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COMPULSORY
EXAMINATION

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

COMPULSORY EXAMINATION

OPERATION EMBER

Reference: Operation E18/0281

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 30 MAY, 2019

AT 4.30PM

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

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

THE COMMISSIONER: Okay, Mr Mitchell.

MR MITCHELL: Yes, thank you.

THE COMMISSIONER: All right, this is a compulsory examination being conducted for the purposes of an investigation of an allegation of the following nature, that between July 2015 and February 2019, Roads and Maritime Services employees Samer Soliman and Jainesh Singh partially and dishonestly exercised their official functions in relation to the awarding
10 of contracts to Novation Engineering Proprietary Limited and AZH Consulting Proprietary Limited.

Ms Wright, you're appearing for the - - -

MS WRIGHT: Yes, I appear as Counsel Assisting.

THE COMMISSIONER: Counsel Assisting.

MS WRIGHT: Yes.

20

THE COMMISSIONER: And Mr Mitchell, you're not legally represented?

MR MITCHELL: No.

THE COMMISSIONER: There's a couple of preliminary issues I have to deal with. The first one is, I direct that the following persons may be present at this compulsory examination, Commission officers, including transcription staff, and the witness.

30 Now, the next matter is an order that this remain confidential, confidential in that not only are you not allowed to tell anybody the questions you are asked or the answers, the very fact that you've come along to - - -

MR MITCHELL: Come here, yep.

THE COMMISSIONER: - - - at this compulsory examination. So being satisfied that it is necessary and desirable in the public interest to do so, I direct pursuant to section 112 of the Independent Commission Against Corruption Act that the evidence given by this witness, the contents of any
40 exhibits tendered, the contents of any documents shown to the witness, any information that might enable the witness to be identified, and the fact that the witness has given evidence today shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes or pursuant to further order of the Commission.

BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST TO DO SO, I DIRECT PURSUANT TO

SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE EVIDENCE GIVEN BY THIS WITNESS, THE CONTENTS OF ANY EXHIBITS TENDERED, THE CONTENTS OF ANY DOCUMENTS SHOWN TO THE WITNESS, ANY INFORMATION THAT MIGHT ENABLE THE WITNESS TO BE IDENTIFIED, AND THE FACT THAT THE WITNESS HAS GIVEN EVIDENCE TODAY SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES OR PURSUANT TO FURTHER ORDER OF THE COMMISSION.

THE COMMISSIONER: Now, the last matter, Mr Mitchell, is what's known as a section 38 declaration. I know you're not legally represented, but did you have a chance to have a word - - -

MR MITCHELL: Yeah, the lady explained to me, yeah.

THE COMMISSIONER: All right. And you understand that it provides a form of protection.

MR MITCHELL: Protection. Yes.

THE COMMISSIONER: Do you wish me to make it?

MR MITCHELL: Yes. Yes, I do.

THE COMMISSIONER: What I've got to emphasise is the protection it gives does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act. The one that immediately comes to mind is an offence of giving false or misleading information during this compulsory examination, for which the penalty can be imprisonment for up to five years. It's a form of a perjury. It's a very serious offence.

MR MITCHELL: Yep.

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

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT

ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC ENQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

10

THE COMMISSIONER: Now, next thing, do you take an oath or an affirmation?

MR MITCHELL: Yes, yep, yep. An oath will do, yep, thanks.

<MARK MITCHELL, sworn

[4.57pm]

THE COMMISSIONER: All right, thank you, Mr Mitchell. Ms Wright.

MS WRIGHT: Thank you, Commissioner. Mr Mitchell, are you currently employed?---Yes.

10 Where are you employed?---I work for WeighPack and Electrical, self-employed.

Now, are you currently a director of WeighPack and Electrical?---Yes.

Have you remained a director since the company was registered?---Yes.

When was the company registered?---2016, August.

Did you register it?---Yes.

20 What's your role apart from being director and an employee at WeighPack?--Just the staff not transcribable) the tools and that stuff as well.

I didn't hear that?---On the tools and that as well, just general running the business.

So you do maintenance of equipment?---Yeah, weighing equipment, that's correct.

30 Only weighing equipment?---Yeah, industrial weighing equipment.

How many employees are there?---There's five of us now.

Where is the business based?---74 Northville Drive, Barnsley. Newcastle.

And that's the only place of business?---And there's one, and we got a person at Wollongong that works out of his house sort of thing. He lives down in Sydney.

40 Is that one of the five employees?---That's correct.

And he does maintenance, or - - -?---He does the service and that as well, that's correct.

And do you have any current involvement with Roads and Maritime Service?---None.

Did you used to have the job of conducting servicing and maintenance for RMS's portable weigh scales?---Yeah, the portable weigh pads, yep.

When did you have that job?---2017, I think it was February, 1st of Feb, until the end of about October, November of that same year.

You don't have a particular date?---I don't. It's on one, an email that I had that I sent, sent in.

Sure. But it came to an end October, November 2017?---Around end of October, November, it was. I just can't remember exact, the exact date.

