declaration.---Sorry, where, what is it?

40 At the top of the page, do you see, "Each selection panel member is required to disclose in a written declaration any professional or personal relationship with any candidate or other panel," and I would take that to mean other panel member. And you're told there, "Any actual, potential or perceived conflict of interest arising as a result of the disclosure is to be managed in accordance with the conflict of interest procedure prior to commencing the selection process." Now, you see, you read that, didn't you?---I'm reading it now definitely.

And you would have read it at the time.---I don't recall.

Had you seen a document like this before?---Probably not at that time.

Probably not. So it's probably likely you did have a good look at it, isn't it?---I don't recall.

Well, you wouldn't want to sign a document that said something that wasn't true.---I don't know. I don't recall if I read that part at the time.

But looking at that now, you see, don't you, that it's asking you to declare any personal relationship you have with the candidate.---Yes.

10 You didn't do that, did you?---At the time I didn't really see it as an issue. I still don't really see it that we were so close or even close enough to make an issue of it. I mean, where would you draw the line? If you've met someone, if you've shaken their hand.

Let's take it a different way. You're uncomfortable with my description of your friendship with Mr Singh. You had a professional relationship with Mr Singh, didn't you, at Optus?---I worked in the same business as him. Again, I mean - - -

20 That's right. And you didn't declare that either.---Again, I still don't really -- maybe I'm wrong but I still don't see the relationship that we had as something you would need to declare for something like this.

Counsel Assisting just took you to the code of conduct training that you had in subsequent years.---Yes.

And it made very clear, didn't it, to you in those panels that she showed you that a personal relationship, knowing someone who's a friend when you come to a recruitment panel is something that's clearly wrong to keep quiet about. That's right, isn't it, Mr Soliman?---Yes.

30 And you knew that in 2014.---I don't really agree with that also, no.

And you also said in earlier evidence to the Commission that you never understood that a perception of a conflict of interest was a problem.---Sorry, what's a perception of a conflict?

40 It's someone else, perhaps you don't understand that there's a conflict of interest, but at least someone else might think there's a conflict of interest. They might think, looking at the situation, they perceive, they see a potential conflict of interest.---I don't know. That's probably the first time someone's explained what a perceived conflict is.

You understand, don't you, that as a government employee you need to be above reproach.---Yes.

Well, to be above reproach means to make sure that nobody perceives that you're doing a favour for somebody else.---Yes, I do now.

And you understood that throughout the time of your employment with RMS.---It was implied probably. But again, after all this has happened, this is when I'm reading everything properly.

When you say, "It was implied probably," what do you mean by that?---Just very vaguely, like, don't break the rules. But again, I mean, this is really the first time I've gone through what the rules are in black-and-white.

10 And you understand what the rules are for, don't you, Mr Soliman?---I do now.

You knew then, didn't you?---Not specifically. This is really the first time I've read everything in black and white.

Mr Soliman, isn't the most basic rule of a government employee is not to misuse public money for their own benefit?---I understand that is the case now, yes.

20 You understood that from the moment that you were hired by RMS. ---Again, it was probably implied, but that's not how these things started. It wasn't about money at the start.

It was probably implied because you knew that the responsibility of your position was to manage public money appropriately. Do you agree?---I'm sure that would have been somewhere in the documents which I read, yeah.

THE COMMISSIONER: But it's not even a matter of implying or being in documents. It's obviously, isn't it?---Um - - -

30 Part of your role, when you were employed by RMS, as Ms Hogan-Doran's just put to you, was to manage public money appropriately.---Yes, I agree with that, but what I'm saying is, I mean, when these things started it wasn't about me getting money. There was work to get done and there were people that would do the work at the time. It wasn't at the forefront of my mind that, you know, these people shouldn't be doing the work because I had a conflict. But now it's obviously clear to me.

40 MS HOGAN-DORAN: Mr Soliman, if you didn't see it as an issue about your previous relationship and current – sorry, I withdraw that. Is what you're saying to the Commissioner that you didn't see it as an issue that you had a friendship and you had a previous working relationship with Mr Singh?---At the time I didn't see it as an issue. We weren't close enough that I would warrant something like that being an issue. I'd never met his family, never been to his house, not going out to like to meet him. I would probably see him at Optus.

But you appreciate, don't you, that it's not about you this declaration and what you thought in your mind, it's about telling your fellow panel member

about how you're approaching the selection process. Do you agree with that?---No.

Do you agree that this document is about making a declaration to your fellow panel member that you have no professional or personal relationship with Mr Singh and that you had no actual potential or perceived conflict of interest in his being hired?---I thought it was just for me, and for the record I didn't realise this was for the other panel members.

10 Well, that's just false, isn't it, Mr Soliman, because you can see that Mr Willoughby is going to be completing this form after you do, the same form?---Okay, but you asked me if I knew what the purpose of this document. I thought the purpose was just for it to be on the record. I didn't realise it was to prove to someone else.

Well, Mr Soliman, you will also see from this document that it is going to be sent to an approving officer. You see down the bottom of that page?
---Yes.

20 And that approving officer was Mr Hayes who was the manager of your branch at that time.---Yes.

And he was going to be seeing this document and considering the information it contained.---Yes.

And you would have seen that when you signed that document yourself.---I assume so.

30 And you understood that that was what the document was going to do.---I don't really understand your question. I mean, Mr Hayes is signing as the delegate approving officer.

Indeed. He's signing as the delegate approving officer on the basis of the information above. Do you see that?---Yes.

And so it's not just something that was going to sit on a file, was it?---That's what I thought. I didn't really - - -

40 It was something that your superior was going to consider and rely upon.
---Yes.

And if your superior had known – so you agree with me, don't you, that it would be relevant to your superior to know whether or not you had a previous or current relationship with the person you're asking to hire into your team.---If it was a strong friendship or something like that, yeah, that would be relevant but - - -

That's not what the document says, is it? It doesn't say strong oh, you know, gradations, variations, it just says did you have any professional or personal relationship.---That's what it says professional, personal relationship but again I don't, I wouldn't term it that way. I mean, there was 6,000 people working at Optus. I knew a lot of them. Where do you draw the line.

10 Well, how about drawing the line at least under the evidence you gave some weeks ago in which you said at least by the time you came to interview Mr (not transcribable) you had a friendship with him.---That's when we started to talk and by the time that he started there, that's when I guess you would call it a friendship, when he started working there.

And because you never declared your professional or personal relationship with Mr Singh, Mr Hayes didn't know. Isn't that right?---I don't know if he knew but I'm pretty sure I told Mr Hayes and several others that we used to work together at Optus.

20 When do you say you said that?---During the time that we were working there.

All right. So after the time that Mr Singh had already been recruited?
---Yeah, I think so.

