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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 28 MAY, 2019

AT 2.00PM

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

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

THE COMMISSIONER: Ms Wright.

MS WRIGHT: Commissioner, I call Paul Walker.

THE COMMISSIONER: Mr Walker. Now, do you take oath or an affirmation?

MR WALKER: Affirmation I think.

10 THE COMMISSIONER: Right. Maybe stand away from the microphones.

MR WALKER: Yeah.

THE COMMISSIONER: Thank you, Mr Walker. Mr Glover.

MR GLOVER: Commissioner, Ms Hogan-Doran and I seek authorisation to represent Mr Walker.

10 THE COMMISSIONER: All right then. And have you explained section 38 declaration to Mr Walker?

MR GLOVER: Yes, it has been explained to him, Commissioner, and one will be required.

20 THE COMMISSIONER: All right. Mr Walker, you've had section 38 and its protection explained to you. Every witness who seeks a declaration under section 38, I always emphasise to them there's a very important exception, and that is it does not prevent your evidence being used against you in a prosecution under the ICAC Act, including an offence for false or misleading evidence. That's a very serious offence, it's like a form of perjury, it brings with it a maximum penalty of imprisonment up to five years, so it's very, very important you're truthful today.---Yes, I understand.

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

30

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

40 **OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Right. Ms Walker. Ms Wright, sorry.

MS WRIGHT: Thank you, Commissioner. Sir, could you please state your full name?---My name is Paul Raymond Walker.

Are you employed by Roads and Maritime Service?---Yes, I am.

When did you commence your employment at RMS or its predecessor agencies?---In 1978.

What is your current job title at RMS?---Technical officer.

How long have you been in that role?---Technical officer job description around 20 years.

10

In April 2017 did you join the Heavy Vehicles Programs Unit?---Yes, that's correct.

Did you start reporting to Mr Guido Zatschler?---I was already reporting to him. The team that I work in were moved, the three team members were moved into that unit.

And you continued to report to Mr Zatschler?---Yes, he's my substantive supervisor.

20

Did you since that time from time to time perform work at Mr Soliman's direction?---Yes.

What are your responsibilities in the role of technical officer?---My role has been primarily in relation to vehicle emission programs which is something we're transitioning out of now, so basically the plan was to skill us in other areas I guess.

30

What were your duties or what have been your duties in relation to vehicle emissions programs?---Maintaining equipment systems, arranging calibration of equipment, just oversight of, we ran a couple of emissions laboratories and we had no accreditation for those so I was one of the NATA signatories for that.

The, sorry, NATA signatories?---NATA's the association of testing authorities, it's the overarching body for, what's the word, basically anybody who gets a pathology test these days, it's a NATA laboratory that does the testing, so it has that sort of basis.

40

THE COMMISSIONER: Mr Walker, can you just remind me, when was your team moved into heavy vehicle enforcement?---So there was a restructure and we were moved into that team on, the best I can work out based on stuff that I've looked at, 3 April.

Which year?---2017.

Right, thanks.

MS WRIGHT: You've referred to testing and vehicle emissions, has it been part of your responsibility in that role to conduct or manage scoping studies at all?---No.

Now, you've heard of the company AZH Consulting?---Yes, I have.

Did you first become aware of that company in December 2017?---Yes.

10 How did you become aware of AZH?---I was asked to get involved in preparation documents related to raising a purchase order for a scoping study for AZH, being done by AZH.

Who asked you to do that?---Mr Soliman.

What was the purchase order about?---I think it was called Modern Scale Study, thereabouts, Modern Portable Scale Study.

20 What did Mr Soliman ask you to do?---It was the conversation, and this was all done verbally, would, would have been along the lines of, "I need to get you move involved in the work that the rest of the team does, I'll show you how to do this first scoping study," so give me some training basically, "And then later on you can manage things yourself."

THE COMMISSIONER: Can I just stop you. When you started that answer you said it would have been.---Well, it was, it was.

That's your recollection of the conversation?---That's my recollection. That is my recollection of the conversation.

30 MS WRIGHT: Did he ask you to do anything specific at that stage?---He asked me, he sent me a copy of I think an example of a form to fill out and basically would have told me where, you know, what form it was, how to complete it, that sort of thing. So he gave me examples I would think. There was also a requirement that I needed access to CM21, which is a contract system. I arranged the access to, to that system but I've never actually used it.

And he asked you to fill out a form for the creation of a purchase order. ---For the creation of what is known as a 5399 form.

40 For the Testing Modern Technologies trial to the best of your recollection? ---That's correct.

Did you make any inquiries about the company AZH at that stage?---I did, because I needed the ABN for the company, went and did a search on ABN Lookup.

Is that the reason that you made inquiries about the company?---Yes, yes.

And what did you do?---So you put the name into the ABN Lookup search engine which is an ASIC search engine and it brings you up some details of, of the actual company in terms of when it was established and things like that and, you know, where it was based in terms of address and things like that.

10 And did you note anything particular about the company?---It didn't seem to have been established for very long. It didn't seem to have anything other than a post office box address in terms of its locality.

And what about a phone number?---There was no phone number that I can recall when I did the ABN Lookup search.

And did you consider any of that to be unusual or it was not of interest? ---Not in the ABN Lookup, I don't believe they record phone numbers on that, I couldn't be a hundred per cent sure about that.

20 But you mentioned that there was only a PO box. Did you think any of that information, did it appear unusual to you or not?---With my previous experience of dealing with vendors, generally they will have a street address somewhere. That's my experience.

So did you think it was unusual or not?---Yes. Yes, I thought it was slightly unusual compared to my previous experience.

30 Now, did you take your own initiative to do those checks or were you asked or advised or given any guidance about what you should do with a new vendor?---That is generally something that you, you needed that information to fill out the form, verifying the ABN of the, of the provider. In some cases, you, I know that our procurement area have asked you to provide a copy of a print out of the ABN details, particularly if it's something that hasn't been established in the system before.

But so you did that of your own initiative?---Yes.

40 Now, did Mr Soliman ask you or give you any training or anything before you embarked on that task?---Other than saying here's what a, you know, here's what one looks like, here's all the information you need to fill in, that sort of thing. That's the amount of training that I got.

You weren't given training about awarding contracts or anything of that nature?---No, no.

Now, could Mr Walker be shown volume 4, page 58, please. This is an email chain from you dated 21 December, 2017. At the bottom of the page, Finance or Transport Shared Services has asked you for some supporting documentation for this contract creation request and then you've sent back

some supporting documents, including the RFQ and three quotes. And if we turn to page 60, that's the RFQ dated 7 December, 2017. Did you have any involvement in drafting the RFQ?---No, I did not.

What did you understand – perhaps if we could turn to page 61. That sets out the scope of the works in respect of which quotes were being sought, you agree?---Yes.

10 What did you understand about the need for this trial?---Only what I was, the information I was given. I wasn't actually given a copy of this at the time but I started to prepare the paperwork. So - - -

THE COMMISSIONER: Sorry, you were given a copy?---I was, was not given a copy of it. That's, that's the, the email trail where it says, "Can you provide more information," the first time I would have seen this document was when I actually asked Mr Soliman for of, all of, copies of it and he emailed them to me,

20 MS WRIGHT: You've obviously sent something to finance for them to follow up with you about supporting documentation?---So I've, I've sent - - -

If you could just wait for the question, Mr Walker.---Sorry, sorry.

What is it that you sent to Finance?---So the initial contact with Finance was the sending of the 5399 form.

30 And you sent that without any request for quote?---I can't recall exactly whether there was anything with it but, but there weren't these other documents with it at the time.

And then they've asked for supporting documents and you have then requested from Mr Soliman the quotes and the request for quote, is that how it went?---That is correct.

He's named as the manager of the project at page 66, but is it your evidence that you had nothing to do with this project?---I did not have anything to do with this project.

40 You've sent three – I'm sorry, if we could just go back to 61. Do you see the request includes not only a trial but a procurement of equipment?---Yes. Yes.

Did you think that was unusual or did you not make any, take any notice of that?---Based on my experience and the type of contract (not transcribable) I thought it was unusual.

Why was that?---Because this is a professional services contract. Professional services contracts aren't for procuring equipment.

Did you raise that with Mr Soliman at all?---No, I didn't at the time, but I wouldn't have read this at that time that I sent the original form in.

And, sorry, had you been involved in any trials or scoping studies previously?---Prior to completing this form, no.

10 The quote at page 68 from AZH is at page 68 and then the actual quote is at page 70. You would have seen that quote?---Yes.

And at page 71, one of the terms and conditions is delivery, 100 per cent payment due prior to delivery of service and procurement of goods. Did you notice that?---I was aware of that on the basis that I was told that would need to be included in the 5399 form.

20 THE COMMISSIONER: Sorry, who told you that?---I, I, I, well, I did have a discussion at the time about that I think, I believe.

With whom?---I can't be a hundred per cent sure so I'm not going to commit to that. It was either on the basis of what was written on the quote, but it, it's not something that I'm used to of paying a hundred per cent upfront. It's not something I see regularly.

But who did you have a discussion with?---I believe it would have been with Mr Soliman, which was the only person that I was dealing with in relation to this matter.

30 MS WRIGHT: Did you think that that was unusual to have that sort of term and condition?---My experience suggests that that is unusual, yes.

And did you raise that with Mr Soliman?---No, I did not.

40 Then you provided the two other quotes. One's from JYW at page 72, and then from SGS at page 74 to Finance. I take it from your previous answer that you're not able to assist the Commission with the order in which those quotes were submitted to RMS?---No. No, all these, all, the, these were all emailed directly to Mr, Mr Soliman. He received them.

And then provided them to you?---And then provided them to me.

And then at page 76, this is an email chain in January, 10 January, 2018, in which you have been provided the invoice from Zoe Hamidi, director of AZH Consulting. Do you see that?---Yes.

That suggests that AZH was selected out of the three companies quoting, does it?---Yes.

Were you informed that AZH had been selected?---I'm making an assumption here but I completed a form to get a purchase order generated for AZH, so I must have been informed at some stage that AZH were the winning bidder on that, yeah.

But you don't know anything about that selection process at all?---No.

10 Ms Hamidi sent the invoice to you, and at page 77 you're actually named on the invoice. Do you know how you came to be named on the invoice?
---The person who's the requester on the 5399 form is the person that appears as, on the purchase order.

And was the purchase order sent to AZH by you?---I believe I would have emailed it to AZH, to whatever the email address provided.

And then you've forwarded, at page 76, the invoice to Mr Soliman?---Upon receiving the invoice, correct, yeah, I did forward it to him.

20 Why did you do that?---To confirm that it was okay to get it paid.

So you don't have the delegation to approve payment of an invoice?---No. Well, given that this was not my work and it was a hundred per cent payment upfront, I wanted somebody else to tell me that it was okay to pay.

What was his response?---There is an email saying that, "It's okay to pay when you receive in in your workflow," I think were the words.

30 The invoice at page 78 includes some review sessions, do you see at point 5, with RMS?---Detail reports, report creation, review sessions with RMS, yes.

Are you aware of any review sessions with AZH?---No. No, I was not, I did not participate in any of those review sessions.

40 And with the work that was quoted and invoiced, would you have expected to see a report or to be involved in any way in this matter?---My understanding is my involvement was to get the purchase order raised and that was my entire involvement in the whole thing. I was not involved to be a participant in the rest of the project.

I thought you said at the start that Mr Soliman had approached you and said, "I can train you up about scoping studies"?---Yeah but with this first one and the subsequent other three after this, I was not involved in any of those.

Did you ever say to him, "But hang on, what about the actual work? Can I be involved in knowing about these projects in some more detail?"---I did not, did not ask him about it.

So he asked you to complete the paperwork and arrange for payment of the invoice but that's it?---That's correct.

And you didn't take any interest in whether that was being paid for was actually delivered?---I, I arranged payment of invoices on the basis of the terms that were originally arranged on the 5399 form.

So you didn't take any interest in whether what was being paid for was being delivered?---I didn't see that as my role.

10

So the answer's no?---No.

THE COMMISSIONER: Did you say that you made an enquiry of Mr Soliman, which is on page 76, "I've received this invoice from AZH," then you received an email from Mr Soliman saying something along the lines of that's - - -?---Yeah. So, so everything's done electronically in the Equip system, which has been mentioned previously. So I receive an email with a link and I click on the link and it takes me off to the workflow system. You do a goods receipting process within it, you know, you've been told that it's okay for the, you know - - -

20

No, no, no. That wasn't my question.---Sorry.

You made an - through your workflow or whatever it's called, you were notified that an invoice has come through from AZH?---So the normal process is I shouldn't receive the invoice anyway. They should be sent directly to what they call TSS Invoices. There's an inbox for that but some of the vendors don't quite get it right and then send them directly to the people that we're dealing with. So I forward it on, I think - - -

30

Hold on. Could we get page 75 up, please. Sorry, so down the bottom you've seen, it's gone to TSS Invoices and that's - - -?---Yeah, so it has gone to TSS Invoices.

You're copied?---As, as well as to me.

So that's the invoice, you then email Mr Soliman saying, "I've received this invoice from AZH Consulting." Did you receive an email from Mr Soliman concerning the invoice?---Yes, there is an email which obviously you don't have a copy of.

40

Well, I'm not too sure at the moment.---Yeah. And the advice was, when it arrives in your workflow, workflow being a reference to, to part of Equip, it's okay to, you know, get, arrange the payment.

MS WRIGHT: Do you recall - sorry, Commissioner.

THE COMMISSIONER: That's fine.

MS WRIGHT: Do you recall an in-ground thermal camera trial awarded to AZH?---I recall being asked to prepare some of the paperwork for that, yes.

And would you describe your involvement in that project in a similar way, that is you prepared some paperwork in relation to the purchase order?
---Yes, yes.

10 At volume 4, page 51, you were – just before I get to that, who asked you to be involved with the paperwork in respect of that trial?---Mr Soliman.

And what did he tell you about the trial or the project?---I think in this process I actually was able to see prior to awarding to the successful bidder we actually sat in a room and he showed me all the bids that had come in, we looked at it, worked out which one was the cheapest one and also tried to establish if there was some value in the others that would make it a winner over and above something that was cheapest. Generally they were always awarded to the cheapest one.

20 How many bidders were there, do you recall?---For that one possibly up to four. They would have gone out to anything up to the four people or the four people or businesses that were on the PSC Panel.