10

Were you doing maintenance of portable weigh scales throughout that entire period - - -?---Yep, that - - -

- - - 1 February to October, November, 2017?---That's correct. Yep.

And before you were working with or for or you had your own company, WeighPack - - -?---Yeah, WeighPack, yep, yep.

- - - where did you work?---I worked for AccuWeigh.

20

As a?---As a salesperson, branch manager in Newcastle.

Now, did Mr – you had some contact with Mr Soliman when you were with AccuWeigh?---That's correct, yep.

And did he ask you if AccuWeigh would be interested in taking over the service and maintenance of portable weigh scales?---Yep, that's correct.

As well as the yearly verification and certification of it?---That's correct.

30

And did you indicate to him that you were interested?---Yeah, that's correct.

Or that AccuWeigh was interested?---AccuWeigh was interested. Yeah, that's correct.

Could I take you to some documents.

THE COMMISSIONER: Can I just ask, do you have a trade qualification? ---I do, yeah. Electronics and also blacksmith. A bit different but, yeah.

40

MS WRIGHT: At volume 9A, page 2. Sorry, not page 2.

THE COMMISSIONER: So this is part of the ASIC printout?

MS WRIGHT: No, I didn't, I've got an incorrect reference. Sorry, it's 12. It should be a 12, page 12.---Pardon me.

Down the bottom of the page Mr Soliman has asked you if AccuWeigh would be interested in taking over the service/maintenance and yearly verification/certification of scales. Do you see that?---The, the bottom?

Yes, the bottom email.---Yeah. Oh, yeah, yeah, would you be interested in taking over, yeah.

And he's given you in the, see the email above that.---Yeah.

10 You've said, "We're interested in doing these for you."---Yeah.

And then above that he's said, "To help you provide me with the most accurate costings I've attached location details of all the PAT portable scales around New South Wales."---Yeah.

And then on page 11 you've told him, you've given him a price for each pad.---Yeah, down the bottom part there, yeah.

395.---395 dollars, yeah, yeah.

20

And then you arranged to meet with him?---Yeah.

THE COMMISSIONER: And the 395, is that for the yearly service and - - - ?---That's, yeah, for one, one pad sort of thing, to do one pad, the test and service and that and that's - - -

And the certification?---Yeah, that's correct, yeah. That's not parts and that's not - - -

30 MS WRIGHT: Then at page 15 he sent you an email on 26 October asking you for a formal quotation for service/maintenance and verification/certification.---That's the top, top one, is it? Yeah.

Yes, it is.---Yeah, yeah.

And then at page 38 did you ask him for a spare parts catalogue for the portable weigh scales?---I would have asked for a spare parts catalogue for, so I know what I was doing sort of thing, what parts I needed for it.

40 And do you see the email of 8 November, 2016 where you've said, "Spare parts, I need about 24 bearings that go into the PAT scales"?---Yeah.

What was that about?---You need, when you do the service some of the bearings are broken in them so you need new, a new part to go in there and you just can't buy it off, from Blackwoods or someone like that or Bunnings or that so you need to get parts.

So is that the main thing that you need when you do a service?---No, it's not the, it's one of the, one of the things that you need sort of thing. There's a fair few things inside that you need sometimes.

So why were you asking him for 24 bearings?---Because he, he would have supplied me so many and then I would have said well, we have to replace four at a time in a, in a scale base.

10 So you need four bearings per scale - - -?---Correct.

- - - when you do the, when you - - -?---Yeah, do a service.

- - - do a service?---If they're worn sort of thing so, yes.

So I'm just wondering why are you asking him for 24 bearings?---He might have at that stage given me six scales to do.

I see.---So I'm not sure. I, I don't - - -

20 I see.---You know, and I don't remember back that far what 24 was for but it could have been for six scales or that that they've sent in at the time.

Do you know where you need to get them from?---He, he had to get them from the company that makes them, PAT.

And in your - - -?---IRD, sorry. PAT/IRD.

30 Yes. And in your view that you couldn't get them from anywhere other than IRD?---No, that's where I thought you had to get them. You can get, you could get them machined if you wanted to but - - -

Now, do you see the email in the middle of the page?---Yeah.

It says, "From Soliman Samer sent Thursday, November 10, 2016."---Yeah, yeah.

40 He says to you, "While I'm waiting for a parts list from IRD can you please give me a list if available on what parts you would like me to order to cover you for 12 months of maintenance."---Yeah.

And then you responded saying, "I need approximately 200 bearings, 12 baseplates, 10 main boards."---Yeah.

How did you make that determination?---I just worked out that, yeah, what you've got and what, on average what we would need to get through for stuff. And the main boards shouldn't fail too often sort of thing and you should be able to change and fix a main board. Sometimes you can't, sometimes you can. And the baseplates are a, are an aluminium thing that's

got a thread, thread going through them and sometimes the threads wear out on them and stuff like that and they slide them, how the inspectors slide them on concrete and stuff and they wear so you've got to replace that.