That document can be removed. Now, you told the Commissioner that you received money from Mr Hamidi.---Yes.

30 You knew that that money was from AZH, didn't you?---It was from Ali, yes.

And you knew that AZH had that cash from the work it was doing for RMS.
---I never asked him that.

You well understood, Mr Soliman, that the cash that Mr Hamidi was giving you was sourced from the RMS work.---I never asked him that. I don't know.

40 I'm not asking about whether or not you asked it, I want you to answer my question.---I don't know.

Are you suggesting you did not know that the money that Mr Hamidi was giving you was sourced from the work that was done for RMS?---I don't know because I didn't ask him.

Where did you think it had come from?---Obviously I didn't, I didn't think, which is why I'm here.

That's not a serious answer at all, Mr Soliman, is it. Here you are, turning up week after week, month after month, at your friend's house and being handed an envelope with cash in it.---Yes.

Are you seriously suggesting that never one of those occasions you never once thought about where's this money coming from?---I'm sure I thought about it lots but I didn't ask him.

So you thought about it lots but you never asked him.---Yep.

10

All right. Let me try it a different way. He told you that this is where the money was coming from. Is that what happened?---I don't think he ever said anything about that, but again, I mean, his money was his business really.

Mr Soliman - - -

THE COMMISSIONER: Sorry, what did you say then? I didn't hear that.

20

MS HOGAN-DORAN: The money was his business, I think he said, something like that. Was that what it was?---Yes, yes.

Mr Hamidi – sorry, I withdraw that. Mr Soliman, Mr Soliman, you've told this Commission that you understood the money was half of Zoe's salary. ---Yeah, would be about half of what he would give me.

30

And what did you understand Zoe was doing for that salary?---I'm not sure exactly now, but they just said that, you know, she's good at the communication and the finance and the documents and stuff like that, but I don't know exactly what she done now.

Mr Soliman, you knew that AZH didn't have any other source of income at the time that you were taking money from Mr Hamidi.---Yes. Yes, that's correct.

40

So is the point that what you're trying to suggest to the Commissioner is that although you didn't ask, and although he didn't tell you that the money was sourced from RMS, you knew that RMS was the only source, was the only work, sorry, was the only source of income.---That's what I assumed.

Right. Now, you told the Commissioner – sorry, I'll withdraw that. Mr Hamidi said in his evidence that between 4 June, 2017 and 10 August, 2018, so that's just over 13 months, 14 months, you received \$175,000 in cash from him. Remember that was his evidence?---I do.

And you've disputed receiving that amount.---Yes.

Do you still dispute that?---I still do.

So you appreciate that he created a table for the Commission, Exhibit 37, showing the withdrawals that he made and paid to you?

MS WRIGHT: I object. Just my objection is a limited one. He didn't say he created it for the Commission.

MS HOGAN-DORAN: I withdraw that.

10 THE COMMISSIONER: Yes.

MS HOGAN-DORAN: Thank you for that correction. You appreciate that Mr Hamidi prepared a table?---Yes.

All right. And in that table are the amounts he says were paid to you. ---That's what he said.

All right. And you now say that he only paid you about half of that. ---That's right.

20

In fact you say – how much do you say he paid you?---My guesstimate was about 75K.

About 75,000. So what you're telling the Commission is that he kept the rest of that money. Is that what you're telling the Commission?---I don't know what he done with it but it's, yes.

Well, he didn't give it to you.---That's right.

30 All right. So why would Ali Hamidi tell the Commission that he paid you \$175,000?

MR LAWRENCE: Objection, Commissioner. What my learned friend puts is to ask for it in Hamidi's mind. (not transcribable) object to that. It's what he understood.

40 THE COMMISSIONER: All right. If it's put on the basis of your understanding of why Mr Hamidi would have compiled that list. Do you understand that, Mr Soliman? You're being asked what is your understanding. Can you assist me? If you're saying, "I only received 75,000," why Mr Hamidi created Exhibit 37, which records that you received 175?---Apart from me saying what I was thinking, but, I mean, I guess he would have known that they're going to go through his statements, so - - -

That they're going to what?---They're going to go through his statements, so why give a different number than what's, what he's pulled out of his bank. That's all I can guess anyway.

MS HOGAN-DORAN: Of course, the other explanation, Mr Soliman, is just that you're saying to the Commission that you got \$75,000 because that's what you told the Commission unaided by this schedule. This is what you told the Commission when you were examined in private hearing in April this year.---Don't really know what to say to that. I mean, I'm telling you what, I'm sure I got about that amount of money. I know I didn't get more than that.

10 Mr Hamidi put his mother-in-law on the books. Did you know about that?
---No.

He didn't tell you about that at the time?---Don't recall him telling me.

Did you know that his mother-in-law was paid \$65,000 over two financial years?---No.

No. Did you know anything about that at the time?---I don't recall him telling me anything about it.

20 You're not aware of her doing anything for AZH, are you?---I have no idea, no.

The money that was paid into her accounts was subsequently withdrawn. Did you receive any of that money, to your knowledge?---I don't know which bank he pulled out the cash from. I can't answer that.

30 When you say you don't know which bank, is that because you know that his mother-in-law was at a different bank?---I don't understand the question.

I withdraw that. You say you don't know which bank. Do you know which bank his mother-in-law was banking with?---I have no idea.

Have you looked at the exhibits in this Commission which show her bank statements?---No.

You told the Commission Ms Zoe Hamidi was to be paid a salary. That's what you'd been told by Ali.---Yeah.

40 And you received some emails from Zoe, you recall that?---Yes.

You were asked some questions about speaking to Zoe about AZH business and you said you didn't recall ever speaking to her about AZH business. Do you recall giving that evidence?---That's right.

And then you said about your dealings with Zoe, "There was just the emails and stuff like that," and I can give you a reference. It's page 1452 at line 30. You said, "It was just the emails and stuff like that."---Yes.

What was the stuff like that?---I think I was just still talking about the emails and, I think I seen through this hearing that she signed some other documents that I've seen but - - -

And so what did you think when Zoe was, when you saw documents that were signed by Zoe?---I had assumed it was her because it was her signature but who knows.

10 And so when you saw signatures by Zoe, so you'd seen signatures by Zoe before going over to – I withdraw that. By the time you went over to Mr Hamidi's house, you had seen signatures by Zoe on documents, hadn't you?---I just recall seeing them through this hearing. I don't know if I saw them before that.

Well, if there was a document that showed that, for example, was attached to an email which had a signature of Zoe on it, it's likely you would have seen it at the time?---Can I just clarify, are you talking about a person's physical signature or just a signature block in an email?

20 I'm talking about handwritten signature.---Yeah. I, I, I've seen it through this hearing. I don't recall if I saw it before that.

