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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 29 OCTOBER, 2019

AT 2.00PM

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

<STEPHEN ALAN THAMMIAH, on former affirmation [2.15pm]

THE COMMISSIONER: Mr Thammiah.

MS WRIGHT: Mr Thammiah, just to remind you after the luncheon adjournment where I had taken you, I had shown you an email which Mr Soliman sent to you on 28 November, 2016, at 9.18pm. Not the one on the screen at the moment, but an email attaching the Novation price list, quote
10 101. Do you recall the one I took you to?---Yes.

And then if we could have on the screen the email which you then sent to him, sorry, you sent to him about an hour beforehand, forwarding IRD's price lists. Do you recall this?---Yes.

Could we turn to the next page? Mr Garza sent you those price lists on 25 November. Do you recall that?---Yes.

And if we could turn to page 311, which is still an attachment to your email
20 to Mr Soliman, this is an IRD price list. Do you see? And it includes a weigh pad platform board at \$ [REDACTED] ---Yes.

And other items?---Yes.

Now, you having sent those price lists of IRD to Mr Soliman at about 8.00pm, on 28 November, 2016, he sent you the Novation price list at 9.18pm that evening. It was Mr Soliman, wasn't it, who prepared the Novation price list for parts?---I, I really can't remember that happening.

30 Well, you've sent him an email forwarding IRD's price list.---Yeah. Yes.

He sends you back a price list which was based on IRD's prices, wasn't it? ---Yes.

He'd prepared that list, hadn't he, for Novation?---No, I don't, I don't have a recollection of that happening.

You wouldn't have been sitting there together forwarding emails to each other, would you, in his house?---No, that's entirely possible, because of
40 the, the way things worked.

THE COMMISSIONER: Sorry, you're saying it was possible?---Yeah. It was possible, given the fact that majority of the work I did was at his house.

MS WRIGHT: But you would not be sending him an email when you're sitting with him, would you, with IRD's price list? You'd just show him the price list. Why would you need to send him an email?---Because it had

those documents attached, and they might be relevant to creating the price list.

And you can just show him the document, can't you? You don't need to email him.---Yeah, but if you're working off someone else's PC, their email is attached, you know, it's, it is easier to just, I, yeah, obviously I don't have a recollection, but for me that's how I perceive why I've sent this.

10 And then he sends you Novation's price list to your email. Do you agree with that?---Yes.

He sent it to you.---Yes.

And yet you say it's possible that you were sitting with him when he sent it. ---Yes, because that's the general recollection I have of working on documents.

20 Did he ever prepare a Novation document, to your knowledge?---No, not to my knowledge.

Is there any Novation document you've seen in these proceedings that you know that you did not prepare?---No. It's not that – the only document I'm really uncertain of is the, the ruggedised tablet trial document. I, that's probably the one area I would say it doesn't make any sense.

30 And there are a number of documents on Novation's letterhead in that particular trial, a quote, an invoice, a report. Which document are you unsure, or is it all of the Novation documents to do with that trial that you're unsure of preparing?---Just the, the report.

The scoping study report?---Yes.

And when you say you're unsure is that something more than a lack of recollection, that is you believe you did not prepare that report?---Yeah, I, I definitely helped prepare the report but I just don't feel right about that report. It, yeah, it doesn't, it just sticks out as a sort thumb in terms of the projects and reports that were written.

40 Is that because you had nothing to do with that trial?---I think it was partly because of the way that trial was conducted, yes.

You're agreeing with me that you had nothing to do with that trial?---No, I, I have a recollection of that trial but, yeah, that's - - -

But what?---But the purchasing of those ruggedised tablets did not happen so I also see that that trial was not effectively run.

I suggest that Mr Soliman prepared the quote, which I will take you back to, at volume 18, page 280, or the attachment to this email, if we could just go to the next page. I suggest that you did not fill out the prices on this quote, Mr Thammiah, and that it was Mr Soliman to your knowledge who did so. ---I really can't answer with any accuracy.

You don't deny that it's a possibility?---No, I don't deny.

10 Now, coming back then to the IRD table where I was taking you to the particular item on that quote being the weigh pad platform, you having invoiced RMS on 10 January, 2017 for one of those items. Did you prepare the invoice? And if you like I can take you to it.---Yes, I believe I prepared the invoices, yes.

Do you have some uncertainty about that?---I mean, yes, there's always some, there is some uncertainty because of the nature of, yeah, because of the nature of what I was going through, but from my recollection, I did prepare the invoices.

20 When you say, "Because of the nature of what I was going through," what do you mean by that?---Well I was, I was lying to myself. So I was creating false representations so I could justify my actions.

It's a question of who prepared a particular document. I'll take you to it, it's volume 9A at age 202. This is the invoice of 10 January, 2017, where you included a charge to RMS for one weigh pad at \$20,780. Do you see how this resembles the quote 101 which Mr Soliman had sent to you - - -?---Yes.

30 - - - at 9.18pm on 28 November? And my question is whether it was Mr Soliman who prepared this invoice and you've said that it's possible that he did because of the nature of what you were going through.---Yes.

Is that your evidence, that it's possible that he did prepare it?---Yes, it is possible, yes.

Now, for other invoices where Novation appears to be invoicing for things it didn't supply, such as the steel boards I've taken you to, is it possible that Mr Soliman also prepared those invoices?---It's possible.

40 What was the process for preparing invoices for spare parts in the first half of 2017, how were they prepared and where?---Yeah, look, from a general perspective I can only recall getting instructions to prepare the invoices.

From whom?---From Samer.

All right. In what form or how did he give you instructions?---Just verbally or text message, yeah, just in person or text message.

On occasion text messages?---I'm sure there would have been, but - - -

I'm just asking what you recall.---Yes.

Now, when he instructed you verbally about spare parts invoices, what did he say?

10 MR YOUNG: Oh, well, I object to that. I mean going to be asked on one occasion, but this is just asking for a generalisation in relation to what might have been a number of conversations.

THE COMMISSIONER: Go on.

MS WRIGHT: I'm asking what he said.

THE COMMISSIONER: He's given evidence that he can recall instructions from Mr Soliman and he said via text or verbally. I'll allow the question to be answered.

20 MS WRIGHT: What did - - -

THE COMMISSIONER: Do you recall what you're being asked?---If we can have the question again, please.

MS WRIGHT: You've referred to instructions from Mr Soliman.---Yeah.

What did he say?---Um - - -

30 THE COMMISSIONER: Yes, verbally, you said he gave you instructions verbally.---Yes. It was words to the effect of, this is the amount left and, yeah, to raise invoices accordingly.

And was the words that you've recounted, this is the amount left and raise invoices accordingly, is your recollection that he said that on more than one occasion or was it one occasion?---No, they were large POs so he definitely - - -

So it was linked to large POs?---Yes.

40 The purchase orders.

MS WRIGHT: In the case of the weigh pad platform, if the invoice is still available on the screen, that was issued on 10 January, 2017. Do you see that?---Yes.

And that's right at the start of your invoicing of spare parts to RMS.---Yes.

Do you agree with that?---Yes.

Did Mr Soliman ask you or request you or instruct you to raise this invoice?---Yes, he would have.

And did he say anything to you about what you should include on the invoice?---No. Not to my recollection.

10 The fact that you've included an item that you didn't intend to supply, being the weigh pad platform, was that a matter that you discussed with Mr Soliman?---No. I believe the weigh pad platform was required as a once-off but later on, I'm pretty sure they told me they, IRD informed me they don't make this particular series, I think it was. I think it might have been A, sorry, series I.

20 Mr Thammiah, I've already asked you about issuing an invoice for this weigh pad platform and your evidence was that you didn't order it from IRD, you didn't supply it to RMS, you issued the invoice knowing that it was a dishonest thing to do. And what I'm asking you is whether you had any discussion with Mr Soliman about the fact that you were invoicing, on 10 January, 2017, RMS for a weigh pad platform that you knew to be a fraudulent invoice?---Yeah. Look, I, I think I've, this particular item has somewhat thrown me in a bit of confusion but I believe that there was a need initially but once finding out that it could not be delivered, I think that was the point where I really acknowledged that this wasn't going to get delivered.

30 You're changing your evidence, aren't you? Now you're suggesting there was a need for this conveyed to you. Who told you there was a need for this?---I thought there was a parts requirement that came straight from Accuweigh at the time. Like, a list of parts and I feel like the weigh pad platform, or one of them was that.

Who was the maintainer as at January 2017 of the scales?---Accuweigh, I believe. Actually it could have been Mark Mitchell, WeighPack Electrical.

40 And you've given evidence that the weigh orders were conveyed to, was from Mr Soliman. It was Mr Soliman who'd tell you what you needed to get, wasn't it?---There was a consultation with the maintainer initially, I believe that happened, which provided an initial set of parts to deliver. So I think that happened initially but later on, I, yeah, don't think that's what happened.

Did you ever have the maintainer come to you to say they needed you to make an order for spare parts?---No, not directly.

All right. So that's never?---Yep.

And so in the case of this weigh pad, it was not the maintainer who told you they needed the weigh pad, was it?---Sorry, I, I do think that weigh pad in particular had some merit in the first order of parts list that I received.

THE COMMISSIONER: Sorry, had some merit?---Yeah. I believe it was intended as - - -

Sorry, what was your answer, had some merit in the first?---Parts list that was, that I received.

10

And what do you mean had merit?---As in they had a requirement for it but it couldn't be delivered because subsequently I was informed.

MS WRIGHT: What parts list are you talking about?---The maintainer gave a, gave a parts list to, well, through RMS to myself for the first order of parts.

So you're saying the maintainer gave RMS a parts list, and RMS gave it to you?---Yes.

20

And what was the purpose of the list?---To order these spare parts for maintaining the fleet of 500 - - -

So it was an order list, was it?---Yes.

A request for you to order items?---Parts. Yes.

And you're saying you think that the weigh pad platform was on that list? ---Yes.