This was an approximation of what you'd need for 12 months?---Yeah, that's right.

Was that borne out by what in fact occurred over the 12 months? What I mean is over the subsequent, well, it wasn't quite 12 months.---Yeah.

10

You've said it was 1 February, 2017 - - -?---Yeah, but this went, this went back to when I was at the other company as well sort of thing so it did.

But when you took over the maintenance yourself in 2017, did - - -?---Yeah. I didn't use all, I wouldn't have used all those parts. I had parts left over at the end that I had to then give back to the next, the next company that done the work.

So this list here, if you could just look at this email.---Yeah.

20

200 bearings, 12 baseplates, 10 main boards.---Yeah.

When you had the job of doing the maintenance with WeighPack, are you saying you didn't need all of these parts?---Well, it depends, because I wasn't, we, we got the work when I was at AccuWeigh in sort of the November, whatever period that was with the first email there, November through. It's hard to work out exactly because we weren't doing, we don't, didn't know how RMS looked after their parts and that so that was just a summation on what we'd need sort of thing. And then sometimes we, we might need more or less of a certain item, so it's, I was just sort of guessing what, what, what was needed sort of thing.

30

What I'm asking is you then had experience over many months of doing the actual maintenance. Did this list which you've provided to Mr Soliman in November 2016, does that reflect what you ended up needing around about or is it - - -?---Around about. Around about it would have, yeah, sort of thing so, yeah, but I know later on that there was another list that was given to him as well sort of thing when the next contract come out. It was a spreadsheet that they asked for. That was, that was given as well of - - -

40

By you?---Yeah, I had to do a list up as well at some stage.

And was that a different list to this?---Yeah. This was a list on a spreadsheet, on an Excel spreadsheet somewhere. And that was when I was at the other place too.

THE COMMISSIONER: Sorry, now I'm confused. This additional list on an Excel spreadsheet, did you do that when you were still working for

AccuWeigh or - - -?---I did one at AccuWeigh and one at the, the other company as well. They asked - - -

At WeighPack?---Yeah, yeah. They asked for a spreadsheet of, of parts that you think you might use over a long period of time.

So there were two spreadsheets?---Correct, yeah.

10 The November 200 bearings, 12 baseplates, 10 main boards, were they delivered to you in Newcastle when you were working for AccuWeigh?
---They would have been, yes, delivered to Newcastle and then they were sent to Melbourne because the work was getting done in Melbourne.

So they went to Melbourne and then when WeighPack started the work you got more - - -?---Transferred, all the parts and the broken ones were transferred to me from - - -

20 From Melbourne?--- - - - from Melbourne. So everything come up. So there wasn't really an inventory done sort of thing. It was just get these fixed and we started fixing them and then when we finished doing the work then work was then passed back to the next company with all the parts that I had left over went back as well.

MS WRIGHT: So sorry, I'm just not quite clear about this list.---Yeah.

When you had the job for WeighPack, I'm not asking for exact numbers. ---Numbers, yeah.

30 Is this list approximately what you used in the maintenance of the RMS portable weigh scales?---The, the, the 200 bearings?

Well, all of it, 200 bearings, 12 baseplates, 10 main boards.---I ended up having then to get more when I was at WeighPack sort of thing. I needed more, more inventory.

Much more?---Yeah, I had to get springs and ball bearings and washers and threads and all that and that all come through as well.

40 Washers, threads, ball bearings, they're all really small parts aren't they?
---That's correct, yeah.

What about baseplates and mainboards, they're more - - -?---Yeah, we had to get more base, we had to get more baseplates, more of the aluminium baseplates.

How many more?---I'm not exactly sure.

Do you have an approximate number?---No, but I have a, I had a list that I emailed through of, of every, all the parts that turned up sort of thing and that was, they were all ticked. On that list there's a tick with what come in and what didn't sort of thing.

THE COMMISSIONER: Was that on an IRD delivery docket?---Delivery docket. That's correct. Packing list.

10 Was it unusual – I'm sorry, I'll start again. The ordering of spare parts, you ordered them through RMS?---I told them what we needed, what we, what we, what we required and they, they said they'll get, they'll sort it out for me and get back to me.

And then you would be provided with spare parts?---That's correct.

Was that unusual?---Some companies do that now because they don't, you know, we find that some of them do it because they don't want the mark-up so I just - - -

20 It's whatever the contracting party dictates?---Yeah, whatever they did. If they, yeah, they said they wanted to get them well, get them and that's, that's what happened sort of thing so I didn't really think too much about it.

MS WRIGHT: Page 45, volume 9A. On 7 November did you write to IRD asking for spare parts?---I did. I asked them and then I was told that, that's when I was told that they had to go back through the, the Australian distributor.

30 Who was that at that stage?---Novation.

So how would you request spare parts from Novation?---I didn't go to Novation then. I just went back to Samer and just asked, saying they told me to go to Novation.

And did you tell Samer what parts you wanted?---Yeah.