And you and Mr Soliman sat in a room and looked at the responses to the request for quote, was it?---Yes.

And what did he, did he select AZH?---I think we agreed on the basis of price that that was the one that would be awarded the, the work.

30 And then you were asked by Finance to provide a letter of acceptance here on page 51 of volume 4?---Yes.

And then you sent to Mr Soliman a draft acceptance letter for his review?
---Yes.

And at page 52 is the letter. Is that the letter that you drafted?---Yes, that is.

And you've addressed that to, "Dear Zoe."---Yes, that's correct.

40 And at page 53 you then sent the purchase order to Ms Hamidi. Do you agree?---Yes.

And you've said, "Hi, Zoe." Did you have any contact with Ms Hamidi at this time?---I believe not. I don't recall ever speaking to Ms Hamidi.

Well, would you normally use that language which is quite - - -?---I think I'd use - - -

Sorry, if you could just - - -?---Sorry.

It's just for the transcript.---Yeah.

10 Would you normally use that sort of language, "Hi, Zoe," it sounds quite familiar, with someone you haven't had contact with?---I generally don't address anybody as Mr or Mrs if I know their first name, particularly in an email which tends to be a less formal way of communicating with people. And the use of the "Hi, Zoe," would have been on the basis of
10 correspondence I'd received from them which said, "I'm Zoe," or words to that effect.

Well, is there such an email?---I'm not 100 per cent sure, but the, the, the, the name Zoe didn't come out of thin air.

Well, you received a quote, didn't you, from AZH?---Yes, perhaps the name Zoe's on the quote.

20 THE COMMISSIONER: If you go to maybe 50A.---Yeah, so there's obviously an address block there with the name Zoe in it so - - -

You just pick up - - -?---Yeah.

MS WRIGHT: And you've used, you'd say "Hi." That would be your practice, to say hi rather than dear?---Yeah. All my emails start, generally start with hi.

30 And why did you send her the purchase order?---I sent it to the mailbox that we had available which is the one that's manager@azhconsulting and addressed it to Zoe which is the name that was on the, on the documents that I had.

Why did you send her the purchase order. Is there a reason that she needed the purchase order?---It's normal practice to send the purchase order to the provider of the service.

Do you know why they would need that document?---So they could reference the purchase order number on the invoice I assume.

40 But that could be sent to them separately rather than sending the actual purchase order.---Could be. Some people work on the assumption that the actual area that generates the purchase order sends the purchase orders, they generally don't in my understanding, they usually leave it, which is a reason why they're actually sent to the requester.

Were you asked to send her the purchase order?---I may have been but I don't recall.

Now, the Commissioner took us to the quote. And then you were sent, at page 56, the invoice in relation to this project, or at least it was addressed to your attention. Did you receive the invoice?---Yes.

10 And the invoice includes development of a thermal camera system including controller and vehicle trigger. And it says that if the quote is accepted, AZH will release the concept design drawings and technical specifications to RMS. And it refers to development, engineering and fabrication of a suitable in-ground housing and the provision over the page, at 57, of a scoping study report.---Yes.

And so AZH is invoicing for all of that. Did you know whether any of those things have been done or provided by AZH?---I did not.

Did you approve the invoice?---Approve the invoice, I didn't approve the expenditure. I approved the payment of the invoice.

20 Did you consult with anyone about approving the payment of the invoice?
---No, I paid it on the basis of the terms of the original request, which said a hundred per cent upfront.

Without knowing whether these items had been or would be provided?
---Yeah, I, I did it as per it said on the, on the terms, which said a hundred per cent payment upfront. So I filled in, filled out a request for a purchase order which says a hundred per cent payment upfront. I received a purchase order for a hundred per cent payment. Paid it.

30 THE COMMISSIONER: Hold on. You received a quote which had as a condition a hundred per cent payment would be due prior. "Customer will be invoiced for the selected services after indicating acceptance of the quote, and a hundred per cent payment will be due prior to the delivery of service and procurement of goods." So that was in the - - -?---It's kind of one and the same thing, isn't it?

Well, I'm just reading directly from the terms and conditions.---Yeah, yeah, yeah. But it's, but it's saying that they want payment before they do any work, effectively.

40 So you got that.---Yes.

You raised the purchase order.---Yes.

Then you received an invoice from AZH which was identical to the quote.
---In terms of dollar value, yes.

And also what they said they were going to do.---Yes.

And on that basis you put in motion the payment of the invoice.---Yes. Yes.

But I thought you didn't have the delegation or the authority to do that.
---The way it works is that somebody has the authority to approve the expenditure and, and, I guess technically the, this process is not typical of what I'm used to. Usually I'm the one doing the work and I'm also the person requesting the purchase order, so therefore I have full visibility of what's going on because I'm the one doing the work or, or have oversight of the work, but it's not unusual for somebody who is above you in management structure to come along and say, "I need a purchase for X, Y, Z. Can you organise it for me?" You'd be the requester and you'd be seen as the person who does two functions, arranges the purchase order but also arrange payment at a point where, because it is sent back to the requester for payment or what they call goods receipting.

So you arranged payment?---I did the good receipting which I assume triggers a payment.

But, I'm sorry, I'm having a bad day. You said previously you couldn't authorise.---I can't authorise the expenditure of money as such, so I can't raise a purchase order in my own right.

So, okay.---I have no authority to spend any money.

And because that purchase order reflected the terms and conditions – that is, upon accepting the quote they're going to be paid immediately - - -?---Yes.

- - - that then allowed you to arrange for the payment on that basis?---Yes.

Okay. Thank you. Sorry.---That's all right.

MS WRIGHT: Did you ever follow up about whether this project or any of the items invoiced were delivered?---I attempted to follow up on this after the triggering of this inquiry or the events that triggered this inquiry.

That was the first time you'd followed up?---Yes.

What prompted you to do that, Mr Walker?---I became aware of another thermal camera project.

And you recalled that this one had been paid for?---Well, this basically looks like the same project.

And when you say you found out about another one, was it another AZH one or was it a - - -?---No.

- - - different company?---No, it's IMC.

And so you looked back at the documentation in relation to the AZH's quote?---I was invited to a meeting in November, around the middle of November 2018 to, I think it was to a phone conference with the principals of IMC to talk about this thermal camera project that they had. I don't think anybody had much visibility, up until then they didn't know what was going on. After that meeting I went, I've seen, you know, purchase orders and things that sounds remarkably like exactly the same thing, and I think I had, we had a discussion, myself and, and our unit manager at the time who'd replaced Mr Soliman, Mr Sarkar, and he said, "Can you follow this up and find out what's going on with this, you know, what is it?"

What did you do?---I tried to ring AZH, made a phone call to the mobile number that I had available to me.

Was that a mobile number that was one of the quotes or invoices?---It would have been a mobile number that would have been on one of the quotes.

And did you speak to anyone?---No.

20 Did you leave a message?---I understand that there's been some evidence given that I did. I don't recall it, but that was quite some time ago in terms of, you know, it's more than 12 months ago, I don't recall leaving a message but it's possible I did.

It's possible that you left a message. Okay. And - - -

THE COMMISSIONER: Sorry, can I just get this – November 2018 you attended or participated in a phone conference - - -?---Yes.

30 - - - with IMC reps.---With some people from IMC in Newcastle, yes.

And this was about, if I can describe it as a genuine project dealing with thermal cameras?---Yes, yes, yes. This one is legitimate.

And you're sitting there thinking, I've heard about thermal cameras in the past?---Yeah, I'm sitting there listening to the discussion of, of this and going, this sounds remarkably like something else I'm seeing, I've seen, and in actual fact at some stage I seem to recall seeing some photographs of what I later discovered were equipment made by IMC, but not related to
40 IMC's project, it was related to the AZH project.

All right.---I think I was possibly shown photographs by Mr Soliman.

When?---It would have been at the time that this quote, this, what we're discussing now. I saw images I thought of what is the in-ground mounting for IMC's camera, which I didn't know it was IMC's camera at the time.

And this then prompted you, you can recall ringing the AZH - - -?---Yes.

- - - number, but you're uncertain whether you left a message or whether you spoke to somebody or - - -?---I certainly would have called because I was asked to do by Mr Sarkar, whether I left a message or not I don't recall that.

The quote that was provided by AZH included a scoping study report. Did you search for whether a scoping study report had been prepared by AZH?
---No, I did not, did not.

10

Do you know where you would have looked for it?---Ah - - -

Like is there some kind of database or - - -?---You would have expected it to be stored in Objective somewhere, which is the document management system that RMS uses. At the time I didn't search. In other work recently I have a better understanding of the structure within Objective and where possibly it might have been held.

20

But you didn't search for it?---But I didn't, didn't search for it at the time, no.

MS WRIGHT: And that call that you made to AZH where you possibly left a message, did you say that was - - -

MR YOUNG: Well, I object to that.

MS WRIGHT: That's summarising the evidence.

30

MR YOUNG: Good afternoon, Commissioner, but that wasn't his evidence. He said that his recollection was he did not.

THE COMMISSIONER: Oh, I don't know about that. I thought he said he rang.

MR YOUNG: He said he understood that there'd been evidence that he had left a message, his recollection was that he hadn't.---No, I didn't say that. I said I may have.

40

THE COMMISSIONER: You've said. That was - - -?---That I don't recall. Yes. Not that you definitely didn't.---Not that I, I did not explicitly say I did not.

MS WRIGHT: I asked you if it was possible that you did and you then said yes.---Agreed.

But you do remember trying to contact AZH?---Yes.

It's just there's an uncertainty around whether you actually left a message?
---Yes.

Now, do you recall when it was?---It would have been on the same day that we had this, this telephone conference with IMC. It is in November, I can, I did actually look up the specific date but it's, it's around, it's around the middle of, of November, I - - -

10 2018?---Around about the 15th, 14th/15th/16th of November.

2018?---2018.

Now, in June 2018 did you also raise a purchase order request for ITS field trials. I can show you a document if that would assist, volume 4, page 87 and your name, Mr Walker, is in the top right-hand corner of that page. Does that suggest that you raised the request for the purchase order?---I would believe so.

20 Do you recall this particular project which is called ITS Field Trials and Scoping Study?---I recall requesting a purchaser for, for a trial using this name or name similar, yes.

And how did that come about?---This is the third one of the, the, the, sorry, the scoping studies that I was asked by Mr Soliman to raise purchase orders for. The process would have been the same as the second one. We would have sat in a room, meeting room, and actually looked at the bids that had come in from anything up to the four people that were on the PSC Panel.

30 Are you sure that there were bids in response to some sort of request for quote?---I would have expected that when I sent the request off for this purchase order, I will have followed the same process, having learnt the first time that I needed to send everything with it. So there should have been more than one bid, I would expect. I don't recall ever seeing an RFQ where there was only one bidder.

Well, are you making an assumption about it or - - -?---I do not recall ever being involved in creating a purchase order for one of these where there was only one bid.

40 If we could see the quote which is at page 79 of volume 4. This is a quote dated 25 May, 2018, which states it was prepared by Zoe Hamidi and then on page 80, it's a quote for \$209,900 plus GST for modernising ITS field trials and scoping study and it includes procurement including all hardware/software required and the actual hardware as listed, as 10A III an LP788, a WL104. Did you know what they were?---I would have looked at this document. My understanding would have been they would have been, in this case it, it appears on, on the basis of the paragraphs above that they were for weigh-in-motion. So there's low-speed weigh-in-motion and high-

speed weigh-in-motion and these probably would have been for low-speed weigh-in-motion, so you direct a vehicle in off the road and you get the vehicle to travel across it at slow speed. It's a screening tool to establish whether the vehicle needs to be legally weighed.

Did you discuss this procurement with Mr Soliman?---No, I did not.

10 Did you sit in a room with Mr Soliman about it?---If there were more than one bid, certainly, we would have been sitting in a room discussing which one was the winning tender on the basis of value for money.

But you don't recall specifically sitting in a room and discussing this?---No, not, no.

You don't recall that he asked you to raise the purchase order?---Yes.

20 Did you again think that a procurement as part of a scoping study was unusual?---I thought it was unusual that there was a substantial amount of dollar value in those quotes for equipment rather than for things that I expected to be done under a professional services contract.

It also includes an end-to-end field trial management as noted on the document in front of you and a scoping study report, but you still thought that was unusual to have a procurement as part of that.---My understanding of professional services contracts is there's generally very little equipment provided in them, if any.

Did you raise it with Mr Soliman?---No, I didn't.

30 Were you aware of a procurement of this equipment?---No, I am not.

You would expect to hear about it, wouldn't you, if it occurred?---Not necessarily.

40 Why not?---There was very little communication between Mr Soliman and the people that I had worked with or continued to work with. Also in terms of location, we were sitting in different locations within the building of where we were, so we wouldn't really know if he was even at his desk. We weren't within eyesight of him.

You were within Heavy Vehicle Programs Unit?---Yes, yes.

And you were sitting in a different part of the building to Mr Soliman?
---Yes. Yes. So the building where we are, there are what they call pods so there are separate office spaces, if you want to call that, that are not directly connected to each other.

On the same floor, however?---On the same floor. So I was, I was in - - -

Within eyesight?---No, no. The only way I would have been aware if he was at his desk would have been if I had walked past to exit the building to go to the lifts.

How many people in the team, in the unit?---That's a good question. I'd have to think about that. I know the three of us - - -

10 Approximately?---Around about eight, thereabouts. Seven or eight.

Was the rest, were the seven - - -?---So the substantive - - -

Seven people, sorry. Sorry, sorry.---Sorry. I'll be quiet.

Were the seven people separate from Mr Soliman and he was by himself?
---No.

20 Or were you dispersed?---No. No, myself, Guido Zatschler and Alex Lee sat separate to the rest of the team.

I see. But surely you'd hear about whether trials were occurring.---No.

You weren't discussing day-to-day matters with each other about work?
---No. No. There was very little interaction between the three of us, Alex Lee and myself and Mr Zatschler and Mr Soliman.

30 He's your manager.---He's not my direct manager. And I, I mean, I'd be guessing here but I don't think he quite knew what to do with us. He'd been given three people who had a skill set that weren't necessarily exactly the same of all the other people that he had in his team.

Before joining Heavy Vehicles, were you not in the Heavy Vehicle area?
---No.