30

And that's substantially different evidence to what you gave before lunch, isn't it? Where you admitted that this invoice for the weigh pad was not a true invoice, because you were not going to supply this.---Well, yeah, subsequently I did find out and instead of going about it through a refund sort of approach, it was, it was just, I guess, validated through, and, yeah, through other parts deliveries or other scales deliveries.

THE COMMISSIONER: Sorry, validated by other parts or scale deliveries, what do you mean by that?---There was - - -

40

Seeing it wasn't a refund approach.---Yep, so, I thought that the six, I thought there were six scales delivered for free, and for some reason, I thought that this weigh pad was one of those scales.

Sorry, so that the weigh pad was represented by one of the free scales, is that your evidence?---Yes. Yes, that's, that's why I kind of, I'm half in, half out with this particular item.

Do you actually recall this, or is this something you're reconstructing?---No, I, I definitely recall this particular issue, because it was such a outlier, the \$20,000 for the one platform.

MS WRIGHT: And you've substantially changed your evidence from before lunch, haven't you, about this item?---No, I thought I was, I thought I was giving the answer and the best approach but obviously it wasn't.

10 You said nothing before lunch about there being an order for this part by the maintainer, did you?---(No Audible Reply)

In fact you agreed that no-one had told you that this was needed, didn't you? --- (No Audible Reply)

Why have you changed your answers, Mr Thammiah?---Sorry, it's not that I'm trying to change my answers, I'm just trying to answer the question, I guess, more appropriately, because at some point I did find out that they didn't need it, and I still went ahead with it.

20 At some point you did find out who needed it?---No, at some point, I found out they didn't need it, that's what I said.

Oh, I'm sorry, you said, I thought you said "did". At some point you found out who didn't need it?---Roads and Maritime.

And was that before you were paid?---I'm not too sure about the timing. I think it was after I was paid.

30 And you didn't raise it with anyone, but you kept the money.---No, I would have raised it with Samer.

So you raised with Samer what in particular?---Just in regards to delivering that weigh, weigh pad platform.

What did you say to him?---Words to the effect of, "Do I have to refund this?" or - - -

What did he say?---Words to the effect of, "No."

40 And so you didn't do that?---Yeah.

And you had – I withdraw that. You had already issued invoices for battery packs that you agreed on the last occasion you charged for but were not intending to supply, hadn't you?---Yes.

So why would you be asking him whether you'd have to refund RMS for an item you'd found out that it didn't need?---I was just early on in the parts sort of cycle. I always, yeah, I, I guess I always asked those sort of

questions, but it didn't matter, as long as I got a response that said, keep going.

But you were quite happy to issue false invoices for batteries, weren't you?
---I wouldn't say I was happy.

Well, you were doing it, weren't you?---Yes, I agree.

10 Why would you suddenly be concerned about a weigh pad platform that you'd invoiced for and been paid for but were not supplying?---It's completely illogical. It's, it's just me creating the false scenario, asking questions where I thought I could validate whether this was real or not.

Isn't the truth you're just making up this evidence about issuing an invoice for a weigh pad believing that there was a need, there had been an expression of a need for it?---(No Audible Reply)

20 Aren't you just making up this evidence?---No, I'm sure that it's, it's either in the list or it's not and I'm pretty sure I did get a list, so if it's not there, yes, I can sort of agree to that prospect.

So you hedge it both ways.---No, I'm not trying to do that at all, I'm just, yeah.

Could we have the IRD table back. Now, with regard to the battery packs, you agree that you issued those invoices knowing that the goods were not going to be supplied by yourself or Novation?---Yes.

30 And then if we just go down to the next item, which is slightly confusing because the description of the item is actually on the other page. It's a Series 10A Series 1, complete electronics cover, cover, rubber seal, keypad display cover, sealing screws and hardware, and if we just go back a page, your invoices for this started on 10 January, 2017, and then further invoices on 17 March, 20 March, then going over to 21 March, right through to 15 May, you were invoicing for these items.---Yes.

And IRD has said that they sold such items to you in 2018. Do you agree you did not source them from IRD in 2017?---Yes.

40 And you did not supply them to RMS at all?---Yes.

And do you agree that it's the same position as the other items I've taken you to, subject to what you've said about the weigh pad, that you issued the invoices knowing that you were not ordering them for RMS?---Yes.

And you were aware that Mr Soliman was authorising the payments, weren't you?---I'm not too sure, but yeah, he definitely did authorise some POs.

You issued the invoices on the expectation they'd be paid, didn't you?
---Yes.

And this was, you did this knowing that what you were doing was dishonest, didn't you?---At the time I didn't feel like it was dishonest but yes, I, I think I did.

10 Then the next item on the table is a battery compartment cover with rubber seal. Is it the same position with respect to that item?---Yes.

You didn't source them, you didn't propose to source them, you didn't put in any order and you issued the invoices knowing that that was the position?
---Yes, I - - -

In 2017.---Yes. I disregarded all consequences and I, yes, and I, I did take that act.

20 And is it the same position with respect to the next, which is the SAW 10A Series I display cover?---(No Audible Reply)

Having issued invoices for 14 of them in March of 2017?---Yes, I'd have to say so given the time frames, yes.

And when you say, "Given the time frames," I see you're referring to the answer for IRD, are you? What do you mean by - - -?---Yeah, yeah. As in - - -

30 Now, in relation to the SAW III dynamic system, you can see here that you've invoiced RMS for two software and chargers.---Yes.

And IRD has said that they sold two complete dynamic systems to you, including the software licence and the chargers. Do you see that?---Yes.

And then if we go to the next item, it appears to be a component within the dynamic system, being an alignment flex frame, Bluetooth transmitters and the receiver. Do you see that?---Yes.

And you've issued a separate invoice for those?---(No Audible Reply)

40 You've invoiced for them separately?---(No Audible Reply)

It might be the same invoice but you've included a separate line item for an alignment flex frame, Bluetooth transmitters and the receiver?---Within the parts invoices? Within the part invoices?

Yes.---Yes. I think so, yes.

And what was the position with that item?---I'm not sure. I think it would -
- -

Did you invoice – sorry.---Sorry. I think it would basically be – I'm, I'm not too sure. Like, I, I know, I know it would have to be something that doesn't make any sense or, yeah, but I'm not too sure.

Do you recall ordering two complete SAW dynamic systems from IRD?
---Yes.

10

And you recall invoicing for those items, do you?---Not really, no.

Then if we just go over the page. If I could just take up with you the ramps first. You issued invoices for 10?---Yes.

And IRD says that it's delivered eight?---Yes.

Are you aware that you over-invoiced RMS for ramps?---I wasn't, I wasn't aware until I saw it but it makes sense.

20

How does it make sense?---Because I had to take up the remaining amounts on the PO.

So these could be items that you invoiced for even though you had no intention of supplying?---Yes.

And then the 15C III scale, five of them were invoices for in March 2017 by you. Do you agree?---Yes.

30

And IRD has said that none were sold to Novation. These were also items, were they not, that you invoiced for but you did not order from IRD and you did not supply them to RMS and you issued the invoice knowing that they would not be ordered?---Sorry, I'm a little confused because, in regards to this scale, it says five and says five on the other side, so - - -

It says that you ordered five on 20 and 22 and 29 March, 2017, in total.
---Yes.

40

And IRD has said that they sold you none. Do you see that?---Ah, okay.

And they've referred to a different type of dynamic system. Do you see?
---Oh, so okay, yes, all right.

Yes.---Yeah, yeah.

So in other words, IRD never supplied to RMS or on behalf of RMS 15C III scales.---Yes, I, I think that's actually a typo.

It's not a typo here. Where do you say it's a typo?---Well, because five scales were delivered but they were the SAW 10C as opposed to the 15C, but they were part of the dynamic system and those are the only scales as mentioned as part of the dynamic systems.

Very different scale, isn't it?---I, yeah, it is, but I'm not, I think it was just the weight difference that it could handle, I think it was like, 15,000 as opposed to 10,000.

- 10 It's an entirely different model of scale, isn't it?---It's a dynamic scale like the 10C but it just can handle, it's more rugged, I guess, yeah, it can handle 5,000 extra kilos.

And you issued five invoices for these scales, didn't you?---Ah, sorry, four invoices?

You issued – if we could go to volume 9A at page 301. An invoice on 20 March for one, and it says, “SAW 15C III scale.” Do you see that?---Yes.

- 20 And then if we could go to page 304 you issued another invoice on the same day for two further 15C III scales, each at \$9,950. Do you agree?---Yes.

And then at volume 9B at page 8 you issued another invoice for a 15C at the same price on 22 March, 2017. Do you agree with that?---Yes.

And then at page 47 you issue yet another invoice – this is all within nine days – for a 15C.---Yes.

- 30 Now, there was no need if these had been genuine orders for four different invoices, was there, within six days for the same item?---Sorry, I don't know how to answer that.

Well, why couldn't you order all of them in the one invoice?---Well, that's because Samer told me I couldn't just put them in one order.

What did he say to you?---Well, that they had to be in \$30,000 orders.

Did he tell you why?---Yeah, it was in relation to PO I guess, oh God, the authorisation.

- 40 What did he say about that?---Something to the effect of more than 30,000 goes up to the next tier of management.

And did he say why that was an issue?---Yes, because it was out of his control.

And did he tell you that he had control if the orders were around 30,000? ---Yes.

And what did you understand by “control”?---He’d make sure Novation got paid.

And coming back to the four invoices, you didn’t make four typos, did you?---No, I did, because that dynamic system was the 10Cs, it’s, it’s clearly a typo.

10 Weren’t you paid separately for the 10Cs?---I, sorry, not as far as I recall - -
-

You had – if we could have 9B, at page 51. Mr Soliman told you on 11 April, 2017, there was a new PO number for some items including two sets of 10C III dynamic systems, didn’t he?---Yes.

And you understood that was to allow you to issue invoices under a new PO number for these items, didn’t you?---Yeah, that’s what, I guess that’s what it says, yes.

20 There is no other reason he’d be giving you a PO number, was there, other than to tell you what you should invoice under.---Yeah, that’s true, yes.

And this is after you’ve invoiced RMS for 15Cs, isn’t it?---Yeah, it is.