And then Samer would convey that to Novation?---I don't know who he conveyed it to but I'd ask him and, and that was - - -

40 That was your understanding?---Yeah, yeah, that's where I thought he'd have to go to for them.

THE COMMISSIONER: And then they'd arrive?---Then they'd just turn up at, yeah, at the office.

MS WRIGHT: Now, at page 91. This is 21 November, 2016 you've sent to Mr Soliman the spare parts that we require. And then at page 92, was that for a particular period of time?---That's what we were going through at the

time so basically with the service, the springs are on the handle so when you pick up the handle they break, the inspectors break them. So some of the inspectors wanted them replaced no matter what. They'd, they'd ask for that to be replaced no matter what. So it was different to an inspector from Sydney to a different inspector from Coffs Harbour for instance. They would request different things.

10 Did the inspectors tell you, how did you know what the inspectors wanted?
---Well, when, when they'd send you they'd tell you what they were after.
You know, they would ring up and say I've got to send my scales down, my pads down, can you make sure you replace the batteries and also make sure you replace the handles for me. And then another one would tell you something different.

THE COMMISSIONER: Was that part of the yearly servicing or was it, because you did the yearly servicing.---Yeah, yeah, that's part of the yearly, that's correct, yeah.

20 But in addition if a scale broke would you also have to fix it?---That's correct.

And did that happen often that you did - - -?---The scales would break?

Yes, if I can describe that as kind of - - -?---Yeah, they, it did happen.

- - - non annual maintenance?---It did, it did happen often sort of thing with them so, yeah. Sometimes it was as simple as a battery replacement.

30 MS WRIGHT: Do you recall this list that's here?---I do remember vaguely the list sort of thing but, yeah.

You see how it says, "Aluminium base board right, aluminium baseboard left."---Yes.

And you've got five and five?---Yeah.

Was that for a particular - - -?---That's those aluminium - - -

40 I'm sorry.---Yeah.

Does that cover a particular period of time that you'd need five aluminium baseboards left and right?---No, that was the 10 that you asked me about before when I said 10 sort of thing. How it's got on the list of 10.

Yes.---That's five and five of those aluminium baseboards sort of thing so that's - - -

So you had thought you would need 10 over 12 months?---Yeah, over that period.

And here you're requesting five?---Yeah, which makes 10, the two of them make 10, they make a group of 10, if you know what I mean.

But is that, what I'm trying to understand is, is that for a year or is that for a month or how many would you - - -?---Well, that's, until they ran out and then I had to reorder again.

10

So how long did you think you'd need five for?---I thought I'd get through for a few months at least sort of thing until they done more orders.

And was that the case?---I think so at that time.

Now, when you - - -

20 THE COMMISSIONER: What was the plastic cover display?---It's the cover that goes across where the display is like on your bathroom scales. A plastic cover that goes across there and if they drop something on it or run over it - - -

So you were seeking two of those. Does that suggest that at least two scales would come in with a broken plastic cover display?---Well, one of them has probably come in and then I've wanted to get another one for spare because they don't normally break that part of the unit too often.

30 That's an unusual – sorry, we've been sitting all day and I think I've lost the ability to speak. That was an unusual repair?---That's right. Yeah, they're the front, the plastic cover. That's correct.

MS WRIGHT: In December 2016 did RMS issue a request for quote to WeighPack for the maintenance and certification of portable weigh scales? ---That's correct, yeah.

And did you provide a response to that RFQ?---Yeah.

And had you, when did you leave AccuWeigh?---In December as well.

40 And had you been involved in the preparation of AccuWeigh's RFQ?---Not, not the one at the end I wasn't because they were aware that I was leaving sort of thing.

When you say not the one at the end, had you - - -?---Because they, they, RMS, the first one I think was three months. It was a three month thing to see, a probation sort of period I think it was.

Yes. And you had prepared AccuWeigh's RFQ - - -?---The first one.

Sorry, AccuWeigh response to the RFQ - - -?---That's correct.

- - - when you were still at AccuWeigh?---That's correct.

And then you left AccuWeigh?---Yeah.

And when you did a response to the RFQ issued to WeighPack, was that the same RFQ as - - -?---It was the same - - -

10

- - - as you had responded to the AccuWeigh - - -?---Responded to the AccuWeigh one but I didn't do the price for the, like I was the contact for RMS to, for AccuWeigh but I didn't work the price out for them. Jason in Melbourne worked that out, my boss. So I, I submitted it all, correct, and then, then I submitted when I went, when I left.

So you prepared AccuWeigh's response except for the price?---Yeah. They worked out the price, how they were going to do the price.

20

And then how soon after that did you leave AccuWeigh?---I'm not sure. A couple of weeks.

And then to the same request for quote from RMS you prepared a response on behalf of WeighPack?---That's correct.

Is that the document at 189, sorry, 191?---Yeah.

And then at page 192 is your price?---Yeah, that's correct.

30

You would have known about AccuWeigh's price before that, wouldn't you?---Yes.