40 No. Where were you before?---So I was in what they call Operational Support and Development, again an area that my skill set's not particularly, specifically related to. There's a long history behind – although we are where we are, but I don't think we need to discuss this in the inquiry. So it was an area that primarily looked after camera programs but nothing to do with heavy vehicles.

And you came across with Mr Lee and Mr Zatschler?---Yes, in a restructure they decided to move a number of staff to the Heavy Vehicles team.

You had no, or did you have any understanding about this company, AZH? You said you did an ABN check.---Yes.

Did you know anything about AZH and its expertise?---No, nothing.

Was that unusual, to know nothing about a company being awarded contracts?---Given that I was new to the Heavy Vehicles team, no, because I wasn't familiar with the area anyway.

Did you know it was a new company?---No, I did not at the time.

10 THE COMMISSIONER: Can I just ask you, still on the modernising ITS field trials, could we first go to page 80 of volume 4, please. So that's the first page of the quote, and then if we go to page 81, up the top of those terms and conditions which I read out to you, so "Customer will be invoiced after indicating acceptance and 100 per cent payment due prior to delivery of service."---Yes.

Then could we go to the purchase order created at page 87. The payment terms which you can see are in the top row, second column - - -?---Yes.

20 - - - do they reflect the terms and conditions I just read out?---I believe they'd be RMS's payments terms and so, in other words, we will pay within, we will give you the money within 15 days of being invoiced.

30 Right. So that's what I wanted to check.---Or alternately it is something that is recorded in the system as AZH's terms for payment upon receipt of invoice. I couldn't be, you'd have to talk to somebody in the, in the Purchasing area or Finance area about that, but certainly we have a requirement to pay, you know, within a certain time. It's either their, their requirement that's recorded automatically in the system and it's just populated automatically when they've generated a purchase order for that vendor, but it's something you need to confirm with somebody that understands our finance systems better than me.

So it's got, "Vendor due 15 work day," do you know what "no disc," does that mean no discount?---I think that's no discount.

And your understanding of that is, once the invoice was received and progressed to your Finance section it would be paid probably after 15 days or within 15 days?---Yeah, so, so my guess would be, and it's a guess only, that there would have been an electronic transfer of funds within 15 days.

40 Right. Thank you.

MS WRIGHT: Mr Walker, were you also tasked to prepare some documentation in relation to a visibility sensor review project?---Yes, I was.

Who tasked you on that project?---Mr Soliman.

Did he ask you to prepare a purchase order?---Yes, he did.

And you received a quote?---Yes.

From AZH?---Yes.

Were you involved in deciding on who should be awarded that contract?
---Yes.

And did you assess other quotes from members of the PSC Panel?---Yes.

10 And who did you select?---JYW Consulting.

So you made that selection yourself I consultation with Mr - - -?---In consultation with Mr Soliman, on the basis of price and detail.

For the previous projects I took you to, was it Mr Soliman who made the selection of AZH?---They were generally always selected on price.

I'm just asking who made the selections.---I guess I concurred with his selection on the basis of price, would be the answer.

20

So he proposed AZH and you concurred?---We would look at them, see if there was something in them that made them worth doing even though they were more expensive than the lowest quote, so it wasn't meant to be about the cheapest quote, it was meant to be about value for money, if there was something in there that suggested that the cheapest one wasn't value for money then you would probably have to select another one.

THE COMMISSIONER: But usually the cheapest was the best value?
---But, but typically it ends up being the cheapest quote.

30

MS WRIGHT: But for the low visibility sensor one it was more your selection, is that what we should understand, than Mr Soliman's?---He concurred with the, with the fact that, that JYW's quote, one, was better in detail and, two, was also the cheapest.

Now, were you a member of a Tender Evaluation Committee in September 2018 in relation the procurement of 425 weigh scales by RMS?---Yes.

40 When were you first asked to be involved in that project?---I couldn't be exact about the date. It's probably somewhere around August of that year. I believe Mr Soliman probably came to where me and Mr Zatschler and Mr Lee sit and sort of mentioned to all of us that he wanted us to be involved in the Tender Evaluation Panel and that Alex would be the one that would, would run the process.

So what else you say I believe, do you have a recollection of being asked?
---Certainly I was asked to be on the panel by Mr Soliman or, or told I was going to be on the panel.

When did you first hear the name Novation Engineering?---I, I sit between Alex Lee and Guido Zatschler, so I sit, Alex sits to my left. Alex had a document on his desk from Novation which was from the original tender, the first tender. That's when I, I came across the name Novation Engineering. He showed, showed me the document.

When was that?---Around about early August, I couldn't be sure of the exact date.

10

And why was he showing you the document, did he say?---We're, we're generally quite a, a social group, the three of us. We've been working together for a reasonable amount of time, so we, we generally share what we're doing. He, you know, happened to show me what he was working on.

Was he working on the previous procurement at the time he showed you?
---He was given that as an example or, or, or what the previous bidder was, I, I don't know exactly why he had it. You'd have to ask Mr Lee why he had it.

20

So by this stage, Mr Lee was involved in the procurement process for the purchase of 425 or for the purchase – I withdraw that – of additional portable weigh scales and you said he was given the previous documentation?---Yes.

And when you're referring to previous documentation, there had been a previous procurement of portable weigh scales that year?---Yes.

30

And Mr Lee told you, did he, that he had been given the documentation relating to that previous tender process?---I believe he told me that he got it from Mr Soliman but I couldn't attest to that fact exactly, I couldn't be sure.

And was it around that time that you recall that you were also asked to be part of that tender process?---That probably precedes me seeing that document for Novation I assume.

That you were asked before you saw the document?---I think so, yes.

40

Did you conduct any enquiries or make any enquiries in relation to the company Novation?---I did.

What did you do?---I actually did an ABN Lookup, again on the ASIC ABN Lookup website just to see what information there was that existed on that company because I'd never heard of it before. It wasn't familiar to me as somebody that looked like they'd be selling scales.

What did you discover?---That it had, I think a post office box and perhaps a residential address associated with it.

Did that seem normal to you?---For the type of business, no.

Did you discuss what you had found with anyone?---I recall mentioning to both Alex and Guido that I thought it was a bit odd for this type of business that was in, you know, that, selling that type of products.

10 And how did they respond?---I don't recall what they said very much, other than, you know, you'd have to ask them whether they concurred or not but we may have had a discussion but I couldn't say what the contents or what that discussion was.

Did you do anything else in relation to Novation?---I thought that perhaps there might have been scale providers, sorry, other providers of the same brand of scales in Australia somewhere while we were only going or while we were buying from this particular person or particular business.

20 So you'd learnt the brand that Novation was supplying?---I was aware that, you know, I think in the document that Alex showed me it showed me that they were PAT scales, so then - - -

And you wondered if there were other companies selling PAT scales in Australia?---Yes. Yes.

So what did you do?---So I did a bit of research and worked out who the international agents for PATs were and worked out that was IRD, IRD in Canada, found a contact email address on their website, and just sent an email saying, "Look, is there anybody else in Australia that sells these?"

30 And did they respond?---I got an email from - I can't recall his first name, but his last name is Garza from there.

What did Mr Garza tell you?---He asked me if he could call me.

And did you say yes?---Yeah. So because of the time difference, I saw the email when I arrived at work that day, replied back, and he called me that morning.

40 And did you have a discussion with him?---Yes. He misinterpreted my inquiry, thinking I was asking about spare parts, which I wasn't, and I said, no, I'm, I'm really just, you know, looking to find out if you've got other distributors in Australia. And the advice was that - and again I think he was, probably thought, because I was in New South Wales I was talking about New South Wales, he mentioned Novation, said they're the only ones.

So he mentioned Novation and he said they're the only ones?---Yes. Yes.

And did you discuss anything else?---No.

What did you do after that?---We terminated the phone call.

Right. Did you make any other inquiries about Novation?---No, I didn't after that.

Did Mr Soliman approach you after that conversation with IRD?---He did. He did.

10 What did he say?---He said, "I believe you're making inquiries about IRD scales."

Where were you when he approached you?---I was sitting at my desk between Alex Lee and Mr, and Guido Zatschler.

Did Mr Soliman approach you at your desk?---Yes.

And when he said I believe, was it "I believe you've had a conversation with IRD"?

20

THE COMMISSIONER: Making inquiries re IRD scales.---Yeah, yeah.

MS WRIGHT: Did you respond to him?---I replied with, "Yes, I just wanted to see whether there were any other suppliers in Australia."

What did he say?---I don't recall him saying anything, to be quite honest, and then he just said, "Okay," and walked off.

30 Did he ask you why you had called IRD?---He didn't actually ask me because I volunteered the answer is my recollection.

And did you mention Novation at all?---I might have said, "Yeah, there's only Novation."

You had been told that or - - -?---That I had been told by IRD there's only Novation.

40 Now, did you know anything about Novation apart from what you've just told us? Did you ever become aware of any association between Mr Soliman and Novation?---No, no, no. Only what I've heard from the inquiry is what I know.

Did Mr Singh ever tell you anything?---Sorry. Let me, let me, Mr Singh did mention that the principal, I believe the principal of Novation worked with Mr Samer, Mr Soliman and Mr Singh at Optus.

Did Mr Singh tell you anything about AZH?---I believe he told me the same thing, that the principal of AZH had worked at Optus with them.

Was that at the same time? Did he tell you that information at the same time?---I think it would have been the same conversation. I couldn't tell you exactly when it occurred.

Could you tell us approximately when it occurred?---Some time this year.

This year?

10 THE COMMISSIONER: 2019?---I think this year.

MS WRIGHT: 2019?---I think 2019. I couldn't be a hundred per cent sure.

So after the Commission's involvement?---Possibly, yes.

Are you sure about that?---I can't be a hundred per cent sure, no. But I don't think it was that long ago.

20 So when you were involved in the procurement tender for the 425, did you have any information that Mr Soliman - - -?---I don't think I would have been aware of - - -

Sorry, just, if you could just - - -?---Sorry, sorry.

Did you have any information that Mr Soliman had worked at Optus with the principal of Novation?---No, I wasn't aware of that at the time.

30 Are you sure about that?---I think I would have been very concerned about a conflict of interest if I had known about it. I would have raised it as an issue and I wouldn't have just known about it myself. The rest of the people on the panel would have known about it as well.

THE COMMISSIONER: You would have told them?---I would have told them.

40 When you said you would have raised it and then you said I would have told the other panel members, would have you raised it anywhere else, you know, for example was there some kind of - - -?---I, had I needed to raise it I would have tried to establish what the process was. I don't know what it is. I have no idea.

You assume that there was a process?---I assume there would have been a process for (not transcribable) I mean, as part of being part of that tender panel we had to declare conflicts of interest, so I would have already been aware that if there was somebody else associated with the process had some kind of a conflict that that wouldn't have been a good thing without somebody declaring it and saying well, that's okay.

MS WRIGHT: Now, Mr Lee you've said was another member of the Tender Evaluation Committee.---Yes.

To your knowledge had he ever been involved in a tender evaluation before?---I have no knowledge as to whether he's, he's been involved in a tender evaluation committee or not before.

Did you have any technical knowledge about portable weigh scales?---No.

10 Were you familiar with the RMS Procurement Manual?---No.

Were you familiar with policies around tender processes?---No.

Had you been given any training around it?---No.

20 So you weren't aware of, you didn't know whether there was a requirement for a person with some technical knowledge or experience of the goods being procured being included on the committee?---I had raised, sorry. I had raised the issue of having somebody representing the end user involved in that panel with, with Mr Soliman.

You raised that with Mr Soliman?---Yes.

At what stage?---Obviously before the, the Tender Evaluation Committee convened or before, certainly before the tender closed. I couldn't be 100 per cent sure of the actual times. I suggested that David Jones should be on the panel.

30 Why did you suggest him?---Well, he, he is the operations manager for a team of inspectors in Western Sydney and had been on the earlier one.

So you were aware that he'd been on a panel, a committee for the previous procurement of portable weigh scales in 2018?---Yes.

And what did Mr Soliman say when you raised that with him?---I'm paraphrasing his words to the effect of it's okay, don't worry about it.

40 But your recollection is you specifically suggested Mr Jones to Mr Soliman?---Yes.

Did you know Mr Jones personally? When I say personally, I mean have you met him in - - -?---Yes, yes, yes.

- - - in a work context?---So Mr Jones is a long-term employee of Roads and Maritime Services with over 40 years in the, in the place so I'm familiar with Mr Jones going back to probably the 1980s.

Did you raise with him this new procurement of portable weigh scales at all?---I did discuss it with him at the time.

What did you discuss?---I just mentioned the fact that it was another one, another tender process going on. I kind of suggested to him that he should be on it.

What did he say?---I think he was a little noncommittal at the time. I don't think he was all that happy with the original process.

10

THE COMMISSIONER: Do you remember what he said?---No. No, I don't think he really said anything to any effect that meant anything.

MS WRIGHT: Now, did you read the request for proposal setting out the requirements for this procurement?---In terms of in the Evaluation Panel meeting, yes.

So you're aware that tenderers have to meet certain requirements?---I'm not sure I quite understand the question.

20

Well, there was a request for proposal sent out to certain potential tenderers.---Yes. Yes.

Did you see the documentation setting out what they had to meet in order to be possibly selected?---Yes. Yes.

And you were aware, you said you didn't have any training but you're aware that you had to apply the requirements in assessing each tender submitted?---Yes. Yes.

30

Could we show the witness volume 12, page 1? Do you recognise this as being the request for proposal?---Yes.

At page 19, please, it sets out the scope and a number of specifications and requirements. You would have read this?---Yes.

Where did you understand the requirements came from? In other words, did you know who drafted this and who developed the requirements?---In terms of the technical comment, ah, content, I, I don't know who provided that technical content.

40

So you didn't discuss that with Mr Lee at all?---No. No, not at all.

And the requirements go over to page 20. You see at point 4.4, Physical Characteristics?---Yes.

And it sets out some dimension requirements.---Yes.

Did you discuss the dimension requirements with anyone prior to the Tender Evaluation Committee - - -?---No. Not that I recall.

At page 32, you see - - -?---Sorry, can I just stop there. I did discuss with David Jones the fact that there was some issue around of the size of scales and them fitting in vehicles, and learnt from just, you know, discussions in general that the size of the scale wasn't that much of an issue in terms of a refit because refits weren't that expensive.