And you’d already invoiced for 15Cs because you meant to invoice for 15Cs, didn’t you?---I really can’t recall. I, I thought it was in relation to the dynamic scales, but clearly, clearly I’ve messed up.

30 But he’s telling you here in April - - -?---Yeah, I, yep.

- - - that you can invoice for 10Cs, isn’t her?---Yeah, he is.

And you’ve already issued invoices for 15Cs which you did not supply. ---Yes.

Isn’t it obvious this is another case of you issuing false invoices for payment?---No, I generally thought it was the 10Cs that I was referring to in those invoices.

40 You got a refund for the 10Cs, didn’t you?---No.

The 10C III dynamics were a problem, weren’t they? You couldn’t get the software to work, or the inspectors couldn’t.---Yeah.

There were problems, weren’t there?---Yeah. There were problems with the software.

And you ended up getting a refund from IRD for the 10Cs, didn't you?
---Yes, from IRD, yes.

And you did not pass on the refund to RMS, did you?---No, I was told to deliver scales to the effect of that total.

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

10 MS WRIGHT: You never supplied parts or invoices to RMS where you weren't paid for those particular orders, did you?---Yes, that, yes, that happened.

Well, you're suggesting that there were times when you were paid by RMS to supply items which you didn't supply, and then at some later point, you made up for that by supplying an item for free, effectively, at that point.
---Yeah, that, that was my way of validating the lies, yes.

When did that happen?---The, oh, sorry, I'm - - -

20 When, and which items are you talking about?---The dynamic scales, the dynamic system, being returned and providing - - -

What did you provide in lieu of the dynamic scales to make up for the fact IRD had refunded you for them?---I thought it was six scales and then six on top, six extra scales.

IRD gave RMS six scales at no addition cost on top of the 125, didn't it?
---Yes.

30 So you did not – I'm asking you when and which items you provided without any further invoicing of RMS to make up for the fact that you had been overpaid for previous items you hadn't supplied?---Yeah, I thought it was in, I thought it was the six scales, yeah, to make up for the dynamic systems being returned at the time, yeah, sorry.

40 It was IRD that absorbed that cost, Mr Thammiah. You can't refer to a single time when you supplied an item to RMS, a part or a scale, where you making up for the fact that you had been issuing false invoices, can you?---I do recall a flex frame going missing from the dynamic system that was delivered.

And insurer was going to meet that cost, wasn't it?---No.

Mr Soliman told you that, didn't he?---No, I'm not too sure why that – that doesn't make any sense.

When it went missing, what did you do about it?---I got the part delivered within two weeks, bringing the, I think the time frame was six weeks initially.

And you were paid for the part, weren't you, by RMS?---No, not for that replacement.

10 So are you suggesting that you, a part went missing, I wasn't your fault, but then you paid for the part to be resupplied?---No, you're right. I don't think IRD charged me for that. No, you're right, sorry.

There's just one other matter. If we could have volume 9B at page 25. Do you see here – yes, if we could go back to that. Now, this is not an email to which you're a party but I just want to show you and then I have a question for you. An email from Mr Singh to someone within RMS and it's attaching some documentation for purchase order creation. Do you see this?---Yes.

20 And then over the page, if we just skip over to page 28, this is a purchase order request in favour of vendor, Novation Engineering. Do you see that? ---Yes.

About halfway down the page, it's for \$190,000. Do you see?---Yes.

And then the next page it's for maintenance of portable weigh scales and it's signed by Mr Singh and Mr Soliman. See that?---Yes.

30 And dated 29 March, 2017. And then the quote which was attached to Mr Singh's email is at page 30. And do you see it's the Novation quote 101 which I've already taken you to?---Yes.

And that was the document which Mr Soliman had sent to you at 9.18pm on 28 November, 2016. Do you see that?---Yes.

The quote is being used to support the creation of a purchase order on 29 March, 2017 for \$190,000. Do you see that?---Yes.

40 Do you know, did you know at the time that your pricelist, which is called quote 101, was being used at the end of March 2017 to raise a new purchase order within RMS?---No, I had no idea how the purchase orders work and stuff, yeah. No.

All right. So you don't recall any discussion with Mr Soliman around this time where he asked you for a quote for spare parts?---No, not really.

And you didn't submit this document yourself to RMS on 29 March, 2017 or thereabouts?---Sorry, did you say I didn't?

You didn't, is that the case, you didn't submit the quote again to RMS in late March 2017?---I really don't recall. There would be an email.

Right. Now, do you maintain your evidence about the documents that were created in the course of your scoping study work with RMS, the invoices and quotes and reports, which you've already given to the Commission?
---Yes.

10

Did Mr Soliman prepare the quotes or invoices at any stage and ask you to submit them to his work email address?---I think the only one that there's a possibility it happened was the ruggedized tablet. That was the only one that doesn't make any sense.

Commissioner, I have no further questions.

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

20

MS HOGAN-DORAN: Commissioner, I'm mindful of the time. The matters I'm proposing, you recall on the last occasion I asked that Mr Lonergan proceed in respect of Mr Thammiah first and I was going to ask that in respect of Mr Young and his client, however the questions I am proposing to ask don't touch on the issues that would affect Mr Soliman and his, Mr Young and his client, so, but I foreshadow that there may be something that emerges from anything that Mr Young puts to Mr Thammiah in cross-examination that I may have to seek leave to ask him about.

30 THE COMMISSIONER: So you're happy to proceed?

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: All right.

40

MS HOGAN-DORAN: Commissioner, the transcript of evidence of 18 October, 2019, the afternoon session, is presently on the restricted site, that's for the period 2.00pm to 4.34pm. As I understand it a section 112 direction has been made by you in anticipation I assume that an application may be made by those representing Mr Thammiah concerning at least that part of it which was not the subject of the live streaming, which is transcript page 2196, line 1 to about 2199, line 30. I don't propose to ask any questions about that matter. There are two other parts of the transcript on my reading which may relate to that, and may well be the subject of an application. Could I give you those references? They are page 2195, at lines 29 to 31, and 2221, lines 1 to 4, essentially identifying the subject matter of the matters that were in the part of the evidence that were not live streamed. My application is that the balance of the transcript, that a

variation be made to permit the publication of that transcript, all of that in the rest of the transcript was heard in open hearing, was live streamed. But it would just be easier for my purposes if I'm able to, for the assistance of the Commission, cross-reference to those parts of the transcript and refer to those parts of the transcript without there being any dispute about them being presently the subject of a section 112 direction.

10 THE COMMISSIONER: All right. Can you just hold on for a sec? So the order under section 112 that I made on 18 October, in respect of Mr Thammiah's evidence in the afternoon, to be varied to the extent that all the evidence – I'm sorry. An application to vary, to exclude the evidence covered by the 112 order with the exception of, and if I can just confirm it, page 2195, lines 29 to 31?

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: Page 2196, line 1, to 2199, line 30?

MS HOGAN-DORAN: Yes.

20

THE COMMISSIONER: And then page 221, lines 1 to 4.

MS HOGAN-DORAN: 2221.

THE COMMISSIONER: Sorry, 2221.

MS HOGAN-DORAN: Lines 1 to 4.

30 THE COMMISSIONER: All right. So that will, currently, for the purposes of your cross-examination, those passages will still be covered by the 112 order, but everything else if you require it, you can refer to it and ask for it to be put up on the screen.

MS HOGAN-DORAN: Thank you, Commissioner. And I also foreshadow that I will take some further instructions in relation to the passages which are presently redacted and subject now to what is left of the 112 direction. If no application is made, then we have no further application to make. We'd be content with that material to be published, but we'd wait to see if there's any application made, yes.

40

THE COMMISSIONER: All right. Now, Mr Lonergan, sorry, that was very convoluted from my part. Do you understand that there are certain passages that will still be protected by the section 112 order this afternoon presently?

MR LONERGAN: Yes.

THE COMMISSIONER: But to allow the cross-examination to continue, have you got any issue with me varying the section 112 order with the exclusion of those three passages?

MR LONERGAN: No, no objection.

THE COMMISSIONER: All right. Anybody else want to be heard on it? Ms Wright, are you all right with it?

10 MS WRIGHT: Yes.

THE COMMISSIONER: All right. The order under section 112 of the Independent Commission Against Corruption Act that was made on 18 October, 2019, in respect of the evidence of Mr Thammiah shall be varied to allow the publication of that evidence with the following three exclusions, the transcript as recorded on page 2195, lines 29 to 31, the transcript – sorry, the evidence recorded at transcript 2196, line 1, and then concluding at page 2199, line 30, and then finally page 2221, lines 1 to 4.

20

VARIATION OF SUPPRESSION ORDER: THE ORDER UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT WAS MADE ON 18 OCTOBER, 2019, IN RESPECT OF THE EVIDENCE OF MR THAMMIAH SHALL BE VARIED TO ALLOW THE PUBLICATION OF THAT EVIDENCE WITH THE FOLLOWING THREE EXCLUSIONS, THE TRANSCRIPT AS RECORDED ON PAGE 2195, LINES 29 TO 31, THE EVIDENCE RECORDED AT TRANSCRIPT 2196, LINE 1, AND THEN CONCLUDING AT PAGE 2199, LINE 30, AND THEN

30 **FINALLY PAGE 2221, LINES 1 TO 4.**

MS HOGAN-DORAN: Thank you, Commissioner. Mr Thammiah, you said in your evidence that you split from your wife at the end of May/June 2016. Do you remember giving that evidence?---Yes.

And for the purposes of the transcript, that's at page 2101, at about line 43/44. When you say split, do you mean physically separated or separated in the sense of all your financial affairs as well?---Just physically split.

40

All right, thank you. You've given some evidence that you did proceed to divide your property and financial assets. May we take it that that occurred after you physically split or before?---Yes.

After?---After.

Thank you. May I have the witness shown page 2214 of the transcript, at about line 30. I just want to refresh your memory and I just want to ask you some questions about this page of the transcript, Mr Thammiah.---Sure.