And did you undercut AccuWeigh in order to get that contract?---At that, at that stage?

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

Did Mr Soliman tell you anything about AccuWeigh's submission in response to that request for quote?---As in, I don't - - -

40

Did Mr Soliman from RMS tell you anything about AccuWeigh's submission to RMS in response to that request for quote?---Well, the quote was submitted sort of thing and that's all I, that's all I knew. And then we submitted ours.

So is the answer no?---No. That I know of, yeah. I don't, yeah, I just don't remember that.

Was there – sorry, page 194, this is an email chain, Mr Mitchell. The last email, which is the first in time, is actually at page 195, if we could have that. That’s an email from Ellis Safadi.---Yeah.

Is that one of your staff members?---That’s correct.

10 And then on page 194 Mr Soliman has thanked him and said, “RMS cannot proceed with this. We’re going to market again for maintenance and certification.” What did you understand about that?---Well, they were going for more, get more pricing again.

Did you know why?---No.

And then Mr Soliman asks you to provide a quote to Alexander Dubois to recertify.---Yeah.

Okay. And then you did that?---Yeah.

20 And were you successful in the tender, in that request for quote tender?
---In that one for Alex, Alex, yes, with that Alex Dubois.

And you were informed, this is page 199, that WeighPack had been successful subject to a three-month probation period?---Correct.

And is that when your role as maintainer of the portable weigh scales commenced, although the doing of the work didn’t actually commence until February?---That’s correct.

30 Now, then at page 219 did Mr Soliman write to you asking you for a meeting with Mr Ellis to discuss the commencement of the maintenance contract? Sorry, it’s a long email.---So sorry, it just come, it just come on the screen, I was just - - -

Yes. You see down the bottom he says, “I’d like to touch base with you early in the new year to commence - - -?---Yeah, yeah, yeah.

- - - the maintenance contract?---Yeah.

40 And you see the agenda?---Yeah, to discuss - - -

The first item is the manuals?---Yeah.

And then see the last item is scales parts?---Yeah.

And then did you meet with Mr Soliman?---Yep, to discuss that, yep.

To discuss that. And what did you discuss about spare parts at that stage?
---What spare parts that we, that we would roughly need, sort of thing, what was available.

Is that what you discussed?---That's what we would have discussed, yeah.

And the arrangement for sourcing them?---That was up to RMS.

10 Is that what he told you?---Yep, he would supply, is my understanding.
That's what I remember to be the case.

That you would tell him when you needed spare parts what they were and how many?---Yeah.

Now, did you deal at all with Stephen Thammiah?---No, I only ever met, I think that Stephen Thammiah is Novation Engineering, I've only known him as Steve so I, yeah, so I only met him once.

20 When was that?---He dropped some parts up to our workshop at one stage in, in Barnsley, sorry.

Only one occasion?---Only one occasion I've ever seen him.

What did he drop off on that occasion?---Some spare parts that weren't in the original, they were late coming that we needed.

What were the circumstances? You'd received some, you'd made an order for parts?---Yeah, I'd asked for part.

30 There'd been a delay - - ?---Yeah, there'd been a delay.

- - - in receiving them.---That's correct.

And did you raise that with RMS?---I asked Samer about that. I said, "These are the parts that have come in, I'm waiting for the other stuff."

And then Mr Thammiah later came to your place of business?---And dropped them off, yeah.

40 And what were they?---I honestly don't remember. It was in a box, that's all I can remember, I don't know what was in it.

Was it a small box?---Yeah, about - - -

Just trying to ascertain, were they small, small parts or big?---It was only little, it was only little parts, only a little box, sort of thing.

Now, could I show you – if I show you Exhibit 49. Now, you won't have seen this before, Mr Mitchell, but it's a table of parts and scales invoiced by Novation to RMS for the period 10 January and 15 May 2017.---Right, yeah.

10 And it sets out the item and the quantities of parts, and what I'm going to ask you is if you're familiar with each part and do you think the quantities indicated in this table are an accurate representation of what you received by way of parts while you were maintainer until May 2017.---On the top one, the handle weigh pad coupling hardware, I'm not sure what, what that is, sort of thing, I don't understand that wording of that. Baseboards - - -

Assuming it's the handle or got something to do with the handle. Did you ever order a part - - -?---There was handles, the long, a long plastic handle that they picked them up with and then there was the little springs that come off, off the ends of them sort of thing.

20 Did you ever need those parts, either of them?---I, I did, I did need those, the handles, we got some handles. I don't, if that's 18, 22, I don't think I, oh, yeah, 22, I don't, I don't think I ever got 22 of them.

How many do you think you got?---The handles, I don't think I would have got any more than 10 of the, of the, if they're the long plastic handles sort of thing.

30 What about aluminium baseboards, right and left, with coupling hardware? ---The baseboards, I'm, I'm thinking that they're the aluminium, I'm thinking that they're the aluminium things that I was telling about before that you asked me about the 10 of.