10 Mr Jones said that to you?---Yes.

So you – I'm sorry, Commissioner. You look like you - - -

THE COMMISSIONER: I was about to say, he said size wasn't a difficulty because refit.---Yeah.

When he said refit, what did you understand he was referring to?---Yeah, so there's a, there's a racking arrangement inside a special-purpose body that's built in the back of a commercial vehicle and the scales slide into them.

20 There's six of them that are mounted in there. Obviously they were built for a specific size based on the existing scales that we had at the time. But in terms of cost of scale per refit, if you could buy a much cheaper scale and refit, you'd save a lot of money, that sort of thing. So it wasn't, other than logistical from the point of view of refitting everything, a costly exercise in the scheme of things in terms of the overall cost.

MS WRIGHT: I might just take you back to page 25. I think we're on page 32. At page 25, you see this is the Returnable Schedule 1, Proponent
30 Particulars and Undertaking, and this is Novation's returnable schedule for the tender. Do you recognise that?---Yes.

And then if we go to page 32, you see there's a requirement to demonstrate your ability to provide goods with a minimum usable lifespan of 10 years by listing no fewer than 10 highway agencies from around the world that have used the tendered scales or equivalent previous models for 10-plus years?
---Yes.

40 Did you consider that to be an additional requirement in addition to those that I took you to at page 19, where it set out technical specifications such as size, et cetera?---So having some supporting references from other users throughout the world was a requirement.

But it's more than that, isn't it? It says, "Listing no fewer than 10 highway agencies from around the world that have used tendered scales for 10-plus years."---Yes.

Did you consider that to be an applicable requirement in order to make the tender requirements?---Yes, I did.

And then on that page there's, "Two clients have to be provided," and at page 33, Novation's provided two clients, one in Spain, one in Taiwan. Do you see that?---Yes, yes.

Do you know whether there was any checking of those referees?---I do not.

10 Then at page 3.1.3, you'll see there the answer to the question, section 3.1.3, the company is asked to, "Describe how you intend to perform the services," and Novation has said that, "The scope of works requires manufacturing of 425 custom-sized portable weigh scales to meet RMS's requirements." What did you know about the custom aspect of that, if anything?---I couldn't be a hundred per cent sure. I believe there were some changes that may be to the handle because some of the previous ones, there was a modification. In terms of a longer handle or something to that effect and I think maybe wheels, sorry.

I'm sorry?---Some wheels.

20 The wheels might have been changed?---I think the addition of the wheels, I don't think they were a standard item.

Now, just going over to page 35 at 4.4.5 in the right-hand column. You see the requirement, "The PWS shall be fitted with a handle manufactured from the same material as the frame. The handle shall be between 100 millimetres and 140 millimetres from the frame," and the answer, do you understand what's in italics to be the answer given by Novation in its response to the tender?---So they're saying it fits within the, within the parameters of 100 to 140, at 120, yes.

30 Yes. And they say that it's being customised for that purpose?---Yep, yep. So their standard handle obviously is not that dimension.

And then page 40. Do you see halfway down the page, the tender required, "Examples of successful delivery of 100 plus scales in the last 24 months and evidence that you are able to manufacture and deliver the nominated scale within the time nominated in part B. Did you understand that to be an additional requirement that tenderers would have to meet?---I understood that that, that was a requirement that they would need to meet, yes.

40 Now, there was a meeting, was there not, in September 2018 between the members of the Tender Evaluation Committee?---To evaluate the tenders?

Yes.---Yes.

And how did that evaluation unfold? Were you all in a room together?
---Yes.

Was that Mr Lee, Mr Zatschler and yourself?---Yes.

You were the three members of the Tender Evaluation Committee?---Yes.

Was anyone else present?---Yes. Mr Soliman was.

Was he present the whole, throughout the whole of the tender evaluation?
---I do not recall him leaving during the process.

10 So the answer's yes?---Yes.

Did you consider that he should have been there?---I, because he arrived after the, the three of us. I thought it was unusual that he was there.

Why was it unusual?---There was no necessity for him to be there. He wasn't part of the, the Evaluation Panel.

You received two tenders, do I - - -?---Yes.

20 One from Novation and one from AccuCorp?---Yes.

And did you know that company to be also called AccuWeigh?
---AccuWeigh is their trading name, yes.

And were you familiar with that company at that stage?---I'd become familiar that they were another supplier of scales, yes.

30 How did the evaluation of the tenders unfold, were the tender submissions collected from somewhere by someone?---So this was an e-Tender, so everything was done electronically, it was not a mailbox where, you know, tenders were, were, everybody had a copy of each tender proposal to each sit there in the room and go through separately and score. From memory we had a laptop connected to a large screen TV and I believe that electronically the tender proposals were being displayed on a screen, we were going through line by line and comparing that to the tender specifications.

40 Did Mr Soliman contribute to the discussion?---He did contribute to the point of pointing out where things met certain requirements and where they didn't.

THE COMMISSIONER: So there was a lot of discussion at least between the three members of the panel?---Yeah, yeah, there was, there was discussion between - - -

And as you said, Mr Soliman also contributed pointing out where - - -?
---Yeah, if there was a certain area in the tender specification and somebody's proposal didn't align with that properly, didn't meet it at all, those sorts of things.

MS WRIGHT: Did you form a view as to whether he favoured a particular tender?---No, I did not.

Now, you ultimately selected Novation for the tender, for the procurement?
---Yes.

And you've signed a tender evaluation report along with the other committee members?---Yes.

10

Could that be shown, please, volume 12, page 231. Do you recognise that as the report, Mr Walker?---Yes.

At page 232 sets out an executive summary, it says the tender box was opened on 4 September, 2018 at 1.00pm. You weren't involved in that?
---No. The tender box is an electronic tender box.

I see.---So my understanding is, this is just from what I've noted from other people who are running tenders, the tenders are collected electronically on a
20 USB drive, somebody physically goes to where the people that manage the eTender process in Transport Services at Burwood, it's loaded onto a drive and they bring it back.

It says down the bottom of the executive summary, "Based on evaluation process the submission received from the tenderer listed below is the only proposal that meets the minimum mandatory requirements and cost-effective value-for-money criteria," and that's Novation Engineering. And then if we go to page 234 it states in respect of AccuCorp that, "Their
30 nominated scale did not meet the majority of the performance requirements." And then it provides some exceptions. So do we take it that it did not, that is the AccuCorp scale did not meet the size requirements as part of what it didn't meet?---Certainly it didn't meet the requirements in terms of being a legal weighing device because it didn't have the certification, that was the first one, obviously there's some manufacturing processes there. When you're talking about dimensions I don't see specifically any mention about dimensions as such here.

It says, "The nominated scale did not meet the majority of the performance requirements except - - -"---Of the performance requirements. And I think,
40 yeah.

And so the majority - - -?---I think that's worded poorly actually.

THE COMMISSIONER: That's, sorry?---I think the things that are listed here are the things it doesn't comply with.

MS WRIGHT: I see.

THE COMMISSIONER: So the non-compliance - - -?---So one, two, three and four are the non-compliance issues.

MS WRIGHT: It states that “The tenderer has supplied evidence of previous models having a usable lifespan of 10 years and greater. However, all the highway agencies were located in only one country, USA.” See that?---Yes.

10 So you considered that it didn’t meet that requirement to have been used - -
-?---On the basis of there’s a requirement that it, you know, that, that all the
references come from more than one country, yes.

Did that seem to you to be an excessively restrictive requirement at all?
---No, I didn’t think about that at the time.

The USA is obviously a very large country with a lot of states in it.---Yeah.
Yes, there is.

20 And if all of the highway agencies where AccuCorp’s scale has been used is
the USA and there are multiple, why should that be a problem?---I don’t
know because I didn’t make the decision of what needed to be in the tender
document to start off with, so I don’t know the answer to that.

So you were just applying the restrictions in a very - - -?---I was following -
- -

Sorry, sorry, Mr Walker.---Sorry.

30 You were just applying the specifications in a very strict manner, is that
correct?---I was evaluating the tender bids against the tender requirements.

Do you think now looking back that that requirement for – I’ll just pull it
up. “Use in no fewer than 10 highway agencies from around the world for
10-plus years.” Does that not appear to you to be an excessively restrictive
requirement?---It, it, it certainly sounds like a somewhat onerous
requirement, yes.

40 But you didn’t think about that at the time?---No, actually it didn’t, we
actually didn’t even have to evaluate this, this bid because at the outset they
basically pointed out to us that this was a non-complying bid.

Who pointed that out?---It was in – I’m pretty sure it’s stated in AccuCorp’s
bid that it’s a non-complying bid.

What, AccuCorp itself said it was non-compliant?---Yes. That’s my
understanding. That’s my recollection. It could be, could be, could be
incorrect. The, the item 1 where it notes “One, the nominated scale (not
transcribable) submission currently does not have an OIML R 76

classification certification,” for us to have purchased a scale that didn’t currently have that certification would have been a huge risk to RMS in that we could not use it for legal weighing until it had that certification.

And did you make any inquiries about whether it would get that certification?---They made a statement as to when it would, would, they would have it, but again - - -

10 What did they – yes. What - - -?---But again that’s a risk.

What did they say about that?---That, they, well, as it’s stated in here, it’s expected, would have been expected to be in October 2018.

Two thousand and - - -?---Eighteen. So that was one month after.

That’s not every long, is it?---It’s not. But the exception is, is we have no evidence that they will get it.

20 But it’s only a month away and you’re about to spend \$7 million. Did you not think that might be an appropriate course to wait and see?---In terms of saying we’re going to buy a set of scales that we now know don’t comply with our requirements or we’re going to buy, you know, in this case 400, 225 sets of scales that currently don’t require, meet the requirements, I wouldn’t like to sign that.

30 But it could have been postponed is what I’m suggesting.---In terms of, well, we could have accepted none, yes, that’s true. We could have said we’re going to go back and do this again. We could have, you know, said, look, I don’t know whether that’s the Evaluations Committee’s decision to make.

But it could have been suggested that it be postponed until AccuCorp got its certification, which was expected one month later, could it not?---Could that not be, considered to be unfair to the rest of the tenderers if that’s the case?

There’s only one other tenderer.---No, I agree. I’m just, I’m just saying, you know, you follow certain tender processes so it’s fair for everybody.

40 Wasn’t this tender utterly pointless?---Knowing what I know now, yes. But I didn’t know any of that at the time.

THE COMMISSIONER: What do you know now?---Well, that, you know, there’s, you know, what appears to be, you know, some sort of personal relationship between the person that won this tender - - -

MS WRIGHT: Even putting that aside, Mr Walker, wasn’t it pointless - - -? ---And also the fact that I now know that this seemed to be some kind of inflated price as well.

But even if you put that aside, wasn't it pointless because the specifications were so restrictive that there was only one company that was ever going to be selected for this tender?---You're assuming I had some knowledge of what the specifications should have been. I, I don't. I have no experience with scales.

THE COMMISSIONER: And the three of you had - - -?---No.

10 - - - no experience with scales?---No. We've never used a, well, I can't speak for the other two, I've never used a portable weigh scale in my life.

And to your knowledge - - -?---I know what one looks like, I've seen them, but I've never used one.

And to your knowledge, your two colleagues also didn't have that experience?---I'm not going to speak for them, but I doubt that they had that experience.

20 And does this raise your concern that you expressed to Mr Jones, or no, sorry, that you expressed to Mr Soliman, "Why don't we have - - -"?---That we should have had a subject matter expert - - -

- - - "An end user."--- - - - on the panel. Correct. He could have assisted us with the evaluation.

And you were asked this, but can you remind me, the specifications and requirements put in the tender document, did you know who developed those?---No, I do not.

30 You were just, here it is, you're going to be on the committee?---Yes, yes.

MS WRIGHT: In relation to the size requirements, did anyone ever tell you why those size requirements were in the specifications?---I was led to believe, and I couldn't give you any time factors on this of when I actually heard this, but it related to the fact of the racking inside the vehicle and only certain size scales could fit in them.

40 Do you recall who led you to believe that?---I couldn't, I couldn't say for sure. Mr Soliman may have been one of them but there may have been other people that suggested the same thing.

And so at the time of the evaluation you believed the dimension requirements were to ensure that any scales purchased could fit within the existing racks in vehicles.---Yes, yes.

And was part of the reason to your understanding that AccuCorp was excluded as a possibility because its scale did not fit the size requirements?

I'm not saying is that the sole reason, but was that part of the reasoning to your knowledge?---I don't recall that being one of them but if it's in the report, it is obviously. The primary one is just the fact that we couldn't use it as a legal weighing device as it was.

But you took into account that it could not supply evidence of use in 10 countries or 10 highway agencies around the world as noted in the tender evaluation report.---Yes. Well, if it was one of the criteria of the, of the tender process, yes, we would have evaluated against that.

10

Did you ever ask Mr Soliman whether there was any other supplier of PAT scales in Australia?---No. I don't recall having a conversation about that with him.

Did you ever speak to Mr Thammiah?---No.

Are you sure about that?---I don't recall ever talking to him.

20 Did you ever speak to anyone from Novation?---I don't recall ever speaking to anybody from Novation. I don't know why I would be speaking to anybody from Novation.

Did you ever speak – not criticising in any way, just at any stage - - -?
---Yeah, yeah, I'm just saying I don't know why I would have been ringing them or, you know, speaking to them.

And did you ever speak to Mr Zatschler, who you reported to, about whether PAT brand scales could be sourced from anywhere else?---No.

30 Did you ever have an understanding or consider there was an expectation that this tender for 425 scales would have to have the same outcome as the previous tender that year for portable weigh scales?---No. Turned out that way but I didn't have any expectation as to what the outcome would be.

You referred to Mr Lee being given the documentation for that previous tender?---Yes.

40 Did you and Mr Lee ever discuss that, well, we need to get the same scales again?---No, no. The only discussions I ever had with Mr Lee in relation to this particular tender was an offer to him that if there was any forms or things that I had any experience in completing that I, I would provide that assistance with him, to him.

Did you discuss anything about this tender with Mr Jones after the tender evaluation had occurred?---I don't recall that at all.