2214. If that's too difficult to do, is that difficult to do? Mr Thammiah, just while that's being done and just so that, Commissioner, you know what I'm referring to. You were asked some questions by Counsel Assisting in which you said that you had put \$100,000 into the company.---Yes.

10 And you also gave some evidence, you were asked what was the source of those funds and you were asked, "Well, you got 100,000 in the settlement from your divorce," the Commissioner asked you that question and your answer was, "No. I got about 170 or 180 maybe, yeah." And then Ms Wright said, "That's all? I mean, I don't mean that's all but is that the complete amount, 170 to 180 from your - - -" And then your answer was, "Yes. I believe that was the round, I think it was the round figure, yes." And the two of you are talking across each other and it says, "Property settlement?" And you answered, "No, it wasn't my property settlement. We had sold the property by then, it was just our savings." So what I'm just
20 trying to do is to clarify, because there was some cross overs in the discussion and in the evidence that you gave and that, unfortunately that section appears not be able to come up but that's the evidence that I want to take you to. If you have any trouble following my questions, we may just need to pause and see if that transcript can come up. So just going back to it then. You said in that evidence that there was a sale of a house and you also had some savings, some cash savings. All right. So what was your overall financial position after the full settlement of all your financial affairs with your wife?---(No Audible Reply)

30 What did you have to your account?---Do you mean as part of the split and, or just in total what did I have at that time?

What did you have when you came out of that relationship and you resolved your – presuming you did resolve your financial affairs with your wife, you didn't have any ongoing financial affairs with her, did you?---No.

So assuming, that being the case, starting again, what was your position, what was your financial position? Did you have cash?---Sorry, I, I just need to ask a specific time frame. Is it 2017 or - - -
40

Yes, well remember I asked you when did you physically split with your wife and it was May/June 2016. You sold the house, the matrimonial home.---At the start of January 2016, yes.

So that was when, I apologise?---January 2016.

January 2016.---Yeah.

So that was before you physically split. Is that right?---Yes.

I see. So you sold the house in January 2016. When you sold the house and you received the net proceeds of that sale, was that both of you received that together, you still had your financial affairs mixed at that time?---Yes.

How much did you receive, that is the two of you, received from the net proceeds of the sale of the house in early 2016?---It would have been around 400,000, we had about 100,000 in savings.

10

Right. Now, when you say 400,000, was that the price of the sale, was it? ---No, that was the profit.

That was the profit on the sale?---Yes.

And then you had on top of that 100,000 in savings.---Yes.

Now, when you had your financial settlement, that is between you and your wife, what happened to that 400 plus 100,000?---As part of the settlement I agreed to take 30 per cent of the savings, or a third roughly.

20

So 30 per cent of the 100,000 or 30 per cent of the 500,000?---30 per cent of the total, of the rough 500.

Of the rough, of the rough amount. Thank you. And where did you, how did, where did you put that 30 per cent, was it all one lump sum?---It was a lump sum. I think it was approximately 170, 180 mark. It went into a personal Bank of Queensland account.

Now, so the 170 to 180, when did you receive that actually and put that into the Bank of Queensland personal account?---I think it was around mid-2017 or late 2017, somewhere around there.

30

Not till then.---Yeah, not till then, not till then.

So where had the proceeds of the sale been in the period in between and the savings in the period in between, if they were in different places?---My wife had, when we split it was quite unexpected, physically split, so she closed the account and yeah, transferred the money into an account that was just in her name so I couldn't access the money.

40

All right. Thank you for that clarification. And so at some point moneys were transferred from the bank account you've just identified that your wife set up?---Yeah.

Transferred into the Bank of Queensland personal account.---Yeah, through the solicitors, but yes, to that effect.

At some point that's where it lands.---Yes.

Thank you so much. And no further payments from your former wife during 2017 or afterwards. Right. Could the witness be shown volume 20, page 53. Mr Thammiah, while that document is coming up, what I'm about to show you is a bank account statement from the ANZ bank account in your name which is a Business Premium Saver with the final four digits being 8-7-2-5 of the account number. And when I refer to account numbers I'll refer to those last four digits of the account number so we can keep track of which accounts they are.---Yeah.

So I'm still waiting for volume 20, page 47. And when we see that Mr - - -

MS WRIGHT: 53.

MS HOGAN-DORAN: I beg your pardon?

THE COMMISSIONER: 53 or 48?

20 MS WRIGHT: I think you said 53.

MS HOGAN-DORAN: You're quite right, thank you, Commissioner.

THE COMMISSIONER: It is 53?

MS HOGAN-DORAN: I'm getting ahead of myself. Page 53. I just want to, just to be, to double-check something, Mr Thammiah, which is that you see there that records a transfer from RMS on 22 June, 2016, of \$178,700.50?---Yes.

30 So when you were saying 70 to 180,000, you received, it's not this sum that you're speaking of?---No.

You say there's another sum that would be in your Bank of Queensland, would be recorded in the Bank of Queensland statements, is that right?
---Yes.

All right. Thank you. Can we go to page 47? You see there that is an ANZ Bank Business Premium Saver Account, 8-7-2-5 being the last four digits.
40 It's the same bank account that I just took you to, right?---Yep.

Now, you see under your name, Stephen Alan Thammiah, there's an ABN there?---Yes.

Will you take it from me that that is an ABN for your personal name?---Yes, it is.

And you'll recall that that ABN was cancelled on 9 November, 2015?
---Yeah, it was.

And you'll recall that an ABN for Novation was started, will you take it from me, but it was started on 20 October, 2015?---Yes.

And this is the account that the RMS scoping studies payments were deposited into, isn't that right?---Yes.

10 So actually that was an account that you were operating in your name but on behalf of the Novation business, that right?---Yeah, it was set up incorrectly, yeah.

Now, page 47, we see there the first payment from RMS on 21 December, 2015?---Yes.

Of about \$45,000?---Yes.

20 Can we go over to page 67, and just while that's being brought up, RMS continued making payments into that bank account until 19 March, 2018, does that accord with your recollection?---Yes, okay, yes.

Now, you see that at the bottom of the page, on 19 March, a transfer from RMS of \$240,675.60?---Yep.

Now, all of the payments up until that point were for scoping studies, is that right?---Yes, I believe so.

30 All right.---Sorry, parts as well?

And parts, I apologise.---Yes, yeah.

But not for the procurement of portable weigh scales.---Yep.

Now, this is where, at this point in the tender bundle, or in the exhibit, the bank statements for this bank account end, but there were more transactions on that bank account, weren't there, after 19 March, 2018?---Yes, there would have been.

40 Could the witness be shown page, sorry, yes, page 73 of the bundle? So here this is a bank account in the name of Novation Engineering, and the account number, just going by those last four digits 4-1-3-9, and – I've just lost the page – do you see that at the top of that page, the first, you see a transfer from this account of \$146,561.60, into bank account with the final four digits 8-7-2-5, on 18 September, 2018?---Yes.

And that was a transfer that you made into that other bank account that I first took you to?---Yeah.

And that's an example of those transactions continuing after the statements in the bundle?---Yes.

Now, but essentially that was just moving money between two Novation bank accounts?---Yeah. I was, yeah, it was intended to close that account but I think I was using it to transfer some sort of deposit or something to IRD. That's why I used it to, for this other, yeah.

10 When you say you were intending to close that account, which account are you referring to, was the one you wanted to close?---The one that was incorrect, with, sorry, the one that was incorrectly set up with my personal ABN number attached.

So you were intending to close account number 8-7-2-5?---Yeah, because it wasn't set up correctly. I was told previously that I needed to have the - - -

20 And when were you intending to close 8-7-2-5?---I was, I guess it was just as time went on. It didn't have a, a specific time frame. I just needed to close it as this one became the main account.

There's a second transfer, the next one, of \$121,718.25 on 19 September. Do you see that transaction?---Yes.

And that says, "EB 122462 to," as in t-o, "990617." Do you know what that was for?---I think that was for, it was for IRD but I'm pretty sure I had to transfer it to this other company's account that I was using for the exchange rate.

30 What other company was this?---I can't remember the name but I, I basically looked them up because, yeah, I didn't like the ANZ exchange rate so I thought I'd, instead of transferring from that main account, I thought I'd use the secondary account.

40 That's not a SWIFT code? Do you know what a SWIFT code is?---Yeah. International transfers, yeah but I don't think it was. I'm pretty sure it was, yeah, it was to that, I, I just remember having that third-party to use for the exchange rate and they would transfer it onto IRD. I'm pretty sure that's why it was so close as well (not transcribable) makes sense.

Now, just going down about four transactions, you'll see 12 October, a transfer from RMS of \$3,715,525?---Yes.

And that was the first payment for the 425 portable weigh scales procurement, yes?---Yes.

What happened to that amount? Obviously you didn't ultimately purchase the scales. Can you tell the Commissioner what occurred?---Subsequently, after the contract was repudiated, I returned that money.

Can I take you to – just one moment please. Can I show you the same volume, page 287. This is an ANZ Access Advantage cheque account, final digits 2-0-0-1, in your name.---Yes.

10 Is this another Novation account that you've opened, you know, as a director but put it in your name or is it a personal account?---That was a personal account.

Now, on that page we see a transfer of funds drum account 8-7-2-5 of \$10,000.---Yes.

Why did you transfer \$10,000 from the ANZ 8-7-2-5 account into this account?---I, sorry, why did I transfer from the Novation account into this personal account?

20 Well, both of them were in your name, but you've agreed with me that the first one was a Novation account and you've said that this account was not a Novation account but a personal account, so my question is why are you transferring \$10,000 out of Novation into your personal account?---That's, yeah, that's just the way I got money out of Novation, I just put it in my personal account so I could see it come up in the transaction statements and easily, yeah, identify it as wages.

30 So is that paying to yourself, is it? Is that what you're saying?---Well, my, my personal account was used for both Samer and myself, so, yeah.

Is this the only personal account you operated at the time?---No, I had the Bank of Queensland as well.

The Bank of Queensland account you've described as a personal account. Could the witness be shown volume 21, page 1. I just want to ask you a few questions about this account. So this is in your name. Now, is this the same account that you told me about at the beginning of my questions that you said that your payment from your ex-wife was deposited into?---Yes.