Well, they were referred to in your initial email to Mr Soliman I think. ---Yeah, yeah, that's right, yeah, that's that one, they're the aluminium things that I asked for 10 of. That's, I think that's what they're talking about there. So the 10, I don't remember getting that many of them in that, in that short time frame, 37.

40 What about the entire time frame that you were doing maintenance for these portable weigh scales?---I might, I might have had them in that, in that whole time frame.

37?---Thereabouts, sort of thing.

Steel baseboards is the next item. Are you familiar with that one?---Well, they look like to be the same description as the top one and I never got any steel ones, I only ever got aluminium.

I see. So you never received a steel baseboard?---If that, if that's what we're talking about, the same runner, if you know what I mean, that goes underneath.

What about a weigh pad platform board?---I don't, I didn't get a, if it's a board, I, the board would only be this big, sort of thing, so it's only a little, little circuit board that I ever got, I never got a full, a full platform board, I don't know what that is, to tell you the truth.

- 10 You don't know what it is?---I don't know what a full, a weigh, can I just go back to it, the description? I just can't – weigh platform - - -

THE COMMISSIONER: A weigh pad platform board. ---Board only. Yeah, I don't know, I don't know if that's the top thing that comes down on the load cell or if that's everything.

MS WRIGHT: Would any part be expected to cost \$20,000?---I wouldn't think so.

- 20 At page 2, please, do you know what a sprong plastic sub-handle is?---Well, that's the handle that I described to you before, the start one. That's what I'd be thinking, that's a sprong plastic sub-handle, if you know what I mean.

And in your experience, did they break often or need replacement often? ---The, some inspectors asked them to be replaced, you know what I mean, and some, some didn't, if you know what I mean. Some of them could put up with them being a little bit scratched up with their hands, but some other ones wanted them done.

- 30 Might you have needed 21 in a five-month period?---Oh, I, I thought I would have used a few more than a 21, because when I went back before there I thought it was a, you know, around 30, 30-odd.

All right. A battery pack. Would you have needed 44 battery packs?---No.

What is a battery pack?---It's a, battery pack is the thing that goes in the side to charge the thingo, I'm, I'm, I'm thinking that's their, their, their explanation.

- 40 Okay, you understand these are for the Series I SAW 10A scales?---(No Audible Reply)

Did they need batteries, the Series I?---Yep.

How many?---They had six batteries in them. They were only AA batteries, but sometimes the inspectors used them to charge the, the rechargeable batteries up in their vans.

So they'd recharge the batteries?---Some inspectors asked the recharge to be in there and some asked for normal alkaline batteries to be in there.

Could you get the AA batteries locally?---Yes.

Just a normal AA battery that everyone in the community uses at some stage?---Yep, yes. Some inspectors wanted them ones and some inspectors wanted rechargeables.

10 The next item's a complete electronics cover, rubber seal, keypad display cover, sealing screws, hardware. Are you familiar with those items?
---Yeah, that's the cover that the lady up the front asked me for, about before, that that's just a seal, with the screws and that that go in there and that.

And in your experience was that ever needing repair or replacement?---We only replaced a couple.

20 You replaced a couple. So when you see 52 there over five months, does that seem very excessive?---Yeah, that did see, yeah, that exceeds what we would have replaced, because yeah, it's very, yeah, we didn't replace that many.

Are you very clear about that, that that by far exceeds what you used or do you have any doubt?---They, that, that does. Yeah, I, I didn't use that many of those things. If they were all like that - - -

30 So you used a couple?---So I don't know if the screws are counted as, as 90As. You might have got some separate screws. Or you might have got, you know, the, the keyboard display cover might have been a separate item as well. So all up, this, if you, if you have screws, there's six screws in a, um, in a cover that goes down. So, you want to use some of them screws, you know what I mean? But if you have that as a whole, I didn't use 52 of those. That whole lot.

40 Now, the second last one on the page you see battery compartment cover with rubber seal and hardware. Do you understand that to be the cover around the area where the 6A batteries go in?---Yeah, it's a little, yeah, it's a 20 mill. round 10-cent piece screw. It screws in there and locks in.

Did you ever need those parts in your maintenance?---We used a few of those, yes, correct. It would have been around, I reckon around that, the nine, 10 mark.

Do you think you requested them from RMS?---I do, I did, I don't remember requesting them. I just got them off other scales and stuff like that.

Do you believe you did not request them from RMS?---I don't believe asking for them.

Now, the next - - -?---I don't, I, I don't remember that either, you know what I mean? I don't remember putting it in my parts list.

I understand, yes. The next one's a display cover.---Yep.

10 What is that?---That's an overlap cover that just covers up and have, has, shows the display weight and all that sort of stuff, you plug it into the board.

That's the LED display?---That's correct, yep.

And so it has a display cover?---Yep.

Do all scales come with that, to your knowledge?---Yeah, they do, yep.

20 And did you ever need to get a new display cover for a scale?---We, yes, it did, sort of thing.

How many?---I don't know if we needed to get 14, I don't remember. It would have been a few, but yeah, it wouldn't have been 14. I don't know.