Did Mr Jones ever tell you anything about the storage racks within the vehicles and whether the tender needed to assume that any scales purchased

would need to sit within those racks?---I think maybe when I told him that there was going to be a second tender at some time, because we probably had a few discussions on passing when I saw him, that, that there wasn't a necessity that the, the scales had to fit in the specific sized rack. I think I've kind of covered this before.

THE COMMISSIONER: Did you ever have a discussion with Mr Singh about the tender or what happened with the previous tender?---No. I wasn't aware of Mr Singh ran the first tender.

10

MS WRIGHT: Mr Walker, just finally going back to your involvement in trials and scoping studies, could I show you this email chain, please. You said that you sought and received approval from Mr Soliman in respect of the invoice submitted by AZH for that trial.

THE COMMISSIONER: And this is the one that's, I think, in volume 4, page 76, if we could get that up thanks.

20 THE WITNESS: I think this was in relation to, I was contacted by Transport Shared Services saying, I think they'd been contacted in regards to why the invoice hadn't been paid. I've got an email somewhere which you might not have a copy of from somebody from there. I think it's from them. I could be mistaken.

THE COMMISSIONER: This is the page 40, sorry, what have I done, 76?

MS WRIGHT: Yes.

30 THE COMMISSIONER: Are the first two emails on this document?
---Yeah, I'm just a bit confused here, trying to follow this at the moment. I'm just trying to understand it because - - -

MS WRIGHT: So Ms Hamidi has sent you the invoice and that's on the screen.---So this is the first scoping study?

Yes.---Yeah, okay.

And then you have forwarded that on 10 January, 2018, to Mr Soliman.
---Yes.

40

And he has responded, "This is good to approve once it comes into your workflow"?---Yes, yes. Which I mentioned before.

And then you said to him, "It hasn't workflowed to me yet."---Yes.

And did it subsequently workflow to you?---Yes.

And you approved it on Mr Soliman's instructions?---Correct.

I tender the email chain of 15 January, 2018.

THE COMMISSIONER: All right. The email chain commencing on the 9 January and finishing on 15 January, 2018, in respect of an invoice for modern portable weigh scales trial will be Exhibit 47.

10 **#EXH-047 – EMAIL CHAIN COMMENCING ON 9 JAN 2017
FINISHING ON 15 JAN 2017 IN RESPECT OF THE MODERN
PORTABLE WEIGH SCALES TRIAL TENDER**

MS WRIGHT: I have no further questions, Commissioner.

THE COMMISSIONER: All right. Mr Young.

MR YOUNG: Thank you. Mr Walker, I represent Mr Soliman. You had,
20 in 2018, you'd had a 20-year career in RMS?---2018, I would have had a
40-year career in RMS.

Been called various things I guess over the years. It wasn't always RMS.
---Yes. Yeah, and its predecessors, of course.

Now, during the course of that career, had you been an inspector?---Yes.

And what were you an inspector of?---Primarily what would have been
called when I first started my career a mechanical inspector.

30 Now, did that not involve some knowledge of scales at the time?---No. No,
it did not.

In the, was it any part of your duties to be involved in Tender Evaluation
Committees in your statement of duties?---Over the years, no, not until I
started doing work for Mr Soliman.

But it wasn't a matter you were required to do?---When you say not a matter
required to do - - -

40 It was optional. When you - - -?---No, I didn't see it that way. You're
asked by your, by your superior to do some work, Tender Evaluation
Committee or any other type of work, it's a direction to do something.

Well, weren't you suggesting that Mr Jones should be on the committee?
---As an additional person, yes.

And not instead of you?---I wasn't trying to get me replaced with him. I
was just trying to get him involved in the panel.

Well, you never said to anybody, "I don't want to be on this committee," did you?---No, I did not.

No. So you thought it was within your expertise to evaluate the matters before the committee.---I did not consider whether I was an expert or not.

10 No, I didn't say that. I said it was within your expertise.---You mentioned the word expertise, I didn't.

THE COMMISSIONER: Sorry, what do you mean by expertise, Mr - - -

MR YOUNG: Well, within your knowledge to evaluate the matters that were going to come before that committee.---I'm not quite sure how to answer that question, to be quite honest. You know, there obviously have been other people who have sat on tender panels who don't have any expertise as such. You know, the criteria of being on a tender panel I don't know necessarily requires you to be an expert in the subject of what you're
20 evaluating. Like, as has been discussed before, I have no problem training in tender evaluation panels. Obviously I, I'm quite capable of reading a document and comparing one against the other and working out whether one, one meets the criteria of the other, which is what you generally do in a tender evaluation panel.

And you had, when you were asked to be on that panel, you had no hesitation in accepting. All you thought was that maybe Mr Jones – if you could just - - -?---It was something else I was asked to do as part of my
30 work.

All right. And you thought that maybe Mr Jones should be added.---Yes, I did.

And during the course of the evaluation, you used Mr Jones as a resource, didn't you?---Used a resource? What do you mean by resource?

You referred matters to him. You asked him about things.

40 THE COMMISSIONER: Sorry, this is during the panel - - -

MR YOUNG: During the course of the deliberations of the panel.---This is preceding the deliberations, yes.

And during.---Yes.

THE COMMISSIONER: Hold on.

THE WITNESS: Not during the evaluation panel evaluation. He wasn't there.

MR YOUNG: But during the time that you were considering matters, you had available to you Mr Jones to ask any questions about, of---If, if I needed to, yes.

And you didn't feel that you needed to---I'm still not sure what the line of questioning is. I don't understand the question.

10

THE COMMISSIONER: Can I just clarify---Maybe you can clarify for me.

So this is, Mr Young, this is when the tenders had been received, I think the tender box had been opened probably electronically, and you were considering the tenders---Well, once, once the tender box had been opened and Alex Lee had control of all the documents until such times as we sat in a room and looked at all the documents.

20

So you didn't see those - - -?---No, not at all. That's not, not an appropriate process for a tender panel as I understand it with the limited knowledge that I have.

So you actually saw the tenders for the first time when you sat in that - - -? ---So effectively in terms of, although there's a tender opening where the person managing the process – in this case Alex Lee – received them and had access to them obviously electronically and so on and so forth, we weren't provided with access to those documents until we convened as the Tender Evaluation Panel.

30

Had you seen the scope of works before you had that meeting?---I don't recall. I may have. But I couldn't attest to the fact whether I did or I didn't.

And, Mr Young, you're interested in whether there was any questions asked of Mr Jones during that deliberation process?

MR YOUNG: Any capacity to ask questions of Mr Jones.

THE COMMISSIONER: All right.

40

MR YOUNG: Do you agree that if there was a matter that you felt you needed more expertise on you could ask Mr Jones?

THE COMMISSIONER: So when they've opened the tenders and they're considering them in the room?

MR YOUNG: Yes, absolutely.

THE WITNESS: At that point, no, because he wasn't, he wasn't part of the panel, I couldn't, I couldn't refer to him. He wasn't invited as part of the panel, how could I talk to him when he wasn't part of the panel? Wasn't there.

MR YOUNG: Are you saying that your position was that even though there might be something you didn't understand you couldn't say to Mr Lee, just hang on a second, we need to get some more information on this subject, I would like to speak to Mr Jones?---I have no idea as to whether I could have
10 done that or not. It wasn't decided to do that at the time.

Well how did - - -?---I had no formal training so therefore I don't know whether that's an appropriate thing to do or not. I would have thought perhaps not, because we're now asking advice from an external person who's not part of the panel.

Do you understand the decision is yours, you can take appropriate advice, can't you?---I don't know that for a fact. Don't know what the answer to that question is.
20

Isn't that exactly what Mr Lee did in relation to Mr Soliman, didn't he call him over to that - - -

THE COMMISSIONER: I don't - - -

THE WITNESS: No, he did not invite him to the Tender Evaluation Committee, to my knowledge.

MR YOUNG: Well, I suggest to you that he did. When you say to your
30 knowledge, what do you mean by that?---You need to address that question to Mr Lee, not to me.

So you - - -

THE COMMISSIONER: So you had no knowledge as to whether Mr Soliman was invited or stumbled into the room or why he was there?
---Yes, I don't know why he was there is the answer. I mean obviously he had, you would think as the manager he had an interest in the outcome of the process, but given that he was not part of the Tender Evaluation
40 Committee he wasn't managing the process because he'd given that job to Alex, that there was no need for him to be there.

MR YOUNG: But you don't know why he was there.---No, I do not know specifically why he chose to be in the room, no.

Now, can I ask you to have a look at volume 12, page 234, which you've been taken to before. Now, do you see that, I think you agree there's a double negative in relation to AccuCorp that in fact what's listed there are 1,

2, 3 and 4 are things that it does not meet the requirements of. Do you agree with that?---I agree that that appears to be a list of non-conformances, yes.

Now, when you look at the matters which it doesn't conform with, and then the matter that Ms Wright too you to in relation to the 10 years is not one of the matters listed as 1 to 4, is it, that's an additional matter?---It doesn't appear the way this, this is set out, it doesn't appear to be one of the things that was one of the major non-conformance issues, the way it's, the way it's, you know, obviously set out on the document.

10

Now, you also look at Novation which did comply with, with, with the, with the, the, the various requirements there.---Yes.

Now, how does that scoring make sense? I mean it was chalk and cheese, wasn't it? How do you get 78 - - ?---I don't recall the scoring. There would have been a certain percentage allocated to each particular item and I believe probably a score out of 10 for each one and there would have been a formula for calculating the final score.

20 But if you look, if you look at the, what's written there, Novation is not only vastly superior but it is the only one that's compliant with the tender requirements, isn't it?---So it was the only bid that we received that met the requirements, yes. In terms of superior, that's not for me to decide, whether it's a better product than one or another, but that's, that's, that's an opinion.

But what I am asking you is how, on the assessment that the panel made, could AccuCorp have got to 66?

30 THE COMMISSIONER: Do you recall how the score of 66 was determined?---I don't know what the weightings were for the scoring. I'm unaware of that.

Did the three of you independently nominate scores for - - ?---Yes, yes. They weren't individual, they were individual scoring of each one of the bids, yep.

40 And then somebody consolidated them and applied appropriate weighting or something like that?---Yes, yeah. So you gave each, each particular line item or whatever it was that, that was subject to a, a score out of 10 for example, a number out of 10, you know, all of that would have been totalled up at the end. You know, obviously, you know, to turn it into a percentage, you had to do some calculation.

And whose job was that?---I believe it would have been Alex Lee's.

MR YOUNG: Now, you mentioned that important matters in relation to this particular tender as it was explained to you related to handles, correct,

that was something that was important - - -?---A modification in terms of something away from the standard product.

That had been used in the past? When you say the standard product, you mean the standard product - - -?---So the original scales probably had different handles on them, so the ones that were more than 20 years old. The, the new 125 that was provided in the first tender would have had, I believe, modified handles and wheels and things.

10 Now, you also mentioned wheels. That's wheels on the scales themselves?
---Yes.

No and that was something that was non-traditional in terms of RMS scales?---That was, that was something that didn't exist on the, the old PAT scales that they'd had for 20 years.

So these were requirements that were particular to, to this tender?---Yeah. To make it more, easier for the inspectors to use them in terms of manoeuvring them around vehicles.

20 And do you know whether that was something that was also a requirement of the previous tender where you looked at the, the documentation?---I don't recall. I wasn't looking at the document in detail.

Now, you've given evidence about a telephone call that you believe that you made in November 2018 and your awareness of evidence given before the Commission, you recall - - -

30 THE COMMISSIONER: I think it was about the thermal camera.---Yes, yes.

MR YOUNG: Now, what is your recollection of what led you to make a telephone call?---I think this has already been discussed.

40 Well, I'm asking you what your recollection is.---I'll tell you again. It was as the result of us having a telephone conference with IMC, who were the provider of the thermal camera, they're based in Newcastle so they didn't want to, really want to come down and, you know, spend a lot of time travelling, so we had a telephone conference with them. In that conference, we, to the surprise of all of us, we realised that we had two thermal camera projects when I, I mentioned to everybody else who was there after the meeting that there was another thermal camera project, scoping project for AZH.

THE COMMISSIONER: And that was based on your recollection of doing - - -?---That was based on the work I'd already done in relation to a raising of purchase order and, and so on and so forth for, for AZH when they had one, you know, work under the, as, for a scoping project.

MR YOUNG: Now, who did you try to ring?

THE COMMISSIONER: Sorry, who did you?

MR YOUNG: Who did you try to ring?---I was dialling a phone number, I didn't know who I was going to speak to on the end of the phone. It would have been whoever answered.

10 Well, wouldn't you have gone back and checked the records in terms of AZH?---Sorry, you - - -

Well, if you're ringing - - -?---I've got a mobile phone number, I'm dialling the number.

THE COMMISSIONER: And where did you get the mobile phone number from?---Off AZH paperwork obviously.

20 Like their letterhead?---Yeah, yeah, it would have been whatever number I had, whichever document I had, you know, found in an email or something that I had that allowed me to find a contact to make a phone call.

MR YOUNG: But that contact has a name associated with it, doesn't it? ---Well, it does say Zoe but there's, that doesn't mean Zoe's going to answer the phone.

But when somebody answers the phone, are you going to speak to Zoe?---If somebody that sounds like it might be a Zoe on the end of the phone, yes.

30 But is that who you intended - - -?---But if it's a man's voice or a child's voice, it's obviously not Zoe.

But is that who you intended to speak to?---I don't recall if I was trying to speak to Zoe. I was trying to just make contact with the company to find out what was going on with this project. We couldn't talk to, the only other person that knew anything about it, that person had already been dismissed from RMS.

And who's that?---Mr Soliman.

40

Well, you see, this was at a time when you knew that there had been an issue in relation to Mr Soliman and AZH, didn't you?---Yes, but at the time, well, sorry, I didn't know anything about AZH until this point in time. It didn't raise any red flags. I didn't know there was an issue around Mr Soliman and his association with a couple of different companies, so the discovery of there being two thermal camera projects suddenly rang, in quotation marks, alarm bells. Why have we got two of these?

Well, let's go back. It became notorious in RMS in around October that Mr Soliman and/or Mr Singh were the subject of ICAC interest, didn't it?---I didn't become aware of Mr Singh being the subject of ICAC interest at the time.

THE COMMISSIONER: What about Mr Soliman?---I, I think I would have been aware at that time, yes.

MR YOUNG: And - - -?---But I didn't know what it was in relation to.