40 Now, this account, so this account statement commences as at 1 February, 2018. May we take it that that, there are statements prior to that period available? Or there were, so we'll take it in two parts, that there were statements for prior periods?---Yeah, definitely.

And can you remember when you opened that account? The is account number 3-9-8-0. No, I'll withdraw that. 3-8-9-0.---That would have been around the time the settlement occurred in 2017 but I can't remember the exact dates and timings.

Sometime in 2017?---Yes, definitely.

So this is your other personal account, is that right? Is that what you're saying?---Yes.

Can we go to page 5. No, that's too far, sorry. Are we in volume 21? Sorry, page 4. Page 4, yes. Now, 23 October you closed that account. ---Yes.

10

Why did you close that account?---I suppose I was just in shock. I just wanted to I guess pay as much outstanding debt that I had in that respect, so I just closed the account and transferred the money out.

You said you were in shock.---Yeah.

And you just wanted to close, pay out your debts and close that account. There's a transfer on the same day but in the line entry just before – sorry, two entries before the account closing notice which says, “Transfer to other
20 bank in the sum of 34,590.76.” Now, did you authorise that transaction?
---Yes.

Where is that going? Where is that money going?---Child support.

THE COMMISSIONER: Sorry?

MS HOGAN-DORAN: I beg your pardon?---Child support.

THE COMMISSIONER: Transport?---Child support.

30

MR YOUNG: Child support.

THE COMMISSIONER: Child support. Thank you.

MS HOGAN-DORAN: So was that paid to your wife or to the CSA?---To the CSA.

All right, thank you. And you said you were in shock. What caused you to be in shock?---The events that transpired the week previously.

40

And what events were they?---I had a search warrant.

Which search warrant?---The search warrant conducted by ICAC.

On?---17 October I believe.

Was that the search warrant executed by ICAC on your house on 18 October?---Sorry, yes.

Mr Soliman's house was also raided on 18 October. Did you know about that as well?---Yes.

How did you find out about that?---I saw him that day.

You saw him on that day.---Yeah.

10 Did you have a discussion with him on that day?---No, it was, no, it was more about – I think he was in shock as well.

Let's just focus on the discussion.---Sorry.

So you saw him. Where did you see him?---At his house.

And what caused you to be at his house?---I was questioning everything that happened up until that point, my reality was crushed. I had to go, I had to go to him, he was, yeah, he was my only friend I guess so I had to.

20 So did he ask you or did you arrive unannounced?---I believe I arrived unannounced.

And when did you arrive?---I think it was in the afternoon sometime, maybe, I just remember that it was dark.

Was anyone else present?---Yeah, his wife.

Did you speak to his wife?---Yes.

30 Did you speak to him alone?---Yes.

How long did you speak to him for?---I think I was there for maybe two hours.

Did you use a computer in that period?---No, I didn't.

Did you talk to anybody, did the two of you talk to anybody else in that, about two hours?---I didn't. I think he got a call from his brother.

40 I see.---Yeah.

THE COMMISSIONER: When was the last time you spoke to Mr Soliman?---I think it would have been early December.

Early December '18?---Yes.

MS HOGAN-DORAN: Commissioner, I'm not going to ask more questions about the conversation because it may be something that Counsel

Assisting wishes to pursue. I'll just ask this question if I may. Did you discuss with Mr Soliman any plan to transfer moneys out of your personal and Novation bank accounts?---No, I – sorry, you mean after the events or
- - -

Yes. When you met with him, which I think you indicated was in the afternoon about dark, talked to him for about two hours.---Yeah.

10 In the course of that conversation did you talk at all about the money that was in the Novation and your personal accounts and what you might do with that money?---No.

Nothing at all?---No, it wasn't something that came up.

So when did you first have the idea to close your Bank of Queensland account?---I think I basically wanted to just close all personal accounts and get rid of I guess Novation's accounts or even the money in certain ways, so I kind of came to that conclusion I guess that I had to do it that way.

20 All right. And when did you come to that conclusion?---In the aftermath of the event and sort of feeling the way I did and, yeah.

So sometime between September 18 and – sorry, October 18 and October 23, is that right?---Yes.

30 Can the witness be shown volume 20, page 287. This is an ANZ Access cheque account with the 2-0-0-4. I've already shown you this, I'm reminded. The last date on the statements that are in the tender bundle is 7 September, 2018, I am informed. That bank account, do you recall when you first opened that bank account, the cheque account?---Not too sure actually. I think it could have - - -

Is that account still open or did you close that as well?---I think that's closed but I, I think I could have opened it around the same time as the initial account.

When you say the initial account - - -?---Sorry, the one in the incorrect ABN.

40 The 8-7-2-5?---8-7-2-5, yep.

Thank you. I think you just said to me that you thought the ANZ Access cheque account, number 2-0-0-4, that you closed that as well?---Yes.

Do you have a recollection of doing that?---Yeah.

Do you have any other personal bank accounts?---No.

So you closed all your personal, all the accounts that were in your personal name, is that what you say?---Oh, no. I kept the ANZ Access Advantage, I believe.

Which is the 8-7-2-5 because that was not correctly – so you did keep this account, 2-0-0-4?---Oh, sorry, yes. Either, yeah, I think so, it was this one.

10 The Bank of Queensland account and the – I’ll withdraw that? I want to ask you some questions about the Novation accounts that are actually in Novation’s name. There were two of those, is that right, you opened with the ANZ?---Yes.

Why did you have two?---Sorry, you mean accounts that were actually created in Novation’s name with the proper ACN attached?

Yes. And why two, why not just one?---I, I think at the time it was just a sales pitch from the person that was opening it with me. It wasn’t really a conscientious choice or anything like that.

20 So it didn’t matter if they were transferred between, if moneys were transferred in between them, they were both Novation accounts?---No, I knew I was only going to lose, use one as the account. I, I think the other one was like a Saving Maximiser or something like that. It had – yeah.

Well, can we look at volume 20, page 69, and we looked at this briefly earlier. This is an ANZ Business Advantage account, final numerals number 4-1-3-9. And you’ll see on this page, on 4 June a transfer of \$1,058,970 on 4 June, 2018, from the RMS. And that was for the 125 portable weigh scales procurement, wasn’t it?---Yes.

30 Not one of the scoping studies?---No.

Why did do arrange to have that deposited into, that payment deposited into this particular bank account and not into 8-7-2-5?---Sorry, when you say 8-7-2-5, sorry - - -

40 The one that was mistakenly opened in your name.---Yes, yep. So from the start I did get the advice from my accountant that the, the statements need to be in the company’s name. So from the start, I knew it was wrong but, yeah, it was just eventually getting to the point where I opened the new account and, yeah.

I see. Now, could you go over to page 73, volume 20 and you’ll see highlighted there on 12 October, the sum of 3,715,525, which was the payment for the 425 portable weigh scale procurement. Do you see that? ---Yes.

And that was the initial payment?---Yes.

Yes, and we looked at that before, a bit earlier.---Yes.

Now, you said that that amount was paid back to RMS?---Yes.

And that was a bit later on, it wasn't in that month, was it?---No, I don't think so.

10 I just want to ask you about the transactions. 17 October, there is a payment of \$50,000 to the tax office. Did you authorise that transaction?---Yes.

And that was the day before the search warrants were executed on your home and Mr Soliman's home, is that right?---Yes.

So you did that without knowing that there was, that that was going to happen to you?---Yes.

20 Now, on 19 October, there's another \$50,000 transfer, which says, "to the Reserve Bank of Australia". What is that transaction? Could you assist us with that, please?---Yeah, it was still in regards to tax payments, but I'm, I'm not sure if it was personal or Novation at the time, but it was just in relation to tax.

Are you suggesting by that answer that it could have been a payment for your personal tax as opposed to Novation's business tax liability?---Yeah.

The next transaction on 22 October - - -

30 MR LONERGAN: Sorry, Commissioner, I just object to the questioning on the basis of its relevance to the scope of the inquiry of the Commission.

THE COMMISSIONER: Relevance?

40 MS HOGAN-DORAN: Well, Commissioner, there's a number of bases. One is to understand what these transactions reveal or may tend to reveal about the recognition Mr Thammiah had for whether the transactions and arrangements he had with Mr Soliman which led to the payments made by RMS were valid and legitimate or, as has been put to them, the product of a corrupt relationship. Now, Mr Thammiah has already said that he was shocked and then took certain actions, one of which was to close one bank account and to pay off debts. I'm seeking to further explore the veracity of that evidence, and to see what – and then to pursue where that might then lead.

THE COMMISSIONER: Is it an argument, or is your submission really it's, if we were in a trial some kind of consciousness of guilt - - -

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: - - - that the search warrants were executed and then the funds that were received from RMS were either, were treated in a particular manner, or attempted to be hidden or expended or something along those lines?

10 MS HOGAN-DORAN: So in fairness to the witness, what I had been seeking to do was to go through in a fairly painstaking way, and putting him, giving him a fair opportunity to explain without putting to him what I would ultimately put to him, to say that these transactions are all part of an attempt to cover his tracks or to minimise his involvement, and/or to benefit himself, and/or also to, as indicative of consciousness of guilt. Now, I'll make those submissions, and I propose to do so in part based on this material.

THE COMMISSIONER: All right.

20 MS HOGAN-DORAN: And I can't see how that's not relevant to the course of this inquiry, but Mr Lonergan may have something to say.

THE COMMISSIONER: Mr Lonergan, do you have a response to that?

MR LONERGAN: Well, in relation to the moneys, you know, going into the account from RMS, you know, they're all post the conduct in question that is the subject of the Commission's inquiry. So, yes, that's been dealt with through the evidence already. In relation to the use of the moneys post the - well, I mean, this is a question that's dealing with the conduct of Mr Thammiah largely post a execution of a search and seizure order.

30 THE COMMISSIONER: Couldn't it possibly be evidence of, I've described it in terms of consciousness of guilt, but I anticipate the submission would be along the lines of the execution of the search warrant, the authorities are onto you and if there is evidence, and I'm not saying that this is a factual finding, but if there's evidence of trying to hide or transfer the illicit funds, wouldn't that go to your client's state of mind at the time of the transactions which or the conduct which was actually the source of the funds?