Could we have the next page? Did you ever use the Series III PAT or SAW scale?---Right at the, right at the end there, we got some software and a charger sent to us.

30 Did you receive the scale itself?---The scale itself? Yeah, the inspectors received it and then we got them sent to us, and then we had to fit, go and, yeah, because we couldn't do anything with it, we had to get the software, and then go in and calibrate them that way because the other ones were calibrated differently.

How many Series III dynamic scales did you receive?---I don't, I, I don't know, I, I don't know. I'd have to look at the reports that I've got. The, we could have picked up six, I think, or could have been a couple more. I'm not a hundred per cent sure on that.

40 Are you sure it was the dynamic version of the Series III or was it the static?---Oh, was the, the static ones that, that replaced the PAT I and IIs.

Yes.---So, so - - -

So I'm, so there's a difference between the Series III static and dynamic, you're aware of that?---No, I wasn't.

So the scales that you got, which were Series III, were they the static version?---They were the ones that the inspectors were trialling to replace the Is and IIs.

The dynamic version allows the trucks to actually drive over them when they're being weighed.---Weighed. Yeah, and just keep going.

So did you ever see any of those style?---I didn't, I didn't see them in use, no.

10

All right. Now, so, but you did refer to software.---Yep.

Did the static version need software?---That's correct, yep, and a charger.

Did you ever request from RMS new chargers?---I requested a charger and the software?

20

Only one of each?---Yeah, just, oh, you only need the one software, because that does the whole lot, so you can get in and look at what's going on in, inside of it. And the charger was for us to have in the workshop. So when one come back, if one come back for a repair or something, we had a charger there, and the inspectors had the other chargers.

So, all right. If you could look at the third item in the list, it's an access and levelling ramp of three metres of length for a Series III.---I never seen, I never seen them.

You never requested them.---No.

30

The next one is a SAW 15C III scale. Have you ever heard of that model of scale?---That, that's the one I think that's, that, that I was talking about that replaced the, the I and the II.

THE COMMISSIONER: But you think it's, it was a static?---Yeah, the static, yep, that's correct.

MS WRIGHT: Okay.

40

THE COMMISSIONER: And sorry, with those, the Series III static that you saw, the scales had been purchased independently, then they were sent to you, because there was an issue with the software?---Yeah, they, they had to be calibrated and certified for, before they could go in, in use.

MS WRIGHT: So is it fair to say the majority of the scales you saw were the Series I and II?---Correct, yep.

And you only saw a few of the Series III towards the end of your time doing work for RMS?---Yep, time with it, yep. Yep.

Is that correct?---That's correct, yep.

And then just finally, the alignment flex frame.---Yeah.

Have you ever heard of that?---No.

Never seen it?---(No Audible Reply)

10 And the SAW calibration cable, is that something that you needed?---No. I made my own cable up when I done the calibration.

Right. You made your own cable, never requested one from RMS?---Not that, not that I remember.

All right.---I don't remember, sort of thing. But I know I had to make my own at the end.

20 Could I show you volume 9A, page 277, and then 278? This is an IRD packing list. Do you recognise that?---Yep.

And it says, shipped to Novation.---Yeah, Novation Engineering, yep.

And that's at Beresfield.---That was where, yeah, that's correct. That's where I was first at when I first started up. I was only there for a couple of weeks at a mate's shed sort of thing.

30 So did you understand the arrangement was it would be addressed to the attention of Novation Engineering - - -?---No.

- - - but shipped to your place of business?---I just knew it was coming, sort of thing and that was, that was what my information, sort of thing. I didn't expect it to have Novation on there. I - - -

No. Okay. I understand what you mean. But see how it says Novation, and then you've said that's your address at Beresfield?---Yep. Yep.

And you would have received this packing list at the time?---Yeah. Yeah.

40 And so did you understand the arrangement was that it wouldn't say WeighPack, it would say Novation on the packing list?---I didn't understand that it was going to be Novation at that time, sort of thing.

But once you got the packing list, you saw that?---I did, I knew then, I knew, knew then, yeah.

Now, the next, if you just take note of that packing list, and then the next one is at 279, and that's another packing list which you received?---Yep.

And you received all those items?---Yeah, I ticked off what, what we received on the, on my list that I sent through.

All right, you're saying when you sent through to the Commission?---Yeah, when I sent through to the Commission, yeah, that's correct, sorry.

10 This packing list and the one I've just showed you, when you received the items, did you have a practice of ticking off that you'd actually received them?---Yeah, I had to tick off, and what I didn't have, I had to notify what I didn't have, sort of thing.

THE COMMISSIONER: To whom?---To Samer.

MS WRIGHT: And when you say what I didn't have, if there was something missing from the pack you would notify him that it was missing even though it was listed on the packing list?---Yeah, that's right.