10

So you knew, didn't you, that AZH, because of matters that you had previously been involved in, was one of the matters that Mr Soliman had asked you to do things in relation to this company, AZH.---So I knew at the point of the time, discovered at the point in time when we had this phone conference with IMC, who had a thermal camera project, that, that there were more than one of these, and one of them was a thermal camera project that was a scoping study by AZH. That was the middle of November, roughly – I'd give you the exact date but I don't have it in front of me – when the phone conference was, which was exactly the same day I made a phone call to try and make contact with AZH to find out where this project was at.

20

And did you make any note of this conversation?

THE COMMISSIONER: Sorry - - -

MR YOUNG: The conversation that you were about to have, you hoped, with somebody from AZH.---No, because I, on the basis of other people's testimony, supposedly – and I, I don't, like I say, I don't recall, but I left a voicemail, so it's logic to me that if I have made a phone call and I've left a voicemail, I'm expecting somebody to call me back, which never occurred. So at that time I don't write down I've made a phone call and left a voice message. There's, I don't know too many people that make notes like that.

30

Well, if Mr Soliman you thought had been dismissed in around this time, and if AZH is one of the entities that he's been dealing with, you know that, and you say right from the time that you first did ABN - - -?---You're inferring that I knew things before I knew things.

40

I'm not, I'm not, I'm not - - -?---It seems to me like that.

I'm not. I'm just asking you whether with all that you say that you knew, you took a note of this conversation.---What, what conversation?

MS WRIGHT: I object just because there is a premise - - -

THE COMMISSIONER: Hold on.

MS WRIGHT: I'm not sure he's given evidence that he knew AZH was one of the companies affected by Mr Soliman's ICAC or misconduct. I don't - - -

THE COMMISSIONER: ICAC interaction.

THE WITNESS: Yeah, no, I did, I did not know that they, they were, well, part of this inquiry. I had no idea at that point in time.

10 MR YOUNG: What you do say is that you, right from the outset, had some doubts in relation to AZH, don't you? Because you did an ABN search. ---On that day I became concerned. On that day. Not before, on that day.

THE COMMISSIONER: Hold on. Now I'm getting confused. When you're referring to on that day - - -?---That is roughly the middle of November 2000, when we had the phone conference with IMC.

20 I think what Mr Young is referring to is you gave some evidence about AZH and you did an ABN search previously and you - - -?---Well, that's the first time I ever raised a purchase order. That goes back to December 2017.

And at that stage you said you looked it up and it only had PO box or what appeared to be a - - -?---Yeah, I thought it was a bit odd at the time but it didn't raise any red flags at the time, it didn't you know, I went, oh, it's a bit odd, but, but thinking about it later and knowing what I know now, you go, well, yeah, it does, that's why it's a bit odd.

At that stage it was a matter of, it's a bit odd.---Yeah.

30 But you continued to follow the instructions you were given and - - -? ---Yes.

- - - raise purchase orders et cetera.---Correct.

MR YOUNG: So a year before approximately you thought it was, you thought its ABN details were a bit odd.---Yes.

40 And you have, did you discuss the fact that you were going to be contacting AZH with anybody else at RMS?

THE COMMISSIONER: Sorry, have we now jumped to November?

MR YOUNG: We're now, we're now in November.---I was asked by Mr Sarkar to call them.

You were asked?---So my unit manager or acting unit manager, I don't know which is Saurav Sarkar, right, after we had this meeting which he was in with IMC, a telephone conference, he asked me, because I mentioned to

him, I said to him, "There appears to be another one of these being done by a company called AZH." He said, "Can you follow this up and find out what's happening with this?" So found the document, found the phone number, made the phone call.

All right. And how did you report to him?---I don't recall ever saying anything back to him about it other than I think later on he asked me to find all the documents that I had for AZH.

10 But is this right, he asks you to make this inquiry and yet there's no follow-up, there's no you saying, well, look, I did X, Y, Z and no response?---No, I don't, I don't recall us ever having a conversation saying I rang and left a message and they never called me back. I can't attest to that because I don't recall that.

Right. Now, going back to what you say in relation to the, to the original, the original inquiry you made on the, on the ASIC website, what was it do you say about AZH that you found unusual?---Just that it just, it just had a post office box and, you know, typically businesses will have, you know, a
20 physical street address or they might have both, they might have a post office box and a physical street address.

Sorry, for what?---The information that's contained in ABN Lookup. I don't know why it's there, you'd have to ask ASIC why it's there.

No, but in relation to what, are you talking about their registered office or what are you - - -

30 THE COMMISSIONER: Was it place of business or just an office?---It would be registered office address I believe, yeah.

MR YOUNG: But aren't many ABN registered offices accountants' offices, PO boxes?---I don't know, I don't look up that many so - - -

Well, you look up enough to have thought there was something in relation to AZH that was unusual.---Yeah.

40 I'm just wondering what that was.---Just the fact that they generally didn't have a physical street address associated with it.

Now, you said that you had a conversation I think with Mr Singh about his connection with Novation. Is that what you said?---It wasn't specifically about his connection with Novation, it was about the fact that all the people who, or some of the people named in this inquiry or mentioned in this inquiry all worked together at Optus, and obviously he knew that because he worked there as well, so - - -

All right. Now, when do you say this conversation was?---I believe it was sometime this year. I couldn't, couldn't tell you exactly when it was.

So after Mr Singh had left RMS?---No, no, he was still, still employed, was still actively working in RMS at that point in time. So it was sometime before he was terminated or was suspended to start off with I think.

Now, how well did you know Mr Singh?---I don't know him that well.

- 10 But you knew him well enough to know that he'd worked for Optus.---On the basis that he volunteered that he and other people had worked at Optus, yes.

But did you not know that beforehand?---No.

Now, you've given evidence that you rang the, well, you had a telephone conversation with the Canadian company IRD following an email, is that right?---Yes.

- 20 Now, you had knowledge of who IRD are?---On the basis of doing an internet search and establishing they were the international distributors of PAT scales, yes.

And did your researches also show that based in Canada they are one of the largest suppliers of ITS equipment in the world?---My interest was not in what else they did, only that they sold scales.

Had you heard of them before that?---Not until I'd conducted that search.

- 30 And they rang you back and said that, in effect, that Novation were the only what in terms of IRD? What was the word they used in relation to IRD scales in New South Wales?---So the conversation started with he thought I wanted to buy spare parts, I was interested in alternative suppliers of spare parts. I corrected that by telling him that I was interested in an actual supply of scales, and the answer was that Novation were the only supplier. Now, I don't know whether that was meant to be in New South Wales or in Australia, but obviously it would, you know, we were talking about Australia so it could have been the entire part of, you know, the country.

- 40 Now, if they were the only supplier in New South Wales and there were other suppliers in other parts of Australia, that could have affected the ability of RMS to get the parts from other suppliers, wouldn't it?

THE COMMISSIONER: Sorry, parts or the actual scales?

MR YOUNG: The actual scales, I'm sorry. The actual scales.---I'm just trying to work out what the question is.

Well, if it's confined to New South Wales and somebody else supplies them - - -?---So you're saying if Novation is confined to supplying in New South Wales, yes.

Yes. You can get them from a Victorian supplier.---Presumably maybe you can. I don't know that for a fact.

But it wasn't something that you - - -?---But I wasn't looking for spare parts. I was looking for scales.

10

THE COMMISSIONER: No, but I think Mr Young's now asking you about supply of scales. Correct?

MR YOUNG: Correct.---Yeah, I'm just wondering whether in that tender process there was a requirement that the supplier had to be New South Wales. I don't know but it's possible that is the case. I don't know why it would be restricted to that.

And was this a conversation that you made any record of?---No.

20

Now, what was the practice in the RMS in terms of recording conversations with people such as - - -?---Highly irregular to actually either record them voice-wise or even, even make file notes of, of conversations unless it's something specific that you've been directed to do.

Well, you're obviously familiar with the expression "file note". What were file notes maintained in respect of?---Well, none because I don't write file notes.

30

You don't at all but did other people in RMS?---One of my colleagues has been known to write file notes over the years, and that's, that's the only reason I know the term file note.

THE COMMISSIONER: What about a diary note? Sometimes people describe it that way.---No, I don't, yeah, I don't maintain a diary.

MR YOUNG: Now, in terms of the matters which you've given evidence about in relation to the scoping studies and AZH in 2017, did you raise any issue with Mr Soliman about anything that you thought was unusual about what you'd discovered on the ASIC website about AZH?---No, I did not.

40

And do you agree that you - well, if I could ask that he be shown volume 4, I think it's page 58. Now, Laura up the top is Laura Boccuccia or - - -? ---Don't know. Don't know how it's pronounced. I get emails from people I have never spoken to and she'd be one of them.

But I'm not so worried about the pronunciation but you say that, "The supporting documents attached, which include the RFQ plus three quotes.

Would you please expedite the processing of this.” Now, is there some particular reason why you asked that that be expedited?---I don’t know specifically. I can only assume because it’s so close, close to Christmas. Perhaps there was some desire, not necessarily by me, but to issue the purchase order before the Christmas close down.

10 But you accept that the word expedite was used by you to mean bring it along as quickly as you can?---Yeah. But it, it wouldn’t have been my decision to ask for it to be expedited. It would have been somebody else’s. I could care not whether this was issued that day or a month later.

THE COMMISSIONER: So does that suggest you were directed?---I would suggest that I was asked to ask them to expedite it and the only person that would be aware of this, apart from me, would be Mr Soliman.

20 MR YOUNG: But nothing that you had discovered in terms of your ASIC investigations or anything else inhibited you from asking that the matter be expedited?---Well, there was nothing that concerned me that much at that point in time.

Well, there was nothing that you - - -?---But we’d already issued a purchase order so we’re talking about, sorry, talking about raising the purchase order, Laura issued he request for the purchase order, this is just about providing additional documents so that, that they require before they’re prepared to issue it.

30 But you said that you thought there were things that were unusual about this.---Yes, two things, the ABN Lookup when I thought, you know, don’t seem to have a, a physical street address and I probably even did a, did a white pages and yellow pages search and discovered that they don’t exist in either of those either which is unusual when you’re trying to het business for, you know, attract work.

Well, you see, if that’s the case, isn’t that a matter that’s significant?---I don’t know because I had nothing to do with this PSC Panel that this business is on. I didn’t select them.

40 But you see, if that’s the case, doesn’t the fact that Christmas is coming give an opportunity for a little bit of a pause there?---Yeah but you’re, the, the expediting of the thing is not at my behest, it’s at somebody else’s so there could have been a pause but it wasn’t my decision. Somebody asked me to expedite this.

Well, you have no recollection of that at all, do you?---I can’t specifically attest to the fact that Mr Soliman asked me to expedite it but he’s the only other person that was aware of this process.

But you see, you've now given evidence about an enquiry beyond the ABN, that you made an enquiry of the – you were so concerned that you made an enquiry of using the phone records as well?---You're assuming my concern raised to the level of I shouldn't be doing this, which is what, what - - -

No, I'm just saying, your concern about the ABN Lookup, as you call it, led you to make another inquiry.---Yeah, just because they didn't appear to exist anywhere. They existed in, in, in the, in the ethernet, as they call it, electronically and nowhere else.

10

So you then make a second inquiry, and that must heighten your concerns. ---I don't know about heightening it. It just, just added to it. You're kind of, I mean, I don't know what you expected me to do is a better question. You know, like, what am I supposed to do? You know, I've been asked to raise a purchase order. I've looked at stuff, I don't particularly like it, but the boss has asked me to do something.

Well, what was the purpose of the inquiries that you did make? What was the purpose of the - - -?---I'm a curious person.

20

Is that a serious answer?---Yes.

So it was just purely for your own curiosity and not for any - - -?---I, I like to be aware of things. I like to be informed.

You like to be informed but you don't feel a need to share that information with anybody even though it might be a matter of significance?---At that point in time it wasn't to the point where it raised a, you know, that sort of concern.

30

Now, in 2017, what were the circumstances of you – you said that around about 3 April, 2017 you were transferred, is that right, or your unit was transferred to the Heavy Vehicle - - -?---From one unit to another, yes.

Now, what were the circumstances of that?---A restructure within the organisation.

And where had you been?---The other business unit was Operational Support and Development, as I've mentioned before.

40

And who was your supervisor prior to 3 April, 2017?---It would have been John Willoughby at the time.

And after 3 April, 2017?---Mr Soliman. Well, not my direct supervisor.

THE COMMISSIONER: Was your direct supervisor - - -?---Mr Zatschler, who has been my direct supervisor for, I don't know, 15 years.

MR YOUNG: Well, can you explain exactly what you mean by that? Who -- --?---So there's a reporting structure and before we were moved into Compliance Operations we were a standalone unit in some other branch. So that, that reporting structure was just transferred directly into various business units within Compliance, what is now known as Compliance Branch, and it's been moved from one unit to another in Compliance Branch but still maintaining the same structure where I, my line of reporting is through Mr Zatschler.

10 So when you say that Mr Soliman is your supervisor, what exactly do you mean by that (not transcribable) -- --?---Well, he's, he's the manager of the unit. He's not directly my supervisor.

So in terms of reporting, you do that to your direct supervisor?---Unless I'm asked to do otherwise.

Well, when you say unless you're asked to do otherwise, if you were asked to do something by Mr Soliman, it would be still important that your direct supervisor was aware of what you were doing.---No, it's not unusual that,
20 that somebody further up the management chain would come direct to a person. It's happened over the years. It's not an unusual occurrence that your direct supervisor gets bypassed.

And did you still have the same direct supervisor at the time of your involvement in the Tender Assessment Panel?---Yes.

Did you discuss with him your involvement on that?

30 THE COMMISSIONER: He was on the panel, wasn't he?---He was on the panel so he knew my involvement.

MR YOUNG: No, but did you discuss with him your involvement on it?
---Sorry, I, I don't quite - - -

Well, did you say to him, is it appropriate for me to be on this panel?
---None of had a discussion about whether we should or shouldn't, shouldn't have been on that panel.

40 All right. Because you never had the slightest qualm that it was appropriate for you to be on the panel.---I didn't have a view one way or the other whether I should or shouldn't have been on it.

But if you did, would you have not raised it with him?---If I thought that I shouldn't be on it I guess I would have, but I had no view at all.