40 MR LONERGAN: I mean that sort of somehow leads to a proposition that there is a ways of means of obfuscating what the moneys were, and I mean the moneys have come in from RMS into bank accounts, it's not like in a situation of money laundering where the source of the funds is in some way being tried to be - - -

THE COMMISSIONER: Hidden or something.

MR LONERGAN: Hidden, and I mean he's doing transfers here for, you know, various reasons, paying the ATO for example or in the face of the

questions my learned friend asked was in relation to moneys that was paid to the Reserve Bank. So I just don't in my submission suggest that it can lead to a submission of consciousness of guilt or anything to that effect. I mean if there were large withdrawals of cash or something to that effect, then that might go there, but this I suggest does not.

THE COMMISSIONER: All right. Sorry, Mr Lonergan, thanks. Ms Wright, do you have anything to contribute, add?

10 MS WRIGHT: Well, there was some evidence from this witness that he thought of it as Samer's money, so it does have some relevance to that and it is very proximate to the dates of the warrant. On the consciousness of guilt aspect, I think the effect of his evidence was that he knew that it was wrong by that stage, that is by the last 425 tender, but on the question of his, you know, who he considered the money to be benefitting, in my submission it has relevance.

20 THE COMMISSIONER: All right. Mr Lonergan, I'm going to allow it. I'll allow the questions to continue, but I take your point, some of the identification of the payments has been to the Reserve Bank and the ATO, so on the face of them they appear to be legitimate, but I'll allow Ms Hogan-Doran to pursue it and we'll just see how far we go and if the probative value or the relevance doesn't become apparent then I'll reconsider my decision.

MR LONERGAN: Please the Commission.

THE COMMISSIONER: Ms Hogan-Doran.

30 MS HOGAN-DORAN: Thank you, Commissioner. On 23 October there are three transactions, 50,000, 100,028 and 150,028. The first transaction about which I don't want to ask anything but may we take it that that is, except to ask may we take it that Nyman Gibson Miralis are a firm of solicitors?---Yes.

The second and third transaction, again it's that funny number of 1-2-5-8-9-1-2-6-2-0, there's no payee identified. Are you able to assist the Commissioner as to who ultimately was benefitting from those transactions, sorry, ultimately who was receiving that transfer?---Sorry, which?

40 On 23 October.---Yeah.

A transaction of \$100,028 and another transaction of \$150,028.---I think that the 100 was to child support again and I think the 150 was to, I thought it would have been Nyman Gibson, but obviously maybe they would have come up with the name reference, but I, yeah, thought that would have been them. Yeah, I'm not too sure about that.

So, is it possible, is it, that those two transactions plus the earlier one are each to the CSA, is that your evidence, the Child Support Agency?---Sorry, which – those two? No, no, no. Just the first one.

Just the first one?---Yep. The second one, I'm not too sure. I thought it would have been Nyman Gibson.

10 So that is \$100,028 and the earlier one on 19 September, is that also or is that just could be something else, 121,718? You recall your evidence was you thought that might have been a payment to the Child Support Agency? ---Sorry, I got lost in your question, there.

I think I have misled you. I am being reminded that you, is it possible that the payment on 19 September, was to IRD in order – sorry, I withdraw that. Just one moment. I just need to check something. You said earlier in your evidence that the payment on 19 September of \$121,718 could have been a payment to, this is not your word but, some kind of intermediary for the purposes of making some kind of currency transaction to ultimately pay to IRD. Is that right?---Yes.

20

And so is it possible that one or more of the payments on 23 October is of a similar nature, that is it's being paid to a currency intermediary?---No. I don't think so. Because the only international transfers I did was to IRD and I think the 19th is the down payment for the 25 scales, the first order.

THE COMMISSIONER: Sorry, the what?---The down payment for the first 25 scales.

30 That was the one on 19 September?---Yes.

MS HOGAN-DORAN: And is it your evidence that none of the payments on 23 October are payments or down payments ultimately for IRD, is that how we are to understand it?---Yeah. The only thing I was concerned about at this stage was tax, child support and lawyers.

And on 24 October, there is an entry that says, "Card entry at Parramatta branch, \$440,000".---Yep.

40 Now, that appears to be a cash withdrawal or some kind of cash transaction initiated through a card at the Parramatta branch. Can you assist the Commissioner by explaining what that is?---Yeah, that's a, a, I guess the, the new solicitor, a cost estimate, I guess, and that was his initial kind of fees, I guess.

So that was the amount, may we take it, that you transferred into the trust account of the solicitor?---Yes.

THE COMMISSIONER: Sorry, \$440,000?---Yeah. I believe so, yes.

In cash?---No, it was just a card entry. So it wasn't actual cash that went through. It was – yeah.

What, so you did it with a teller, did you, or - - -?---Yeah, with a teller. Yeah, yeah.

And sorry, this wasn't Nyman Gibson, this is another solicitor?---Yes.

10 MS HOGAN-DORAN: So in the course of a week, you transferred \$450,000 out of the Novation account into two solicitor's trust account, \$490,000. Sorry, I withdraw that. In the course of two days, you transferred \$490,000 into two solicitor's trust account?---Yes.

Was the reason you – was it a reason for any of those transactions on 19, 22, 23 or 24 October, to try to put money beyond the reach of RMS should it seek to recover payments from Novation for the proceeding period?---No.

20 Could you go to volume 20, page 145. This is another bank account, 6-9-8-6. Commissioner, I don't have that much more.

THE COMMISSIONER: That's okay.

MS HOGAN-DORAN: I'm mindful of the time.

THE COMMISSIONER: No, no, no, we're going through to 4.30.

30 MS HOGAN-DORAN: Right. You see that bank account is opened on 19 January, 2016 in the name of Novation Engineering?---Sorry, yes.

So that's another bank account. Did you arrange for any deposits from RMS to go into this bank account? It seems none did.---Yeah, I don't believe so.

Why didn't you use this bank account?---I'm not too sure. I guess it wasn't, yeah.

40 What was the purpose of this account?---Yeah, I'm not too sure. I could have been aware of the issue with the name needing to change so it's likely I created a new account, but - - -

Could we look at page 149 of that bundle, of that exhibit. If you look in the credit line you can see transfers of funds, \$2,000 from 8-7-2-5 and \$5,000 from 8-7-2-5 and \$20,000 from 8-7-2-5. So it seems, doesn't it, from this bank statement that there are funds moving from the Novation account wrongly started in your name into this account?---Yeah.

Could the witness be shown, if I can just find the reference, could the witness be shown page 30, 120. You see there, Mr Thammiah, that is a table prepared by the ICAC of the closing bank balances for three of the bank accounts that I've taken to you as at about March/April 2019?---Yes.

What's the position of each of those accounts today?---I've closed both Novation accounts and I believe only the Access Advantage account is open.

10 All right. And what happened to the \$461,387.28 that was in the ANZ Business Advantage account number 4-1-3-9 when you closed it, where did it go, where did that money go?---Yeah, I believe it went into my solicitor's trust.

So that's another 400,000. All of that 461,000 went into your solicitor's trust account to the best of your recollection?---Yeah. I'm not too sure. I could have paid some tax as well, I'm not, yeah.

20 So at some point between April 2019 and today, whatever was in that account after perhaps paying some tax, you've transferred into your solicitor's trust account and closed that account. Is that the position?---Yes, sorry, I did get a letter from ANZ saying that they were going to close my accounts and I think, yeah, I've subsequently before closing that account I transferred the money across.

So you say ANZ wrote you a letter telling them they were going to close your accounts. Did they give a reason why they were doing that?---No, they just cited their terms and conditions.

30 And what, and did they say which parts of their terms and conditions you had not complied with?---I didn't have to comply with anything, they have full authority to close any account they want to.

Can you recall when that happened, when about that happened?---I think they closed, they gave me a month's notice, I believe it was around the end of, around August, around mid-August, yeah.

40 Did any of those payments that I've taken to you that came up that you made after the execution of the search warrant, any of those payments to go Mr Soliman?---No.

Even indirectly, to the best of your knowledge?

MR YOUNG: Well, I object to that. I mean I think we're in dangerous territory here. Indirectly? I mean - - -

MS HOGAN-DORAN: Yeah, yeah, I can withdraw. I'll rephrase that. As far as you know, do you know if Mr Soliman has received any part of those

payments that were made after the execution of the search warrant on 18 October?---No.

Your accountant, we've seen his name as Tan, what is his surname, could you spell it please?---Sorry, his surname is Tan.

His surname is Tan.---Yeah.

10 I see. And what is his first name?---Sylvester.

Thank you. Is he based in Sydney?---Yes.

Is he the only accountant Novation used?---Yes.

Is he the only accountant you used?---No.

Have you used another accountant at the same time as using Tan?---No. Just previously.

20 So in the period that you've been using Tan, where we take that that's from about two thousand and - - -?---'16.

16.---Yeah.

And he prepared the tax returns for Novation, did he?---Yes.

When you asked – and he prepared them at your request?---Yes.

30 And when you refer to or are asked questions about the profit earned by Novation, the profit that you say Novation earned, Novation made on each of the tax years is reflected in those tax returns, is it?---Yes.

Did you instruct Tan to take into account the income, that is the payments made by RMS that were deposited into the bank account, the very first one I asked you about that was mistakenly put in your name and isn't in Novation's name, did you instruct Tan to take that into account, those deposits, when determining the income and profit earned by Novation? ---Yes, that was the account used primarily as Novation's account.

40 So all of that was taken into account you say by Tan in determining the profit of Novation for the period of say financial year ending 2016. Is that correct?---Yeah. Well - - -

And financial year 2017?---Yes.

And 2018 just to be clear, just to be sure?---Yeah.

And 2019, have they been completed?---No, not 2019.

THE COMMISSIONER: Can I just ask, putting to one side the 50,000 that went to Nyman Gibson's, on page 73 we had 440,000 going to new solicitors on 24 October, 2018.---Yes.