But if you did see it before it, before this hearing, it's likely, isn't it that you wouldn't have had any trouble talking to Zoe about the RMS work that AZH was doing when you saw her, do you agree with that?---What do you mean by trouble? Like - - -

30 Well, you wouldn't have felt you shouldn't talk to her about it?---Not necessarily but - - -

Well, you wouldn't have thought it was confidential?---No.

No. And you wouldn't have thought that it was something that you should not discuss in her presence?---I didn't really think about it. I mean, I was just talking to Ali about the work, not to Zoe.

40 So it's likely you weren't being careful when you were at Ali's house and Zoe was in the vicinity when discussing RMS business?---I don't know. I'm, I don't know but we were, if she was there when we were speaking or exactly. I think you need to bring up something specific.

Well, you don't have a recollection sitting here today of stopping yourself talking about RMS business when Zoe came into the room?---I don't recall myself forcefully stopping myself or anything like that but - - -

So it's possible that you did talk about RMS business within Zoe's hearing?---It's possible, I don't recall anything but.

You told the Commission about keeping records of cash you received from Mr Hamidi.---Yes.

And you suggested that that was a habit, the keeping a record became a habit?---Yes.

I'll suggest to you that it wasn't a habit, it had a purpose.---It was both things like I've already said.

10

You said both things, what's the other thing? There's habit and what's the other thing?---A purpose.

What's the purpose?---Well, to make sure, number one, it's a record of how much I got and to make sure he was giving me about half of the salary like he said he would.

I'm going to suggest to you one of the purposes was as an insurance policy for you.---Don't understand the question.

20

It would be a document that you could use later to your advantage.---Don't understand the question.

Or a document that you would use later to defend yourself.---Don't understand the question.

Or a document that you would use later to defend yourself against a dispute with one of your friends.---Still don't understand what you're trying to ask me.

30

Or to defend yourself in a dispute with a third party.---It wasn't the reason that I kept the records, but I still don't understand what the question is.

I appreciate you don't understand where I'm going, Mr Soliman. The problem for you was that you were getting cash from both of your friends. ---Yes.

At the same time or in the same period. Isn't that right?---For some of it, yes.

40

And so the reason you were keeping a record of how much you were receiving from Mr Hamidi was so that you didn't confuse yourself with how much you were getting and were owed by Mr Thammiah. Isn't that the case?---No.

And the document might be, keeping a record of it would help you if your scheme with Mr Hamidi was discovered and you needed an explanation by

saying, oh, no, this is money not from Mr Hamidi but from somebody else.
---That's not why - - -

And here's my other record.---That's not why I kept the records.

That's another explanation. That's another possible explanation. Do you agree with that?---No, I don't agree with that.

10 You agree neither of those explanations are ludicrous? They're quite possible, aren't they?---It seems very stupid to be doing what you're suggesting.

It seems very stupid to keep a record on your phone of the cash payments or the dates on which you received cash from Mr Hamidi. Is that your evidence, Mr Soliman?---No. If I understand correctly, you're suggesting that if I knew, if I was sitting here back then, I, I kept the records for that reason. That seems silly, if that's what I understand the question is about.

20 I don't think I understand your answer, Mr Soliman, I'm sorry.---Could you repeat the question, please.

Well, you're the one who used the word "silly". What do you say is silly? What do you say is silly?---Yeah, silly, yeah.

Beg your pardon?---Silly, yes.

What is silly?---What I thought you're suggesting seems silly to me.

30 I see. Well, isn't it a sensible precaution so you can keep straight who's giving you the cash, when?---That's not why I kept the record.

Well, it would be potential problem, wouldn't it, to tell Ali Hamidi he owed you money when in fact he paid you and it was Stephen Thammiah who owed you money. You wouldn't want to say that to your friend, would you?---Quite confused right now about the line of questioning.

40 I'll try again, Mr Soliman. One of the reasons you were keeping this record was to keep straight between you and Ali how much you were receiving. That's right, isn't it?---Between me and Ali, yes. Well, his, his record, yes.

And the problem you had is that Mr Hamidi was not the only person giving you money at the time.---Yes.

And you had an expectation that Ali would be giving you money on a fairly regular basis.---Guess so, yeah.

So to make sure you didn't make a false claim on Ali that he owed you money, he hadn't paid you, you were keeping a record of it.---No, I don't

agree with the way you're wording it. I mean, again, like I've said, the reason, the purpose of keeping the record was to, number one, just make sure that he paid half of the salary like he said.

10 THE COMMISSIONER: But you're actually not – that explanation, you're relying on the fact that Mr Hamidi says to you, "I withdrew," – what, sorry, now I'm getting confused with your evidence. With Mr Hamidi there is a record of 29,000 on 4 June. Are you saying the 29,000 on 4 June represented the money for Zoe's salary and you would get half of that? Is that what you're saying?---No, that's not what I'm saying. I'm just saying through the financial year he just said he'll be able to pay me about half of the, the salary.

Right. But what does the figure of \$29,000 which was found on your phone under "Ali Dollar" on 23 June, 2017 - - -?---Yes. That would have been just what he said he pulled out of the bank in that time.

20 And you got half of it. Is that what your evidence is?---Not of that payment obviously but during the financial year.

So there was – you're saying that these figures represented a running total of withdrawals that Mr Hamidi made representing Zoe's salary and at the end of the financial year there would be some accounting process whereby you would have got half that amount?---About half, yeah.

Supposedly for the training or the tutorial.---Yeah, and all the other documents and templates and stuff which I helped him with.

30 And you say you're being given these global figures to make sure that ultimately you receive about half of that amount. Is that what you're saying?---Yes.

And this is to keep Mr Hamidi honest, is it?---It's not so to keep him honest, just to I guess for myself to make sure it was happening like we agreed.

What, he complied with what you say the agreement was?---Basically, yeah.

40 If that was your concern, and sorry, you, that's the only information you got from Mr Hamidi. Is that what you're saying?---Yeah.

You're saying there's an agreement whereby whatever is pulled out of AZH to represent Zoe's salary, you at the end of the financial year would have received half of that amount.---About half, yes, basically, yeah.

And are you saying to me that the only way you can verify that is when Mr Hamidi informs you, I withdrew 29,000 on 4 June for Zoe's salary. Is that what you're saying?---Yes, basically. That's when he told me what's in that log.

Right. What I'm trying to get at is, the only evidence you had at the time was the assertion by Mr Hamidi in this log of withdrawing 29,000 for Zoe's salary on 4 June?---Yes.

Right. If your aim of this was to make sure Mr Hamidi was complying with his side of the bargain, why didn't you ask to look at the bank statements?
---I definitely didn't think it was a problem and - - -

10 You didn't ask for that, did you?---No, I didn't think it was necessary.

You didn't ask to look at the books and records of the company to verify that's what the amounts that Zoe was being received as salary?---No, no, I didn't think it was necessary.