Or isn't it that you thought that it was perfectly appropriate, given your experience in the RMS over the years and your capacity to evaluate the sort

of things that you knew were going to be the subject of that panel?---So I'm not - - -

THE COMMISSIONER: There are a couple of propositions there.---Yeah.

Do you need them broken down or - - -?---Yes. I don't quite know how to answer the question.

I think you put to him that – I'm sorry, Mr Young.

10

MR YOUNG: No, no, no, I'm perfectly happy, Commissioner.

THE COMMISSIONER: No, no, you go.

MR YOUNG: All right. Firstly I think you accept that you, with your experience, and also the fact you're a technical officer, had the capacity to be on a technical evaluation panel?---I agree that I am quite capable of evaluating somebody's submission in relation to a tender request and its conformance against those requirements, yes.

20

And you knew what this particular tender was about?---Yes.

And you never had any qualms about your ability to be on that tender panel in relation to that subject matter?---Not about my ability to compare the person's, the, the the bidders' submissions and the content of those submissions in, in comparison to the request for tender document and its technical requirements, no.

30

To go, you know what a tender process involved. Correct?---Yes.

You knew what a tender was.---Yes.

That it comes to an outcome, it comes to a recommendation.---Yes.

And you didn't have any difficulty in accepting the role of being one of the members of that committee, knowing exactly what they were going to be involved in making a decision about, your capacity to make those decisions. ---I think I've kind of already answered the question, haven't I?

40

Well, you didn't have the slightest doubt, did you?---I already said that I, I accept that I have the capability of comparing what is required in a tender document and what people submit against that tender. So it's a comparison of the two. Does this one meet the requirements, does it not. Most people who have some skills in reading and writing and understanding perhaps some technical language would be able to do that, yes.

And nothing that happened during the tender process changed that view?
---I didn't have any concerns during the evaluation in terms of being able to evaluate the tender bids, no.

Now, in relation to Novation you've also, you've also said that there were some issues that you had concerning its ASIC information. Is that what - - - ?---Yes.

10 Now, did you do anything about that?---No.

Well, they're bidding for a lot of money.---Yes.

And if you had any concerns why wouldn't you seek some sort of random - - -?---Given that they were already the successful tender I assumed that somebody else had addressed those issues.

20 Or did the fact that, or did your call with IRD Canada inform that view as well, the fact that you were told that they had this agency relationship or - - - ?---No.

- - - supplier relationship - - -?---No, it, it did not.

It did not?---No.

I notice - - -?---Given, given the subsequent events I think the day after.

I notice the time, Commissioner. I'll be about another, I'll be a little while longer, so - - -

30 THE COMMISSIONER: How much longer do you think you'll be?

MR YOUNG: Oh, 15 minutes.

THE COMMISSIONER: What's the consensus. Do people need to go or - I was just keen to - - -

MS WRIGHT: I'm happy to sit on, Commissioner.

40 THE COMMISSIONER: Mr O'Brien, you look concerned.

MR O'BRIEN: I've got, yes, look, I wasn't anticipating this week would sit until 4.30 and I've got all sort of backing up problems but I am happy to go with the consensus but I've got about five minutes' worth of cross-examination if that - - -

THE COMMISSIONER: Mr Lonergan, how long do you think you'll be?

MR LONERGAN: 10 to 15 minutes tops.

THE COMMISSIONER: So we probably could finish Mr Walker by 5.00.

MS WRIGHT: I have about three minutes.

THE COMMISSIONER: I'm sorry, what's the -- I would be keen, I think Mr Walker would be keen to stay to 5.00?---I would be happy to stay until 5.00.

10 MS WRIGHT: I'm content.

THE COMMISSIONER: All right. Continue, Mr Young. And I'm very grateful, Mr O'Brien, thank you.

MR YOUNG: If I can just have a moment, I may be able to shorten this a little.

THE COMMISSIONER: Do you need to make a call or anything, Mr O'Brien or can you - - -

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MR O'BRIEN: Oh, I've got the capability of text messaging, thank you very much, Commissioner.

THE COMMISSIONER: Oh, good.

MR YOUNG: The concerns that you say that you had with Novation for a contract like this, aren't you looking at this just retrospectively, that you didn't have those concerns at the time?---Okay, you have to understand my inexperience with this work. This is the first time in, December 2017, I'm being asked to do this work. I don't know that other people haven't done this work before, I have not discussed with anybody else whether they've done this work before so I'm coming in with a blank sheet and, and, to a degree, assuming, well, this is the way they do things here. So things that I think I don't particularly feel comfortable with don't necessarily raise flags to the point where I think I should raise it with somebody else. Certainly because I'm thinking that maybe I'm, I'm jumping at shadows basically.

30

Well, you're not a shrinking violet, are you? You're somebody who, if you have an issue you raise it with somebody?---If I thought it was that, that big a problem at the time, I would have raised it, yes. That's not, I don't think we're disagreeing about that.

40

When you say that big a problem, if you thought it was significant, a significant probity issue, you would have raised it with somebody.---At that point in time, yes.

And the fact of the matter is that you didn't consider any issue in relation to Novation to be a significant probity issue.---No, I didn't.

And what I'm putting to you, isn't what you now say about both Novation and AZH in relation to not red flags but possible warning signs, isn't that simply you looking at these things retrospectively and saying these were matters - -?---You'll have to clarify the term of what you now say.

Well, you're looking back in hindsight about matters that did not concern you at the time?---Well, are you asking me about something that I've said about either of those companies after, after I've done the ABN Lookup?
10

Let's just confine it to - -?---Because we seem to be moving backwards and forwards.

Well, let's confine it to Novation for the moment. You say that there were issues about Novation that concerned you.---I noted things that I thought were unusual, yes.

And you did nothing about those issues?---No, I did not.

20 MS WRIGHT: I object to that. There was evidence of what he did.

THE WITNESS: I think we're going around in circles.

THE COMMISSIONER: Yes. Mr Young, I was going to say I think you've covered this. The evidence of Mr Walker is, you know, he's curious, he's a sticky beak, he did this search, he did that, he thought things were unusual. But ultimately you've just put to him if it was a big enough problem or if there was significant probity issues, you would have raised it and he agreed with that proposition that he would have raised it and he
30 didn't.

MR YOUNG: Yes. Well, all right, well, you did not raise the issue with the other members of the Tender Evaluation Committee, did you?---This is about Novation?

About Novation. Any issue concerning Novation you did not raise with them.---I couldn't be a hundred per cent sure. I may have mentioned to them that I done this work and thought it was a bit odd.

40 Well, now, was there any recording done of the process of evaluation?
---Physical recording in the evaluation - - -

Physical recording. Anyone taking minutes about what was discussed?
---Not verbatim, no, there wouldn't have been. It was about evaluation of the tender bids. It wasn't about anything else. We would have been there for a month if we have to record everything we say.

Well, when you say there was no recording verbatim, was there any recording at all of the discussion that - - -?---Not, it's unusual, it's not a, not a committee meeting or anything where you normally take notes of, you know, what - - -

THE COMMISSIONER: So no record?---No. My understanding is I've never seen that sort of process where that's been done.

10 MR YOUNG: And I think you said that normally, normally the cheapest quote gets the contract or the work.---The assessment is meant to be based on value for money. Unless you can, if you can find some reason to select a tenderer that is higher in value that delivers better value for money, you should select that one, but typically it is always the lowest price.

Provided that they comply with the - - -?---Providing they meet the criteria.

And that is the very first issue, is it not? You don't even get to price until - - -?---No, you check the criteria first.

20 You check the criteria.---If they don't meet the criteria, I mean, you'd put that one aside and not, not evaluate it any further.

And you regarded it always as being an option, if necessary, that nobody gets the tender. So - - -?---It could have been, and not my job to decide who gets work but, yes, you could have said, well, no one gets the work. We don't like any of these. We're not going to do this or we're going to ask them to tender, you know, put in a quote again.

30 And you always took that to be an option - - -?---That's a possibility.

- - - which was available to you. You understood that - - -?---Well, it's not available to me because I wasn't, I wasn't requesting tenders.

No, but you understood that was an outcome that was available to you. ---That was an option to the person who decided to put out a request for tender in the first place.

40 And to the Evaluation Committee just to say none of these people - - -? ---Sorry, we're talking about the tender, scales tender now, is that correct?

Yes, correct.---I'm getting a bit lost here.

That was an option which was available to that committee to simply say nobody - - -?---I'm, okay, so you've got somebody who's overseeing the administrative, administration of the committee. That was not me. It was just one of the members of the panel. I'm not sure – in terms of I've had no training – whether that's an option that you have or not. You, you can ask

me that question but I can't answer that question because I simply don't know the answer.

THE COMMISSIONER: Can I just ask, with the scales, you had two tenderers.---Yes.

And we've seen one didn't satisfy the requirements.---Yes.

So you've got one that did.---Yes.

10

You then have to – and they've got a particular price that they've put forward.---Yes.

I take it you've still got to turn your mind to whether this is – what was the terminology you used? Value for money?---Value for money.

How do you do that when there's just now kind of one person standing?

---Yeah, you can't really because you're trying to compare one against another and you don't have another one to compare it against, really, do

20

you? Obviously we had some knowledge of what the previous ones cost, so

Was that for the - - -?---For the 125 or whatever it was, the original scales tender, so I think in terms of pricing everybody just looked at it and went, well, I think it's the same price or something maybe.

Even though it was from the same company?---Yeah. Yeah, I would think so.

30

Did you go back even further? Because there was a tender previously. Not a tender, I'm sorry, a sale of scales by ELWC that was - - -?---We wouldn't have been aware of that. I wasn't even aware of ELWC until recently.

Mr O'Brien.

MR O'BRIEN: Thanks, Commissioner.

THE COMMISSIONER: Mr O'Brien represents - - -

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MR O'BRIEN: Mr Singh.---Yeah.

Mr Walker, you have given evidence that prior to your involvement in tender panel work you had no training in relation to that. Is that so?

---That is, that is correct.

And was the first tender panel that you were involved in around about December 2017, is that, is that correct?---That's, that's not a tender panel, that's a request for quotes, not the same thing.

Thank you. When was your first involvement in tender panel involvement?
---I've only been involved in one which was for the scales.

And when was that?---The second one.

Thank you. And in relation to that was your attention drawn to the existence of a procurement panel – sorry, I withdraw that – a procurement manual?---No. This has been asked before I think.

10

Maybe, but not of you.---Yes.

THE COMMISSIONER: Come on, keep on going, quickly. Don't fight.

THE WITNESS: The answer's, the answer's no, I have not, if it moves things along.

MR O'BRIEN: Thank you Mr Walker. Mr Walker, in relation to the raising of purchase orders, you know what I mean by that expression?

20

---Yes.

You've given evidence that you were asked by Mr Soliman to raise purchase orders. Is that so?---That is correct.

And that's in circumstances where you had very limited understanding of what you were raising the purchase order for. Correct?---That is correct.

It may well be that at the end of this Commission's process that ICAC finds that you've signed off on purchase orders that have been subject in effect to a scam. Do you understand that?---Yes.

30

Can you explain to the Commissioner how you've been involved in that scammed operation?---I'm sorry?

THE COMMISSIONER: Can I just say - - -

THE WITNESS: Are you inferring that I had some involvement?

THE COMMISSIONER: No, no, no.

40

MR O'BRIEN: No, not at all. Not at all.

THE COMMISSIONER: Sorry, we're assuming I think that you raised a purchase order for work that was never done. Is that what you're - - -

MR O'BRIEN: I'll take it a couple of steps back. I'm trying to I think hybrid it a bit, but you've heard the evidence of Mr Hamidi?---Yes.

His evidence is that the AZH work was in effect not done by him but in fact done by Mr Soliman. Do you understand that?---Yes.

And that is of vital importance in terms of the Commission's inquiry in these, in these hearing. You understand that, don't you?---Yes.

It may well be that Counsel Assisting asks her, asks the Commissioner that, to find - - -

10 MR YOUNG: Well, I just want to object. I'll just be very quick, but I just want to say this, that I'll be, that proposition is not one that's accepted that - - -

THE COMMISSIONER: That's okay. Can I put it this way. I recognise that. Let's assume, assume the fact, a fact that AZH did not undertake the work and that Mr Soliman did the work. Okay?---Yes, yes.

For a scoping study that you - - -?---Yes.

20 - - - raised the purchase order for.---Yes.

And also processed the invoice.---Yes.

Now, ask your question.

MR O'BRIEN: Thank you, Commissioner. Given those states of affairs that have in fact taken place, you can assume, how do you say that you came to be involved in what was a scammed operation, understanding for a moment and not suggesting for a second that you've been involved in any
30 dishonesty. Do you understand that?---So I mean I - - -

How did you come to be in that position where you've been effectively scammed?---Well, unwittingly obviously.

Not suggesting otherwise. How did it happen?---Simply by the suggestion of Mr Soliman of our team, when I say our team, the three people that were transferred in April 2017 into the Heavy Vehicles Program team, being more heavily involved in what was going on in that team, but there's an interceding period between April and December where there's no
40 interaction between Mr Soliman and me at all really, no meetings, no nothing that I can recall of any significance.

THE COMMISSIONER: So Mr Soliman comes to see you or the team and says, "Want you to find out more about how your new kind of unit is working and the way I'm going to expose you to that work is" - - -?---Get you involved in this.

And so raise a purchase order.---Yeah.

Dum, dum, dum, dum.---Yeah.

MR O'BRIEN: You obviously must have trusted Mr Soliman a great deal.
---I had no reason to not trust him at the time.

Well, what was it that made you trust him?---I'm not in the habit of
distrusting people that I work with. I'm not a suspicious person. So - - -

10 You've given evidence - - -?---Unless they're giving off some strange vibe
that they're, you know, they're an axe murderer or something. I'm not in
the habit of distrusting people.

Did you think he was good at what he did?---Don't have an opinion one
way or the other, to be quite honest. I don't know enough about what he
actually did. That's how at arm's length we were really involved in the
team. So - - -

20 So when he's asked you to raise this purchase order about something you
really knew very little about - - -?---Yes.

- - - why did you do that?---I was asked to.

Is that it?---Yes.

THE COMMISSIONER: He's his manager.

30 MR O'BRIEN: Oh, okay. Commissioner suggests it's the position that he's
in.---Well, yeah, he's, he's a person in the managerial structure that sits
above me and gives me, gives me a direction to do something.