And then on 24 April, 2019 you had another 461,000 in one of the Novation Engineering accounts and most of that also went to solicitors.---Yes.

10 So you've spent over nearly 900,000 in solicitors, is that what you're saying?---I don't think that's quite accurate because, because after I, after I changed solicitors - - -

So from Nyman Gibson to the new solicitors?---No, again. From, I think his name was - - -

Sorry, so you went from Nyman Gibson to new solicitors and then new solicitors to other solicitors?---Yes, yes.

20 Which might be Mr James?---Yes, it is.

All right. So the 900,000-odd didn't go to the one solicitor, you're saying the October 440,000 went to a firm of solicitors and then post 24 April, 2019, another four hundred and say fifty thousand went to your new solicitors?---Yes, but once I changed solicitors, I asked for some of the money to be transferred to my new solicitor and some of the money went back into Novation's account. So I think that's why there's this 440 figure there. I think that's some of the money coming back.

30 Sorry, I've misunderstood. So 440 goes into the second solicitors. You go to Nyman, then you go to different solicitors?---Yes, yes.

The different solicitors going to 440,000 in October 2018?---Yes.

Then at some point you go to Mr James?---Yep. And then transfer some of it to him and some of it back in to Novation.

40 And transferring some of it back in to Novation is reflected in that 461,000?---Yes, I believe 300,000 of that would be reflected, of what came back in, yep.

Sorry, Ms Hogan-Doran.

MS HOGAN-DORAN: Commissioner, I may need to take some instructions in relation to those matters overnight but I just have one question I wanted to ask and then I don't have anything further. Mr Thammiah, thank you for clarifying that there is another set of solicitors on between the solicitors that you now have. Was the solicitors in between, the solicitors, whoever acted for Mr Soliman?---No.

I don't have any other questions, Commissioner.

THE COMMISSIONER: Who were the solicitors in between?---City Legal, Andrew Dikha from City – yep.

All right. Mr Young.

10 MR YOUNG: Yes. I just wonder if that last page could be opened up. The page 73 I think it was, the bank details. I just wanted to ask one - - -

THE COMMISSIONER: Volume 20, page 73, was that it?

MR YOUNG: That's correct, yes. I just wanted to ask you one question there. Do you see on 23 October, there are two amounts at the bottom of that day starting with 100,000 and 150,000. Do you see those?---Yes.

20 Now, both of those finish with the unusual amount of \$28. Are you able to explain what, does that give you any clue as to what they were for?---It's just an administration fee they charge at the bank when you do a transaction.

Well, they seem to be the only ones that have that.---That's because the others were online banking.

THE COMMISSIONER: So your recollection is those two you went into a bank?---Yes.

30 And because you're dealing with a teller, you incur a \$28 - - -?---\$28 charge, yep.

So it's actually a transfer of \$100,000 and a transfer of 150?---Yes.

MR YOUNG: Now, as you sit in the witness box today, is it your evidence that there was a loan of money from you to Mr Soliman?---Yes, I believe there was a loan.

Well, do you recall Ms Wright asked you a question as to the amount of money that you had paid to Mr Soliman?

40 THE COMMISSIONER: This is before lunch today?

MR YOUNG: This is before lunch today, yes.

THE COMMISSIONER: Thank you.

THE WITNESS: Yes.

MR YOUNG: And the figure of \$347,000 was put.---Yes.

Now, that is a figure with which you are very familiar, isn't it?

THE COMMISSIONER: The 347?

MR YOUNG: \$347,000.---Yes, as part of these proceedings, yes.

10 No, not just in relation to these proceedings, but that is a figure, isn't it, that you have made a demand against Mr Soliman for.---As part of these proceedings?

No, separate to these proceedings you have made demand by instructing your solicitors to issue a letter of demand against Mr Soliman for an amount of \$347,200.---Yes.

And you understand that at least normally a loan is something which is repayable at a particular time or on the happening of a particular event.

20 THE COMMISSIONER: Do you agree with that?---The premise of a loan?

He said, sorry, Mr Young's put to you that a loan usually involves that whatever the money is is repayable at a particular time or when a particular event occurs.---I wouldn't say it's event-based but, yeah, it needs to be repaid.

30 MR YOUNG: Well, see, what I suggest to you is that in your letter of demand you, through your solicitors, said that the purpose of the loan was to provide Mr Soliman with funds to enable the purchase and renovation of the property at Schofields and was to be repayable upon completion of those renovations and/or from the sale of the property. And then it states that the renovations having now been completed, the funds paid pursuant to the loan are now due and payable. Now, that was on the 1st of August this year. ---Yes.

THE COMMISSIONER: Sorry, that's the date of the letter.

MR YOUNG: That is the date of the letter I suggest to you.---Yes.

40 Now, 1 August was a date on which you gave evidence before the Commission, correct?---Yes.

So did you provide the instructions in relation to that letter of demand prior to you giving evidence on 1 August?

MR LONERGAN: Commissioner, that's starting to move into privilege.

MR YOUNG: I won't press it. Could the witness be shown transcript page 1771, please.

THE COMMISSIONER: Sorry, 17 - - -

MR YOUNG: 1771.

THE COMMISSIONER: Thank you.

10 MR YOUNG: Now, do you see there that Counsel Assisting Ms Wright, if you look at the bottom of the page you can see who's asking you the questions, you'll see at the bottom of the page it's Ms Wright, and you'll also see if you go to the left that it's on 1 August, 2019. "That total payments made to Novation by RMS between December 2015 and October 2018 were in the order of 7.2 million. Do you agree with that?" And you said, "Yeah." Correct?---Yes.

20 Now, what I want to put to you is that around about this time when you gave that evidence, you'd been doing very close calculations as to how much you had received from RMS and how much you'd given to Mr Soliman by way of loans. These figures were fresh in your mind when you gave the evidence, weren't they?---Sorry, yes, I - - -

And you see further down the page that you returned, at about line 23, you returned 3.7 million-odd to RMS. Do you see that?---Yes.

And then further down the page the amount that you'd kept was about \$3 million. Correct?---(No Audible Reply)

30 Now, the \$3 million is not profit, is it, that's how much you had kept from payments paid to RMS?---Yes.

But you made a lot more, didn't you, than \$694,000?---Sorry, where did that figure come - - -

Well, you see, the amount of money that you say in your letter of demand that you gave to Mr Soliman was \$347,200.---Yes.

Well, it's nowhere near half of the profit that Novation made from its dealings with RMS, is it?---Sorry, I'm not sure.

40 Well, do you say that of that money, which you conceded on 1 August that Novation had received from the RMS, that its profit was less than \$700,000?---No, that was only the money that Samer could access at the time.

Well, you weren't making a false claim on 1 August at the time you were giving evidence before the Commission, were you?---(No Audible Reply)

You genuinely believed at that time that you had made loans to him of the amount of \$347,200?---Yes.

And that was based, you said in the letter of demand, upon an oral agreement.---Yes.

Now, you know what an oral agreement is, that's an agreement not in writing, spoken word?---Yes.

10 When was that oral agreement?---It was the mid-2016 event when, yeah, that was, that was it.

Now, in the evidence you gave before lunch you didn't say anything about the circumstances in which the loan would be repayable, did you?---No, not at all.

20 But in your letter of demand, which is described as a final letter of demand, you say that it would be repayable upon the completion of the renovations and/or from the sale of the property and in circumstances where the renovations were now completed, it was repayable.---Yes.

Now, that is completely different, isn't it, from the evidence which you gave before lunch as to the one and only occasion on which you say there was ever discussion where the word loan was used.--- Yes, that was the initiation.

30 Well, what do you say is the basis of you making the claim on 1 August, 2019, against Mr Soliman, what gave rise to what you say is your entitlement to make that demand.---Because he gave me the premise on the loan, he agreed to that.

Well, you gave no evidence before lunch about any circumstances in which there was a loan that you were going to make to him in which it would be repayable, did you?---No, I didn't ask for repayment but the instigation of the loan and the words he used - - -

THE COMMISSIONER: What?---Gave that perception to that effect, that it was.

40 MR YOUNG: Well, not perception, agreement. You say in your letter of demand that there was an oral agreement whereby the funds that were advanced pursuant to that agreement were repayable upon completion of the renovations and/or from the sale of the property and that the renovation of the property having now been completed, the money, the funds provided pursuant to the loan were now due and payable.---Yes.

Well, you're saying very, very clearly on 1 August this year, just a few months ago, "I am entitled to \$347,000 because you made an agreement with me to repay me funds that I will give you," correct?---Yes.

Well, it's not what you're saying today, is it?---(No Audible Reply)

Well, do you say that today?---Sorry, I thought I did.

What do you say was the conversation that happened on that day in 2016?
What do you say that he said to you?---It was only the instigation of the loan. It wasn't in regards to repayments. I didn't bring it up because I didn't need to.

10

Well, was there any other conversation about a loan?---Not that I can recall a conversation happening but the repayments, not the repayments, but the money was always there.

Well, let's stick with repayments for a second.---Yep, okay.

When did he say to you that the money that you advanced to him would be repayable when the renovations were completed?---I guess it was during the time of renovations and construction on his house.

20

So, is what you're saying that there were a number of conversations about loans?---No.

Well, how can you claim only less than three months ago that the money was repayable when the renovations were completed and now say that you can't remember any conversation in which that was discussed?---Yeah, because I'd have to think of a direct conversation that happened and I can't think of a direct conversation that happened.

30

Well, hadn't you directed your mind to that subject before the letter of demand was sent?---No, not at all.

Well, it's very specific, isn't it? It says that it's repayable when the renovations are completed or the property is sold.---Yep.

And you're saying because the renovations have now been completed, you owe me the money, pay immediately?---Yep.

40

Well, it's completely inconsistent, I suggest to you, with the evidence that you've given today in relation to what you say was the conversation in 2016.---Yeah, I guess instigation of the loan was his priority and there wasn't ever a really, a need to talk about repayments.

I'll just go for a couple more minutes if I can or if that's not convenient, I'm happy to - - -

THE COMMISSIONER: No, no, no. You're not going to finish this afternoon?