See, if the purpose was to keep Mr Hamidi honest or to verify his compliance with your agreement, his assertion that he paid Zoe 29,000 on this particular date is meaningless. It doesn't provide you with any verification, does it?---It provided me everything I needed and I mean - - -
20

It doesn't provide you with any verification because Mr Hamidi could be lying, couldn't he?---Didn't think that was an issue. I mean - - -

But answer my question. It doesn't provide any verification, does it?
---I didn't look at his statements so I couldn't verify it but I didn't see that was necessary.

MS HOGAN-DORAN: Commissioner, I note the time.

30 THE COMMISSIONER: Yes. We might just take the morning tea break. We'll resume at about 5 to 12.00.

SHORT ADJOURNMENT

[11.31am]

THE COMMISSIONER: All right, Mr Soliman. Ms Hogan-Doran.

40 MS HOGAN-DORAN: Thank you, Commissioner. I'll just let you get settled, Mr Soliman. Mr Soliman, just before the break you were asked some questions by the Commissioner about the money that you received from Ali Hamidi and AZH. You said that you were paid 75,000, Ali Hamidi said he paid you 175,000. You don't suggest that he owes you that 100,000, the gap between the two, do you?---I never suggested that.

Ali Hamidi says – and does he owe you any money? So, withdraw that. Do you say he owes you any money?---No.

Ali Hamidi says that you were going to share the money that was paid to AZH by RMS. What do you say to that?---Share in which way? I don't understand.

What about the money that's left in the account, you don't suggest any of that's owed to you?---No.

10 Ali Hamidi says that the money that was left in the bank account was intended to be shared with you to set up a small business or a gym or something like that. What do you know about that?---Are you saying he's suggesting that - - -

The money that was – suggesting that the money that was paid by RMS to AZH when it wasn't otherwise being paid to you, what was left was going to be used by the two of you to set up some business down the track?---No. That's, that's not true.

20 The point of a competitive process is to get value for money, do you agree with that?---That's one of the, yeah.

You told the Commission that Mr Hamidi came up with the prices for AZH's quotes. Remember that?---I think he always did, yeah.

And you told the Commission that you did tell Mr Hamidi the ballpark figures. Do you remember that?---Yeah. I mean, whenever any, any vendor asked, I mean we had to kind of give them a, like, ballpark idea.

30 And the reason you gave Mr Hamidi the ballpark figure was so that he would charge something in the ballpark or higher, is that the case?---No. Not higher. I mean, he just asked, you know, what is this kind of worth, this work kind of worth.

But you weren't telling him the ballpark figure to ensure that you would get the lowest process for RMS, that's not the reason you told him, is it?---I didn't tell him for any reason. I told him because he asked what, generally what's, you know, the ballpark for this type of work.

40 You agree that the figures – sorry, I withdraw that. Do you agree that the price that RMS, the ballpark of the price that RMS would pay is confidential information to RMS?---No.

What would have been confidential information?---I don't know off the top of my head. I'm sure there's lots of things which are.

Wouldn't confidential information include how much a competing vendor was charging RMS for a product or a service?---I guess, yeah.

And how much RMS was paying a competing vendor for goods or services?---I guess, yeah.

So if you were to give information that indicated how much RMS was paying for goods and service to Mr Hamidi, that was giving information which was confidential. Do you agree with that?---I guess so but I don't know I done that.

10 And you say you didn't do that because you just gave him the ballpark?
---No, I said I don't think I done that because, I mean, I just - - -

And so when you say you don't think you've done that, I thought you'd already said that you said you at least told, you at least said that you had given him the ballpark?---Yes, that's correct.

So what do you say you didn't do?---So you suggested that I told him someone's price. I mean, I don't think I ever told him anyone's price.

20 RMS uses public funds for its work. That's right, isn't it?---Yes.

And because it's using public funds for its work, it's important that RMS gets value for the money that it spends?---Among - - -

Do you agree with that?---Among other things, yes.

RMS should not have to pay for work that is not done for RMS. Do you agree with that?---Well, the work should be done, of course, yes.

30 Mr Hamidi accepts that AZH did not do the work it was supposed to do for RMS.---Okay.

You know that AZH was paid by RMS for work – sorry, I withdraw that. You know that AZH was paid by RMS?---I'm assuming they were, yeah.

Do you have any reason to doubt that AZH was paid, received money from RMS, Mr Soliman?---No, I assume it was paid, yeah.

40 You know it was, and you knew at the time. Isn't that right, Mr Soliman?
---I didn't check his statements but I assume they were paid.

You didn't need to check the statements, Mr Soliman, you were at his house receiving cash that he had got from the bank account. His only source of revenue was RMS. We went through that before morning tea. Do you remember that evidence?---I think so, yes.

You knew that AZH was being paid by RMS for work it did not do. Do you agree with that?---I don't agree with that.

You know that you were doing some of the work for RMS – I withdraw that. You knew that you were doing some of the work for AZH, weren't you?---No, that's not the agreement, that's not what the agreement was.

Just put the agreement that you say existed to one side and just focus on my question. You were doing work for AZH. Do you agree with that?
---What kind of work are we - - -

10 I'm not asking you about what kind of work.---Well, it's - - -

Did you do work for AZH?---It's important to separate the, the pre-work such as the scope of work and the learnings and things like this from actual work on the, on the road.

So it's pre-work now, is it? What's pre-work? How is pre-work - - -?
---I've already said that.

- - - for AZH different to work for AZH?---It's very different.

20 How is it different?---First of all I guess training someone up on certain technologies and programs and things like that is very different to doing the actual work.

Let's just take this in stages. Do you accept from me that if you had not told Mr Hamidi the things you say you trained him up on, he would not have known them. Do you accept that?---It would take him very long to learn it.

30 And from whom do you suggest he would have learnt it if he hadn't learnt it from you?---Lots of sources.

The answer is no-one. Isn't that right, Mr Soliman?---Well, the same way that I learnt, the same way that everyone else learnt, yeah.

Yes, and you learnt by being employed by RMS. Isn't that right?---That's not correct.

40 You've given evidence before that you were skilling Mr Hamidi up in the ITS area, project planning, what site trials should be done and what vendors he should get in contact with. Do you remember giving that evidence?
---Yes.

That's not pre-work, is it?---That is pre-work.

That is work necessary for AZH to do the work it was doing for RMS. Do you agree with that?---That's the definition of pre-work.

It was part of the work it was doing for RMS. Do you agree with that?
---No.