And what about if you said, "Well, what's this all about?"---If it had been
something that I knew to be illegal, quite clearly I would have refused, but I
didn't know any of that at the time.

It didn't even occur to you, did it?---No. Why would it? Why would it?

40 It didn't occur to you because - - -?---I had no reason to believe that there
was any unusual and possibly inappropriate activity occurring.

Was he well-regarded within your unit?---I don't know.

Well, I'm asking your personal, subjective opinion on this.

THE COMMISSIONER: I don't know if that's going to help me, Mr
O'Brien. I think what - - -

THE WITNESS: I didn't really interact with him enough to form an opinion one way or the other.

THE COMMISSIONER: I think on this you've established why Mr Walker became involved and raised the purchase order and pursued the invoice. I don't know if you can take it any further.

10 MR O'BRIEN: I'm grateful for that. Thanks, Commissioner. Now, in relation to the discussion that you had – Mr Young's covered this extensively and it's my last topic of examination of you – in relation to the conversation that you had, sorry, withdraw that. In relation to the telephone call that you made to AZH, that was made on the instructions of Mr Sarker, S-a-r-k-e-r, correct?---Not sure the exact spelling. I think there's a U in there somewhere. It's S-a-u-k-a-r.

20 That was on his instruction, correct?---A discussion between us at the end of the telephone conversation and me raising the issue that I've now realised that we've got two parallel projects and we're not sure about what this one is.

And did he mention to you that he'd become aware of some other high-value purchase orders that had gone AZH's way that were troubling him? ---At that point in time, no, but not that I'm aware of. I don't recall that conversation.

He didn't make you aware of that?---I made him aware of the fact that there were others.

30 And, sorry, one last topic. Beg your pardon, this is an oversight. In relation to the conversation you had with Mr Singh wherein he suggested to you that there was a connection between Novation, AZH and their principals and him and Mr Soliman, can I suggest that that might have happened at around the end of 2017? Would that be right? Thereabouts?---No, I don't think so. I don't think so.

I withdraw that. The end of – that is my mistake – the end of 2018. ---Perhaps. I couldn't be, I couldn't be a hundred per cent sure of the exact time line.

40 You couldn't say it wasn't around that time?---No, I couldn't attest one way or the other.

It could well have been around that time?---Could have been early 2019. Could have been late 2018. It could have been in that, around that rough time period.

I'm grateful for that. Thank you very much. No further questions.

THE COMMISSIONER: Mr Lonergan.

MR LONERGAN: The tender process – sorry, I represent the interests of Novation/Mr Thammiah.---Yeah.

The tender evaluation process involved consideration of two tenders, including the AccuWeigh, is that right?---Yes. Yes.

10 Presumably AccuWeigh provided a report that was used by the panel to evaluate?---When you say a report, it was purely their submission on the basis of them documenting how their submission complied with the specifications in the tender.

Yes. Yes. That’s what I meant.---Yeah.

So that was provided?---Yes.

20 And on that report the, sorry, submission, in that submission the tenderer, being AccuWeigh, said that they were non-compliant, they specified that they were non-compliant?---Yeah, pretty sure they stated they were submitting a non-conforming tender.

And this tender, was it, was it provided to your knowledge to the Commission?---I do not know.

It was internally, it was in the eTender website, was it not?---Yeah.

30 Do your recall the price - - -?---No.

- - - that was provided by these tenderer?---No, I do not, no.

40 Now, if you can go to volume 12, page 231, actually 232 but 231 is the start of the report, but 232. And you see the fourth paragraph there, and it’s the last sentence of the fourth paragraph. So the paragraph starts with, “The overall objective is to evaluate,” and it’s the last sentence and I’ll read it to you. “In order to determine best value for money Tender Evaluation Committee took into account all relevant risks, benefits and costs over the whole of the life procurement cycle.”---Yes.

Now, is that true, is that what you did?---I believe so, yes.

Okay. So you evaluated all the relevant risks for the AccuWeigh scales and the IRD scales. Is that right?---Yes.

The benefits of both scales?---Yes.

The costs over the whole life procurement cycle of both scales?---Based on what was submitted to us, yes.

So you did that side-by-side comparison of the two sets of, well, scales that were the subject of the two tenders?---Yep.

Is that right?---Yep.

10 That's despite AccuWeigh identifying that their scales were non-compliant?
---We just, even though we knew it was a non-conforming tender we chose to evaluate it anyway, just to see how close it got to, yeah. Technically we could have just put it aside but it was decided, it was agreed within the three of us that we should go through the process anyway.

THE COMMISSIONER: And that's why you gave it a score?---That's why we scored it.

15 MR LONERGAN: And based on that process, putting aside the non-compliance of the scales, you still came up that the Novation, well,
20 Novation's tender, i.e. the IRD scales, were the preferable scales?
---Yeah, because the non-conformance has obviously changed the scoring, obviously.

But putting aside the non-compliance - - -?---Yeah.

- - - did you come to that conclusion?---So we came to the conclusion that only tender that we were able to accept was the Novation one.

30 Yes, no, I understand that, but your evidence was that you did a side-by-side comparison - - -?---Yes, yes.

- - - putting aside the non-compliance issue, and my question to you is, did the Novation IRD scales, were they the preferable scales on that basis of comparison?

THE COMMISSIONER: Did you compare – I'm getting confused. Did you - - -

40 THE WITNESS: Well, I, it's based on the scoring.

THE COMMISSIONER: Which takes into account the non-compliance.
---Which takes into account the, the, you know, the scoring of each individual item against the technical specifications. So the other one scored lower anyway and it didn't comply, so there's two reasons why it couldn't be accepted.

MR LONERGAN: Right. So the two reasons is 1, putting aside the non-compliance, the AccuWeigh scales were a lower score than the Novation IRD scales?---Yes, yes.

And then 2, when you added in the scores for the non-compliance of the AccuWeigh scales versus the - - -?---Well, the scores are the scores I believe.

10 - - - compliance of the IRD scales, they still came to the same result which is that the Novation IRD scales were preferable. Is that right?---I believe the scores that are there score everything. They don't put aside the non-conformances, they, they score the fact that it doesn't conform.

THE COMMISSIONER: So the score of 66 for AccuCorp - - -?---So the score that is there – sorry – for AccuCorp is on the basis of non-conformances.

MR LONERGAN: Right. And your evidence before that it was a huge risk that you would choose the AccuCorp scales given the non-compliance.
20 ---The one was in relation to the OIML certification. It's a requirement under the National Measurements Act that you need OIML certification for trade weighing, which effectively is what's actually done when you weigh a truck because it's just given that when you weigh a truck that is the actual weight.

THE COMMISSIONER: And that was being in progress but hadn't been obtained.---That was in progress but it had not, they could not demonstrate compliance at that point in time.

30 MR LONERGAN: And do you know how they achieved compliance with those scales?---I do not. But I think I noted from the first tender they didn't comply in the first tender either for the same scales if I'm looking at the same thing. So - - -

Sorry, you were aware of that at the time, were you?

THE COMMISSIONER: Sorry, so you don't know whether now they've achieved certification?---No, I don't know now but what I'm saying is there appears to be – and I'm not suggesting one way or the other whether the
40 decision should have been made on this because I wasn't aware of it at the time – but in the first tender they've submitted a submission for non-conforming scales as well, as far as I know. Didn't comply with the OIM requirements then. So they've had an interceding period where they could have still got it, they still don't have it. It kind of makes it risky to go and buy scales that you don't really know when they're going to get that compliance.

MR LONERGAN: You wouldn't do it, would you?---Well, I wouldn't, I certainly wouldn't. You know, I might as well pack my bags and go home now. You know, like, spend \$2 million on something that maybe we can't ever use or not use in the interceding period.

THE COMMISSIONER: You wouldn't do it.

10 MR LONERGAN: And going to page 234 of volume 12. This is the, you've been shown this before. That's the criteria and you noted that the first bit there was - - -?---So number one is the, is the key reason why it would have been a significant risk to purchase something that currently wouldn't allow us to certify the scales to do trade measurement.

And the dimensions of the scales are not referenced here. Why is that? ---Sorry? Say that again.

20 The dimensions of the scales are not referenced here.---I have no idea why the dimensions are not mentioned in that. It's probably just purely because these were the most significant things in the list of things that they didn't conform with.

So basically dimensions didn't fit into the top four issues that faced the AccuWeigh, AccuCorp scales? Is that a fair summary?---I honestly don't know the answer to be quite honest. I'm not sure.

30 But if it was important, it would have been in there.---If it was, let's say, for example, it didn't comply and the OIML issue wasn't there, obviously it would have been listed as one of the things that it didn't comply with and potentially scored it still too low and then couldn't be accepted.

Now, just turning to the evaluation process by the Tender Committee. You gave evidence earlier today that you didn't form a view that he – being Samer – favoured any particular tender. Do you recall giving that evidence?---Yes.

So is it correct, then, that Mr Soliman didn't say in that panel meeting the weigh scale proposal from Novation is the best?---I don't recall him saying those words.

40 Well, you'd accept that if he said that that that would be contradictory to him not favouring - - -?---Given that, that he is not a member of the Evaluation Panel anyway and might have been seen as trying to exert influence on us as to what we selected.

Therefore he is unlikely, in your recollection, to have said it.---All I can say is I don't recall him saying it.

So your recollection is that Mr Soliman did not make any statements to the members of the panel that identified his preference for the Novation IRD scales?---No. I mean, his comments were mainly related to, you know, you know, this particular bit doesn't comply with that on each, each, each tenderer's bid to that effect.

Excuse me for a second. No further questions, Commissioner.

10 THE COMMISSIONER: Thank you. Now, Ms Fryer?

MS WRIGHT: Sir - - -

THE COMMISSIONER: No, no, no, no.

MS WRIGHT: Sorry. I thought you said Ms Wright.

THE COMMISSIONER: No, sorry, Ms Fryer.

20 MS FRYER: No questions, Commissioner.

THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: Nothing from me.

THE COMMISSIONER: Sorry, Ms Wright.

30 MS WRIGHT: Do we still have volume 12, page 234. Mr Walker, in relation to tenderer AccuCorp and the comments that the tenderer supplied evidence of previous models having a useable lifespan of 10 years or greater overall, highway agencies were located in only one country, USA. Do you see that there?---Yes, yep.

You gave some evidence that that doesn't appear to be one of the major things, that was answer you gave to a question you were asked - - -?---I, I think - - -

If you could just wait for the question.---Yep, sorry, okay.

40 When you see listed four items where you say AccuCorp didn't meet the performance requirements.---Yeah.

Those four relate to technical specifications, don't they?---Yes, they do.

And this other requirement that you agreed was a requirement that all highway agencies, about highway agencies and use of the scales in other countries.---Yep.

That's not of the same nature as the other four?---It's not a technical requirement as such, no.

And in relation to Novation it's noted that Novation had supplied evidence of previous models having a useable lifespan of more than 10 years and has been utilised in 16 countries since 1990. Do you see that?---Yes.

10 And so it was actually included as a requirement that Novation met.---Sorry, I'm - - -

It's included there in the tender evaluation report as a - - -?---As a statement. Is that what you're saying?

That Novation met that requirement because its scale had been utilised in 16 countries.---Yes.

20 Can you really say whether that requirement was ranked below the other requirements?---I'm not sure what the weightings were in terms of the evaluation. I don't, I don't have any recollection of what, how the weightings worked in relation to that, but I would have expected that the technical requirements would have greater weightings than non-technical.

30 Well, why have you made that assumption?---Because the technical requirements are more important in terms of the use of the scale. So wheels were to make sure that it was more manoeuvrable for inspectors to use, the OIML requirement was a legal requirement, the (not transcribable) one, well, okay, it's a technical requirement, it's a durability thing more than anything else, the operating temperature, you know, probably not that big a deal but it's mentioned in the report, but it's different to what the requirement is.

And the only requirement in respect of Novation which is specifically – I withdraw that. But in respect of Novation it specifically states that the model proposed has been used in 16 countries for more than 10 years. So that was considered an important requirement, wasn't it?---So there is a requirement that there's some demonstrated life expectancy, yes.

40 Yes, I'm aware of that, but it was an important requirement, wasn't it? ---That it was demonstrated in some way, yes.

Now, who drafted the Tender Evaluation Committee's report?---That would be Alex Lee.

Did you make any changes to it?---I don't recall making any changes to it, no, unless they were typographical or something, that would be about all.

Who – moving on to a different topic – who did Mr Zatschler report to in 2018?---Mr Soliman.

You were asked a couple of questions I think in relation to Zoe Hamidi. Did you ever speak to Ms Hamidi?---I don't believe I ever did. I don't recall ever having a conversation. I, I'm not a hundred per cent sure but it's unlikely.

10 Why is it unlikely?---Because I don't recall ever having a conversation with anybody from, from AZH.

That's all, Commissioner.

THE COMMISSIONER: Really quick question. This reflects my very poor note. Mr Young was asking you about your concerns with Novation from your ASIC investigation.---Yes. Yes.

20 Then he asked you a question about after your conversation with the IRD representative, where they said something like, yes, Novation is our distributor.---Yep.

You gave an answer something like - - -?---Yes, you're referring to the fact that I had a visit from Mr Soliman the day after.

And then you said the next day. Is that what you were referring to? ---That's, that's what, what raised the, the thermometer a bit. Going how does he know that I've spoken to somebody in Canada.

30 All right.---You know, like - - -

So that was your reference to the next day.---Yeah, yeah. Like, I hadn't told him I was speaking to IRD. He now knew I'd spoken to IRD and confronted me, well, not confronted but just asked me about it.

So that was a bit of a concern.---Well, yeah, how does somebody know that I've spoken to somebody all the way across the world in a different time zone? How, what was the relationship between him and IRD? You know, like - - -

40 All right. Can Mr Walker be excused?

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: Mr Walker, you're excused. Can I thank everybody again. I'm very grateful that we could all stay. And I'll just check that there's nothing else that we've got to raise. Are we right?

MS WRIGHT: Yes.

THE COMMISSIONER: Okay. We're adjourned until 9.30 tomorrow morning.

THE WITNESS EXCUSED

[5.06pm]

AT 5.06PM THE MATTER WAS ADJOURNED ACCORDINGLY

10

[5.06pm]