MR YOUNG: I certainly won't finish today, no. But if it would be preferable, I know people have got to get away so it might be preferable to come back tomorrow.

THE COMMISSIONER: You had a couple more questions, what, to finish your topic or - - -

10 MR YOUNG: Well, I just wanted to deal with a particular matter in relation to this aspect of it.

THE COMMISSIONER: Let's do that, Mr Young. That would be good.

MR YOUNG: Now, do you agree that you said that in relation to this conversation that you had in 2016 that Mr Soliman said words to the effect that he was entitled to at least half?---Yes.

Now, I suggest to you he said no such thing.

20 THE COMMISSIONER: Do you agree with that or not?---I don't agree.

MR YOUNG: Now, what did you take that to mean in the context of a conversation about a loan?---What did I take it to mean?

Yes, what did you take him to be saying? You've agreed that this was the conversation you refer to about a loan - - -?---Yes.

- - - that led to the letter being sent. What did you take that to mean - - -?
---Well, look, I - - -

30 - - - in the context of a loan?---Yeah, I wouldn't say the letter was sent in regards to this conversation, but in regards to the loan, I guess it's, as I said, it was, he needed help and that's how he put it across.

Well, he never asked for anything else other than a loan, did he?---He didn't need to. He got as much money as he wanted.

40 Well, \$347,200. You tallied it all up and you said it's a loan.---No, the premise was given to me so I could follow that false truth or lie, and I did.

THE COMMISSIONER: Sorry, when you say the premise was given to you, what do you mean by that?---I mean, when he says it's legal for me to have this loan, to give him this money, that's all false, I recognise that, but at the time I wanted to believe that and I just regarded, yeah - - -

MR YOUNG: Well, did you believe it was false in August this year?
---Sorry, what did I believe was false?

Did you believe that the premise of calling it a loan was false in August this year?---No, I believe the loan still exists.

Now, you say that he said, "I'm entitled to at least half." What, that could mean 51 per cent or 95 per cent. If he says he's entitled to at least half that could mean - - -?---Yes.

- - - he's entitled to 99 per cent.---Yeah.

10 Of your company.---It wasn't the company, it was the money he wanted.

But you didn't say, well, how much of this?---I didn't care about the consequences or the money. I said yes willingly because I disregarded all of those.

Well, I suggest that's a load of nonsense. Yes, that might be a convenient time, Commissioner.

20 THE COMMISSIONER: All right. Now, can I just check. Mr Tighe?

MR TIGHE: yes.

THE COMMISSIONER: Do you anticipate at the moment that you'll have many questions?

MR TIGHE: I don't anticipate at the moment, Your Honour, Commissioner.

30 THE COMMISSIONER: And do you anticipate any questions?

MS FRYER: Not at the moment, Commissioner.

THE COMMISSIONER: All right. So that will leave Mr Lonergan. I'm just, and I'm not keeping you bound to this. I just want to get an indication of tomorrow. How long do you think you'll be in - - -

MR LONERGAN: Well, could be a little while.

40 THE COMMISSIONER: Come on, Mr Lonergan, that's not very helpful. What's in a little while?

MR LONERGAN: You did say you're not going to bind me, so I thought a little while was sufficiently unbinding.

THE COMMISSIONER: Look, as I said, if - - -

MR LONERGAN: I think it'll be a couple of hours, Commissioner.

THE COMMISSIONER: Sorry?

MR LONERGAN: No more than two hours.

THE COMMISSIONER: Okay.

MR LONERGAN: But I, not - - -

10 THE COMMISSIONER: All right, that's fine. Mr Young, how much longer do you think you'll be?

MR YOUNG: Well, can I work backwards, Commissioner? Because I'm very keen that this matter finish tomorrow.

THE COMMISSIONER: That's why I'm raising it.

20 MR YOUNG: I'd like to know how long Ms Wright is going to be with Mr Soliman and whether it's envisaged that anybody else should have a right of cross-examination of Mr Soliman in circumstances where he's been recalled.

THE COMMISSIONER: Well, I'll ask that question in a moment, but if you can just, your examination of Mr Thammiah, roughly how longer do you expect to be?

MR YOUNG: I think I will try to keep it under an hour because I'm not liking the sound of how long things are going to take tomorrow.

30 THE COMMISSIONER: And again, first thing, Ms Wright, do you have a view of how long you may be in your re-examination of Mr Thammiah?

MS WRIGHT: Of Mr Thammiah, very short at this stage.

THE COMMISSIONER: Right.

MS WRIGHT: But that's at this stage.

40 THE COMMISSIONER: Now, look, could everybody bear with me for a minute. I just want to take a very short adjournment just for five minutes

SHORT ADJOURNMENT

[4.40pm]

THE COMMISSIONER: Mr Thammiah, sit there, it's a bit more comfortable than standing.

Now, just before I return to the progress of the matter, did you want to tender - - -

MS WRIGHT: Yes. I tender the table relating to spare parts between January and May 2017 containing responses from IRD.

10 THE COMMISSIONER: The table setting out – sorry, I’ll start again. The table about spare parts covering the period January to May 2017, which includes the responses from IRD will be Exhibit 65.

#EXH-065 – TABLE REGARDING SPARE PARTS COVERING THE PERIOD JANUARY TO MAY 2017 CONTAINING RESPONSES FROM IRD

20 THE COMMISSIONER: Now, we have to get this finished tomorrow. What I am proposing is that we commence tomorrow morning at 9 o’clock. Now, that we will commence with Mr Young, you’ll finish your cross-examination, we’ll then move to Mr Lonergan and then Counsel Assisting, and fingers crossed, Mr Thammiah, that will be the end of your evidence. ---Sure.

30 Now, as I foreshadowed on a previous occasion I was concerned that there might be some evidence from Mr Thammiah that as a matter of fairness should be put to Mr Soliman. There are a couple of topics at the moment which we think should be put to Mr Soliman, so Mr Soliman will be recalled after you finish your evidence tomorrow. What I propose at the moment is Counsel Assisting, as a matter of procedural fairness, will put certain issues arising from Mr Thammiah’s evidence to Mr Soliman to give him an opportunity to respond. We anticipate that will only take about half an hour. At the moment I don’t anticipate that any other counsel will need to put any questions to Mr Soliman. If any counsel considers that they do need to put something to Mr Soliman you’ll have to make a particular application for leave to do that and I will consider that application, but I am hoping that we can confine it to Counsel Assisting and then that will be the end of or the conclusion of the public hearing part of the investigation.

40 What will also be announced tomorrow is a timetable for the preparation of submissions, but as we’re coming up to near Christmas/New Year, I just need to have a discussion with Counsel Assisting about factoring that in and also trying to not make everybody else’s January miserable by having to work on submission, but I’ll raise that again tomorrow with you all.

Ms Hogan-Doran, do you have - - -

MS HOGAN-DORAN: Yes, Commissioner. Would Commissioner be minded to make a direction in respect of any application under section 112 for the portions that are presently redacted of the Friday, 18 October, 2019 transcript just so that it's just not left in the ether. If there's going to be an application it ought to be made promptly and by a specific time so that it can be determined.

THE COMMISSIONER: Mr Lonergan, I'm looking at you. Can you turn your mind to that overnight?

10

MR LONERGAN: We're happy to have the application 9.00am tomorrow morning.

THE COMMISSIONER: Okay. Well, maybe we'll finish Mr Thammiah, I think we'll get the evidence out of the way and then move to any other applications, but if in the meantime, if you two can turn your mind to it and maybe indicate to the Commission's solicitor what you anticipate it covering, at least I can have a look at it beforehand and that will expedite any application.

20

MR LONERGAN: Please the Commission.

THE COMMISSIONER: All right. Anything else? Mr Young?

MR YOUNG: No, Ma'am, no, sorry, I was just standing ready for, ready to run.

THE COMMISSIONER: All right. We're adjourned.

30 MS WRIGHT: I'm sorry, there's just one matter I did mention this morning, Commissioner, I apologise, that I would be tendering some material today. There's just odds and ends, but it is a fairly significant list. That could either be done in chambers or at a suitable time tomorrow.

THE COMMISSIONER: All right. Let's see how we go tomorrow, and it might be, depending at what time if we see that we're nearing the end we might have a shortened luncheon period or something like that, but we'll definitely, we'll either do it tomorrow or in chambers.

40 MS WRIGHT: Thank you.

MR LONERGAN: Commissioner, just volume 18 is presently not tendered, and that is one that is specific.

THE COMMISSIONER: Can you remind me what volume 18 is?

MS WRIGHT: Emails from Mr Thammiah's account primarily, email account.

MR LONERGAN: If it's tendered it would just give us the opportunity to have a look at it. We currently can't.

MS WRIGHT: I thought it was tendered, but that will have to be checked, as part of Exhibit 34. We'll look at that.

10 THE COMMISSIONER: All right. If you would like to have a look at it before tomorrow, what we'll do, we'll check it in the meantime and if it has been tendered as part of Exhibit 34 we'll send through an email to your instructing solicitor confirming that or - - -

MS WRIGHT: Yes. My note is that it is tendered as part of Exhibit 34, and it might be transcript page 1738, but - - -

THE COMMISSIONER: Sorry, 1738?

MS WRIGHT: It may be, that's my personal note.

20 THE COMMISSIONER: Hold on.

MS WRIGHT: 1738.

THE COMMISSIONER: It's on the unrestricted. Apparently it's up on the unrestricted website.

MS WRIGHT: Yes, it is transcript 1738, I just checked the actual transcript where it's tendered.

30 THE COMMISSIONER: Oh, I see.

MR LONERGAN: Sorry I apologise.

MR YOUNG: That is correct, Commissioner.

THE COMMISSIONER: 9D, 18, 19 and 22 volumes.

MR LONERGAN: Yes. Thank you, Commissioner.

40 THE COMMISSIONER: All right. Okay. We're adjourned until tomorrow at 9 o'clock.

THE WITNESS STOOD DOWN [4.54pm]

AT 4.54PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.54pm]