Are you trying to suggest to the Commissioner that – I just find it quite hard to understand your evidence, Mr Soliman, I apologise. Pre-work, which I might add you've never mentioned until today, you say that each of those things, which vendors, planning the project, are things that are separate to the work that AZH had to do. Is that what you're saying?
---From the actual trials and everything, yes, that's different.

10 Just excuse me for a moment. What you're essentially trying – I withdraw that. In today describing the work you did as being work which you described as pre-work, what you're seeking to do, Mr Soliman, is minimise what you did. Do you agree with that?---I disagree.

Counsel Assisting has said on a number of occasions during your evidence in respect to different parts of the questions she had put to you that your answers have sought to minimise your role in the matters being examined. This is another example of that. What do you say to that?---I disagree.

20 Do you agree that RMS should not have to pay twice for something it only used to pay for once? Do you agree with that?---For the same scope, yeah, sure.

RMS was already paying you a salary?---Yes.

RMS shouldn't have to pay AZH for work you're doing as part of your job. Do you agree with that?---I'm not sure I understand, I mean, I wasn't - - -

30 RMS shouldn't have to pay anybody else for the work that you do that's related to RMS work. Do you agree with that?---Yes.

And the pre-work that you said you did for AZH was related to RMS work, wasn't it?---That's not the way I see it. It was training and basically project planning.

You never told anybody at RMS that you were training Mr Hamidi, did you?---No.

40 You never told anybody at RMS that you were project planning for Mr Hamidi and AZH?---No.

You never told RMS that you were selecting – you never told anyone at RMS that you were telling Mr Hamidi what site trials should be done. Do you agree with that?---What site trials? Are you meaning - - -

In just using your words, Mr Soliman. You said to the Commissioner, that one of the things that you were doing with Mr Hamidi was telling him what site trials should be done and I want to know whether you say you told anybody about that?---I don't know what you refer to by site trials but I

think what you mean is recommendations for sites that the trials should happen at.

THE COMMISSIONER: All right. And you're being asked did you tell anybody within RMS that you were doing that work, that training for AZH?---No.

10 MS HOGAN-DORAN: No. You didn't tell anybody at RMS that you were giving Mr Hamidi templates, RMS templates?---I don't think so.

You didn't tell anybody at RMS that you were giving him ballpark figures? ---I don't think so.

And you didn't tell anyone at RMS the role you had in relation to the preparation of AZH's quotes?---No, I don't think so.

And the role that you had in the preparation of AZH's invoices?---No.

20 When was the last time you were in contact with Mr Hamidi?---It was late November.

And what was the manner of that contact?---The manner?

Was it a call, was it a text, was it an email, was it on WhatsApp, was it in Wickr?---No, it was in person.

In person.---Yes.

30 And where did that occur?---It was at my front door.

And what happened during, was that prearranged?---No.

He just turned up, did he?---Yes.

Is this the last time you've been in contact with him?---Yes.

Have you been in contact with him at all during this public inquiry? ---Definitely not.

40 Mr Hamidi says your brother came and spoke to him after you were raided by ICAC.---Yes.

Have you asked your brother to contact Mr Hamidi at all - - -?---No.

- - - during this public inquiry?---No.

Have you asked anybody to contact Mr Hamidi at all during this public inquiry?---I believe I asked my lawyer to contact him because he was trying to contact me.

I don't want to ask you about your discussions with your lawyer. Your phone was seized by ICAC - - -?---Yes.

- - - when the search warrant was executed last year. Is that correct?---Yes.

10 You got yourself a replacement one, may we take it?---Sorry?

You got yourself a replacement phone, may we take it?---What do you mean, may we take it?

Can we understand it, sorry.

THE COMMISSIONER: Did you get a replacement phone?---Yeah.

20 MS HOGAN-DORAN: Thank you, Commissioner.---Yeah, I do, yeah.

So the same phone you've had since that time?---Yep.

You told the Commission that there had been a break-in at your house in November 2018. Do remember telling the Commission that?---Yep.

And that you got a police report?---Yep.

30 Were there items stolen from your house?---Not that I could see, but it was a bit bizarre, the fence was smashed in and lots of things were moved, moved around.

Where did you keep the cash?---Just in my bedside drawer.

Did you check your bedside drawer?---There was no cash left.

Had there been cash there before the break-in?---No, I only had the, the cash on me that I needed basically for the house build.

40 THE COMMISSIONER: Sorry, so with the break-in, nothing was stolen but things were moved round?---Yep.

What, in your house?---Mainly outside.

MS HOGAN-DORAN: So you made a report, did you, to police?---Yes.

And what was the form of that report, did you call them up, did you go to the police station?---We called them up and they came.

You say we. Who's we?---Myself and my wife. She went to the house first and she noticed.

She was there, was she, she'd the one who noticed that there had been a break-in. Is that what happened?---Yes.

Have the police investigated this break-in, to your knowledge?---They just came to look at it, take prints I think and they left.

10 And did your wife report any items stolen, to your knowledge?---I don't know. I don't think so.

RMS has recently obtained orders from the Supreme Court of New South Wales freezing the bank accounts of AZH and the Hamidis. Do you know anything about that?---No.

20 You told the Commissioner that you thought AZH had up to – I withdraw that. Just still on AZH, the purpose of the scoping study trials and the reports was to inform RMS. Do you agree?---Yes.

It's only useful to RMS if reports are provided in a timely way, do you agree?---Well, depends what you mean by timely, but obviously it needs to be done - - -

Well, the reports that AZH did, not much use to getting it after the need has passed. Do you agree with that?---I guess so.

30 You told the Commissioner that you thought AZH had up to three years to do the work. Do you recall giving that evidence?---I think so. I said we had to provide some recommendations by 2020 for the Roads and Maritime state plan.

Mr Hamidi has said that there were no hard deadlines, he was told there was no hard deadlines for the reports to be done, and that was what you told him.---Didn't say anything like that to him.

What do you say you told him?---That's what I told him when - - -

40 What? What's "that"? What's the "that" in that sentence?---That by 2020 we have to produce the recommendations for different programs. That's, I guess, what he took as the deadlines for these things.

Just excuse me. The subject matter of those reports were matters relevant to the ongoing work of your unit, isn't that right?---Yes.

And if something was discovered in those reports or identified in those reports that were useful to your unit, you'd want to know about it as soon as possible, isn't that right?---I guess so, yes.

And AZH was paid for these reports before the reports were going to be even needed – sorry, I withdraw that – even required to be produced, is that right?---I think they were just paid on, based on, all, all the vendors are paid based on whatever the, the terms on the quotation are.

THE COMMISSIONER: And with AZH the term was payment will be due prior to the delivery of any service and goods.---I think so for most of them, yeah.

10

MS HOGAN-DORAN: You knew that at the time, didn't you?---Yes.

So what was your plan if AZH, having received all of this public money, didn't do the reports?---Guess I wasn't thinking about it because I didn't think it was something that could happen.

I suggest you did think about it because your plan was that you would do the work.---That wasn't my plan.

20

But that's what you did, isn't it?---That's not what I did.

You wrote a number of those reports yourself.---Don't agree with that.

It was important that those reports be done in a reasonable time after the money being paid. Agree with that?---Depends what you mean by reasonable. Some of these things are very complex.

30

Well, you knew people would be asking questions if they discovered all this money had been paid and there's still no sign of any reports. Agree with that?---Guess so, yeah.

And that's why you scrambled to get the reports done and put them on a USB and drop them in Mr Hamidi's letterbox.---I said that's not what I recall happening. I've told you what has happened.

40

You've said today and you said on the last occasion that you're trying to get this work done for this 2020 deadline and that there's a Roads and Maritime Services state plan, and that part of that plan is in the Heavy Vehicle Unit's business plan. Do you remember that?---I think so, yeah.

Could the witness be shown volume 17, page 140. Remember this document, Mr Soliman, Heavy Vehicle Programs Unit Business Plan 2017-18?---Yes.

You're the author of this document, aren't you?---Yes.

Just excuse me for a moment, Mr Soliman, I have to cough. Just go to the next page, would you. See you're identified on that page, Samer Soliman, Manager Heavy Vehicle Programs?---Yes.

And describing the work that is the work of the business plan for your unit? ---Yes.

Don't see anything there about a state plan.---That's not the page it's on.

10 If the witness could just be shown page by page and I'll ask you to stop – Mr Soliman, I'll ask you to say stop when you see the page.---Stop.

Right. So where is it?---I think it's referring to the branch plan accountability.

The branch plan accountability description?---Yeah, I think that's a combination of the branch plan and the state plan, I believe.

20 You created this page, did you?---Yep.

Which part here is the part that you wanted to explain to the Commission, helps is see that deadline?---No, there was, that's not what I, what I meant. There was Roads and Maritime Services state plan and from memory there was targets that had to be met by 2020 and from memory, these, the numbered ones here coming either from the branch plan or the state plan or it's a combination of both.

30 This is the state plan for 2017-18. There's nothing here that suggests there needs to be some sort of timeframe for the work of your unit. Do you agree with that?---No, I think you're missing the point of what I'm saying.

Well, my point is that I suggest to you that this is, referring to this business plan and the state plan, is just a distraction.---It's not.

That you're suggesting that it's this in order to provide some justification why you didn't, to provide some justification for why there was no reports coming from Mr Hamidi.---No.

40 And to provide some justification for your position that you didn't know anything about, that there were – I withdraw that.

Could we go back to page 143. Just while we're on this document, Mr Soliman, as manager of the Heavy Vehicle Programs Unit, you started with four direct reports but later had six direct reports which nine in your team. Do you see this is an organisational chart on page 143 of your team, should we say what, mid 2017, is that right?---Maybe a little bit later.

Well, this is the business plan for 2017-18. Can we assume that it's at least before the commencement of that financial year?---Yep.

And indeed Mr Zatschler's group, on the far right-hand side, senior project engineers, environment and the two positions below that, project engineer, technical officer, that's Mr Zatschler, Mr Lee and Mr Walker, isn't it?
---Yes.

10 And they had come into your unit at the beginning of 2017, is that right?
---I'm not sure when. It was around 2017, I thought.

Sorry, I didn't hear that.---I'm not sure when exactly. I thought it was a little bit later, but - - -

Well, it's certainly at a point prior to this document being created, isn't that right?---Yeah, it must have been, yeah, definitely.

20 I raise that, Commissioner, because there hadn't been an organisational chart brought to your attention.

THE COMMISSIONER: Thank you.

MS HOGAN-DORAN: Now, you agree that it's Mr Zatschler that is your direct report but Mr Lee and Mr Walker report through Mr Zatschler to you?---Yes.

None of Mr Zatschler's unit knew about you receiving cash from AZH or Novation, did they?---No.

30 None of Mr Zatschler's group knew that AZH was a company controlled by a friend of yours?---No.

No. None of Mr Zatschler's group knew that Novation was a company controlled by a friend of yours.---No.

None of Mr Zatschler's group knew that you were moonlighting, as you've described it?---No.

40 You kept them in the dark about everything, didn't you?---Well, about those things, yes.

And you kept them in the dark about those things so they wouldn't be tipped off to what you were up to.---I didn't see the point or need to tell them.

You knew you didn't want to tell them, because if you told them, they might suspect your behaviour.---Don't know. I didn't think about that at the time, but - - -

And that's why you deliberately kept them in the dark.---I didn't deliberately do anything. I didn't think about it.

Mr Theepan, Mr Thevathasan – Thevathasan, apologise – he was also part of your team. He's the Systems Strategy Manager.---Yes.

You initially asked him to be part of the Professional Services Tender Evaluation Panel, you recall that?---I don't know if I asked him but I think he was originally meant to be part of it.

10

At the last minute you disinvited him, didn't you?---I don't think so.

And you did it because you realised it was too risky to have him on that panel.---Risky how?

Risky for you, Mr Soliman.---How's so? How so? I don't recall doing that.

Risky for you and your plan to ensure that AZH would get onto that panel. ---I don't think that's what happened. I think he was busy and he pulled out.

20

I'm not talking about what's happened. I'm talking about why you disinvited - - -?---I don't agree. I did not disinvite him.

I'll put to you that you told him he didn't have to come and then you arranged for somebody else to come into that panel.---That's not what I recall happening.

30

Mr Thevathasan, you'd been asking him to raise purchase orders in March and April for AZH, hadn't you?---I think there was one purchase order, from memory.

We'll find there's more than one. But you never told him about your relationship with Mr Hamidi?---No.

And that you'd been receiving money from Mr Hamidi.---No.

40

But he did come and check with you to see if work had been delivered before payment should be made, didn't he?---Yeah, I recall him asking me for one of the thermal camera projects I think it was.

He's showing initiative, raising a question with you, is it appropriate that they be paid?---Yes.

You didn't tell him it wasn't appropriate for them to be paid.---Don't recall what I said.

I've got a side arrangement with Mr Hamidi.---I didn't say that, no.

You had an opportunity to say it at that time and you didn't.---Don't think that was the point of his question, to see if there's a conflict.

I'm just asking you whether you could have said that to him at the time and you didn't.---Well, I wasn't asked, so, no.

So you're suggesting that he had to ask you about something that you should never have done in the first place? Is that what you're suggesting?
---Yeah, that was the point of his question.

10

You're suggesting that he needs to suspect you?---No, that's not what I'm suggesting at all. I'm suggesting that wasn't the point of his question.

And because it wasn't the point of his question you stepped around it and didn't volunteer the information.---No, I didn't step around it, I didn't think about it because I wasn't asked.

But he'd asked some questions, there was a risk he might questions at the panel meeting, wasn't there?---No.

20

And there was a risk that he, in asking those questions, other members of the panel might put their heads together - - -?---No.

- - - and ask more questions about AZH.---No.

Ask questions that queried the truth of statements in AZH's submission.
---No.

30

And so you realised, did you, that it was better to keep Mr Thevathasan out of it.---No.

You called in Ms Lemarechal at the last minute. I don't think it was me. I thought Theepan called her.

Well, Ms Lemarechal did not suggest in her evidence that he called her.
---Okay.

40

And when Ms Lemarechal was being cross-examined your counsel did not suggest it to her.---Okay.

David Jones was also on that panel, wasn't he?---The PSC Panel?

No, no, sorry, I withdraw that.

THE COMMISSIONER: No.

MS HOGAN-DORAN: Subsequently, Mr Jones and Ms Lemarechal were on the 125 portable weigh scales panel. I'm just completing that though, Mr

Soliman. I'm sorry, I distracted yourself and myself. I just want to go back to the Professional Services Panel. AZH's submission for the panel was being considered. You were there, weren't you?---I was there for the first half an hour max.

You were there because you wanted to make sure that nothing would go wrong with your plan.---No.

10 Your plan was that AZH would get onto this panel, wasn't it?---That's not why I was there.

That's why you ensured who would be on that panel and who would not be on that panel.---I wasn't even there when they started scoring, from what I, from what I can recall.

The panel had no reason to doubt that what was in AZH's submission was true and correct. Do you agree with that?---I have no idea what they were thinking.

20 I'm not asking about that, but you were there, you knew that the AZH submission, you'd seen it before it was provided to the panel. I'll start again. You'd seen it before it was seen by the panel, hadn't you?---I think so, yes.

You knew that the AZH submission contained false information about the skills and experience of Mr Hamidi and AZH.---Don't recall seeing those false parts, except until now.

30 You never informed the panel members that you had seen the document beforehand.---No.

And you never informed the panel members that the information about AZH was not completely true and correct.---That's not what my views were.

You never told them about your side arrangement with AZH and Mr Hamidi.---No.

40 You should have. Do you agree with that?---In general of course I should have, I should have declared, yes.

And you knew that at the time.---It was probably a little bit after, it was around 2016-17, I think it was '17 when I saw the first conflict of interest document so - - -

Remember I showed you at the beginning of my questions to you a document in 2014 that explained clearly that if you have a relationship it needs to be disclosed?---That's not what I meant. I mean I'm pretty sure it

was around 2017 sometime when I saw the first conflict of interest declaration document.

It's self-evident, isn't it, Mr Soliman, that if you have an arrangement by which you're going to receive money, you should tell the people who are going to be paying that money out, authorising that money to be paid out. Don't you agree?---It may seem self-evident now but it only became very clear to me after I saw the first conflict of interest statement, declaration.

10 I suggest that that's not true and that you knew.---I don't really agree with that. It became very clear after I knew it was wrong at that point.

You kept the panel members in the dark because you wanted to ensure that you and your friend would benefit from AZH being on that panel, you agree?---I didn't keep anyone in the, in the dark, I wasn't about those questions.

20 They didn't ask any questions of you because they had no reason to believe that there was any being kept from them by you.---I think so, yeah.

You were the most senior person in that room, weren't you?---I guess in terms of the structure, yes, but in terms of experience, no.

You were most senior person in the room and they were your subordinates. ---In terms of the structure, yes, but not in terms of the experience and the - -

They were entitled to look to you for guidance?---I don't know.

30 They were entitled to, they in fact did look to you for guidance, didn't they?---I guess if anyone had any problems, they ask me sometimes.

Now after that 125 portable weigh scales panel meeting, Mr Jones didn't want to sign the tender evaluation report. Do you recall that?---I wasn't in, in the country but I've seen the evidence about it.

Are you suggesting you had no idea about that at the time?---That's correct. I wasn't in the, in the country.

40 Are you saying you had no knowledge that there was this difficulty with Mr Jones at any point before this Commission?---Like I said, during the time that he done that, I didn't know. When I came back from my trip then I found out about it.

So you did know when you got back from your trip?---Yes.

Now, you appreciate that was, what Mr Jones did risked the success of your plan that Novation would succeed on the 125 portable weigh scales tender?
---No. Because prior to that he always said that the PAT scale was the one that he wanted.

But you understood that what he had done had posed a risk to Novation winning that tender, you agree?---That's not what I thought about it.

10 And because he had posed that risk, he potentially posed a risk to the next Tender Panel Evaluation, didn't he?---That's not what I thought about it.

And that's why you kept him out of the second Evaluation Panel?---I did not keep him out of the second.

He was a subject matter expert?---Yes.

He would be of use the Evaluation Panel?---I guess so.

20 You were the senior manager of this unit?---I was the manager of the unit, yeah.

This was your, this tender was for the purposes of providing scales that would be used as part of your Heavy Vehicle Weighing Program?---Yes.

You could have taken steps to ensure that Mr Jones participated in that panel?---I did.

30 You told Mr Lee that you'd had a drama with Mr Jones.---I never had a drama with him, I never said I had a drama with him. I don't know where that's even coming from.

You just told Mr Lee that you had a drama with him, you may not have in fact had a drama with him but that was what you told Mr Lee.---That's false.

And you told Mr Lee that because you wanted to divert him from getting involved in that drama.---That's false.

40 And you wanted to divert him from asking questions about why Mr Jones was not being included in the second panel.---No.

And it suited your purposes that he not be included in the second panel because as a subject matter expert he may raise questions.---That's not true. He was asked.

And thus Novation, with whom you had a deal, might not succeed in becoming the successful tenderer.---That's not true. He was asked.

You said earlier today to the Commission in answer to questions by Counsel Assisting that you accepted that what you did was wrong.---Yes.

It was wrong in accepting money from them.---Yes.

And it was wrong in favouring them.---Yes.

10 It was not just that you were not doing your job. You were doing something way outside the proper boundaries of your job. Do you agree with that?---I don't really understand the question.

You were using your job to benefit your friends and yourself. Yes or no? ---Not necessarily. I mean, that's not the way that I saw it at the time.

“Not necessarily” is the answer you have used throughout this hearing to hedge a difficult question. You could not have done what you did if you were not in the position of the Manager of the Heavy Vehicle Programs Unit. Do you agree with that?---Probably could have. Anyone could have.

20 You could have done it without being in that role? Is that what you're saying?---Sorry, you're putting many, many things to me at once. I don't know what to answer first.

All right. I'll try it again and I'll take it slower for you, Mr Soliman. I appreciate you're concerned about where I might end up, and to be fair to you, I will take it in steps. You agree that your actions benefited your friends and yourself? Do you agree with that?---Benefited my friends, and the other deals that I had with them was separate, but of course I got money from them so there was a benefit there.

30 And you achieved that end by using the knowledge and the position that you had at RMS.

THE COMMISSIONER: Do you agree with that?---Not really, no.

MS HOGAN-DORAN: Yes or no, Mr Soliman?

THE COMMISSIONER: No, he doesn't agree with it.

40 THE WITNESS: No, I don't agree. That's supposition.

MS HOGAN-DORAN: Well, you said “not really”. It's hard to tell. Well, the situation with AZH didn't spin out of control, Mr Soliman, did it? ---Well, in my view it did because I spoke to him in the middle of 2018. I was, I was a bit worried.

Your situation with Novation was not one in which just the lines got blurred, was it, Mr Soliman?---I believe it was.

You carefully planned the scheme with Novation, didn't you?---I don't agree with that, no.

You carefully planned the scheme with AZH.---Don't agree with that.

You never disclosed your friendships to anyone at RMS.---I did.

10 Prior to them winning the work.---I actually did. I've given evidence before.

You didn't disclose the arrangements you had with AZH at any time.---No.

You never disclosed the arrangements you had with Mr Thammiah at any time.---No.

You sidelined those who were a risk to your plans.---I did not.

20 You took steps to cover up your tracks.---I don't agree with that, no.

In corresponding with AZH, you made sure that they looked professional and not the friendly, personal friendship communications they could have otherwise been.---I sent them emails the same as I sent anyone else emails.

You took steps to ensure it was your subordinates who would raise the purchase orders for AZH and for Novation.---That's, no, I was the manager of the team. I signed basically every single purchase order.

30 You took steps to ensure that you could be present at tender evaluation meetings which would favour your friend.---I said I was there for 20 minutes or so for a PSC Panel.

You used a USB back and forth with invoices and quotes with AZH rather than using the email system of RMS to cover your tracks.---Don't agree with that. That wasn't what I was doing.

40 You created and backdated documents for the subpoena in August or September 2017 in order to cover your tracks.---Like I said, I don't recall doing that.

You loaded reports said to be by AZH onto another USB and put it in Ali's letterbox in order to cover your tracks.---Like I said, that's not what happened.

You took your payments from Stephen and from Ali in cash rather than having bank transfers in order to cover your tracks.---It was cash but it wasn't for any other purpose than that's what we spoke about.

When that subpoena came, there was a risk that the RMS Legal Department would see that you were not using the right documents for the purposes of those tender evaluation processes, wasn't there?---I didn't think anything like that at the, at the time, no.

There was a risk. It was a threat, wasn't it, to your plan being uncovered?
---What plan?

10 Your plan to favour AZH.---Sorry, you're talking about the Federal Circuit subpoena?

Yes.---You mentioned subpoena.

THE COMMISSIONER: And it's the Federal Court.

THE WITNESS: And she's mentioned AZH but the subpoena, it's - - -

20 MS HOGAN-DORAN: About Novation, wasn't it, is that what you're saying?---I'm mixed up now.

THE COMMISSIONER: Sorry, the subpoena for the Federal Court, that was AccuWeigh and WeighPack.

MS HOGAN-DORAN: Yes. But the documents that were being called for production - - -?---That's AccuWeigh and WeighPack.

- - - concerned - - -?---AccuWeigh and WeighPack.

30 That's right. And the documents that were called for production would have shown that you had lied in the course of that process.---How did I lie?

THE COMMISSIONER: You don't agree that it would have revealed that you lied?---I didn't lie, no.

40 MS HOGAN-DORAN: All that we've heard in the last four weeks of this Commission's hearings where Counsel Assisting has put to you various things that you have done, you set out to benefit your friend at AZH. Agree?---I didn't set out to do that in the first place. There was work there to be done and he was looking for work at the same time.

You took steps to ensure that your friend would continue to, would receive a benefit.---Again, it's the same thing. I mean there was work there to be done and he bid, bid for the work, and yes, I favoured him and he continued to get the work.

What you did in respect of AZH and in respect of Novation was to facilitate a fraud on RMS. Do you agree?---I don't agree. That's, no, I don't agree with that.

And you knew that was the case at the time. Do you agree?---Did not think it was a fraud at the time, I thought I was, there was work there to be done um - - -

And what – sorry, what, Mr Soliman?---There was work there to be done and these were people who could do the work and that’s as much as I thought at the beginning.

10 What you did was corruption, wasn’t it, was corrupt, Mr Soliman?---I’m sure you’re going to see it that way.

I beg your pardon?---I’m sure that you will see it that way. There’s no other way to see it.

There is no other way to see it, is there.---That’s right.

And you knew that all along.---No, that’s not what I was thinking.

20 No further questions, Commissioner.

THE COMMISSIONER: Thank you. Now, Mr O’Brien, you’re next. How long do you think you’ll be? Just a rough estimate.

MR O’BRIEN: About an hour, if that.

THE COMMISSIONER: All right. Mr Lonergan?

MR LONERGAN: 15 minutes.

30 THE COMMISSIONER: Sorry, 15?

MR LONERGAN: Yes.

THE COMMISSIONER: I neglected you, Mr Mahon.

MR MAHON: It’s not intended there be any questioning, Commissioner.

40 THE COMMISSIONER: All right. And - - -

MS FRYER: Not anticipated that there will be any questions, Commissioner.

THE COMMISSIONER: Mr Lawrence, how long do you think you’ll be?

MR LAWRENCE: I don’t think I’ll be very long, Your Honour, but I would ask that after the other finish that I have about 10 minutes, no longer than that, just to clarify any other areas with Mr Soliman.

THE COMMISSIONER: To ensure that we finish Mr Soliman's evidence today, could we be back at 10 to 2, so a slightly shortened lunch break, and we're just going to keep on going till we finish Mr Soliman. So if anybody has any arrangements or had conferences or I hate to say, childcare arrangements, could you try and re-organise it for this afternoon. I am hopeful we'll be finished by 4.30 but I'm very keen to get Mr Soliman finished today. Mr Lonergan, on the last occasion I think I was very optimistic that we might get to Mr Thammiah today. I don't think that's going to happen. I notice he's here in the hearing room. Obviously if he wants to stay he's welcome to stay, but I cannot see us starting his evidence today.

MR LONERGAN: May it please the Commission.

THE COMMISSIONER: All right. We're adjourned until 10 to 2.00.

LUNCHEON ADJOURNMENT

[1.06pm]