20 And would you also notify him if things that you'd asked him to order were missing, that is, you'd asked him to get something but it didn't appear on the packing list?---Well, I'd ask him where it was and if that come through that's what come through sort of thing and that's what I had and most of the time everything come through that I asked for.

Then there are two more packing lists I wish to show you. They're at volume 9B, pages 62 and 63. Is this a packing list which you received?
---Yeah.

30 And did you receive the items listed on the packing list?---Yeah, the ones that I've ticked, yeah.

And did you tick them at the time you received the goods?---Yeah, yeah.

And then at page 63 this is another packing list showing what you received?---Yeah.

And are they the only four packing lists that you have?---That's all I had, yeah.

40 And do they represent all of the IRD products delivered to WeighPack when you did work on RMS portable weigh scales?---That's for equipment. That's correct, yeah.

You didn't receive any other spare parts at all apart from what's listed on these packing lists?---No, not that I'm aware of, yeah.

Did you use all of the items on these lists in the repair and maintenance of scales?---No. I had to send, once we weren't doing the work anymore I had to pack all everything up and send it to the next company.

What proportion, it might be difficult, but what proportion of the items on these four lists do you think that you sent on to AccuWeigh?---Let's say a quarter maybe, sort of thing. I would have used, you know what I mean, a quarter to a half of some of them, and some of the others, not so much, if you know what I mean.

10

So about a quarter you think you gave to AccuWeigh for them to use - - -?
---Yeah, roughly, yeah.

- - - when they took over the role.---That's correct, yeah.

And what were the biggest items among them?---There weren't, there were only like bearings and bolts and like I explained before and ball bearings and bearings and a couple of those foots that I, feet that I explained to you about and a couple of handles and stuff like that.

20

So no baseboards?---No.

Parts were always delivered to you, except for those parts you've said where Mr Thammiah turned up with a small box.---That's right.

Were the parts always delivered directly to you from Canada?---I don't really know. They, they were delivered to me sort of thing. I don't really, I think they were, yeah, I don't know, I didn't really, don't really remember if they come from Canada or they come from Sydney. I'm not, not 100 per cent certain on that.

30

Did you ever notice any invoices in the shipping, Novation invoices?
---No, I never seen no invoices.

Now, could I just show you a document at volume 11, page 101. Just while that's coming up, I asked you about the contract in December 2016.---Yeah.

Did you and Mr Soliman ever have a conversation about WeighPack winning that contract?---Not at that time. He rung me Christmas Eve, I think it was, to tell me that I'd most likely get the work, sort of thing.

40

Okay.---It was around Christmas Eve, I remember it was Christmas time sort of thing.

Could I show you, well, I showed you an email already where he informed you that WeighPack had been successful in the tender but there was a three-month probation period.---Yeah.

Before you got that email did he tell you that you would win or you had won the tender?---I don't remember exactly the time of that, sort of thing. So what, what - - -

10 Did he ring you and tell you that you'd won the tender?---He told me on the Christmas Eve, sort of thing that there was a good chance of getting it, then after Christmas he asked me to get the, look after that pad that you showed me before, the tester in, in at Rockdale, if I could look after getting that tested, and then he come back and said, no, I've got, I'll get Alex to, to come back to you later, we've got to resubmit some stuff, and that's when it all come back again.

Sorry, what do you mean by resubmit some stuff?---They, that's what they said, they had to re, had to resubmit some more pricing or something like that on that tester and that, to be able to get that up and functioning.

20 Sorry, what tester?---As a, as a, as a certifier machine there is a known weight that goes onto the pads when you do a service and all that sort of stuff, and RMS owned that out at Rockdale. There's a, there's a site that RMS own out there and - - -

Is that a dead weight?---The dead weight tester, yeah.

So what's that got to do with the RFQ in December 2016?---Well, you've got to use that machine to test the, the weigh pads.

30 Yes?---So we had to get that tested so before we could do the weigh pads because it was out of certification, to say that weights, the weights were actually, a one-tonne weight was a one-tonne weight, so we had to get that done and take them to National Measurement Institute and get them tested there to make sure that each one-tonne weight weighed one tonne. So yeah, then he wanted to get a price on all that, then he had to get another price was my, was my understanding of it all. So I don't know if that happened or not.

Is that something that you had to do in order to be successful in your response to the - - -?---That's what we had to do after being successful, yeah.

40 Sorry, is what you're talking about with the dead weight tester, I'm asking you about the request for quote in December 2016.---Yeah, yeah.

What does that have to do with your - - -?---Because that was, that was - - -

Sorry.---Yeah, yeah.

What does that have to do with WeighPack's response to the request for quote?---Because on the bottom of my quote I said I have to use your dead weight tester that is at Rockdale for these prices to be right, sort of thing.

Now, this letter that's on the screen here, Mr Mitchell, dated 5 April, 2017, you wrote to Mr Soliman saying that you're spending or WeighPack's spending a lot of time on repairs and has gone through tens of thousands of dollars in spare parts in this time.---Yeah.

And some parts are becoming harder to source such as mainboards.---Yeah.

And I took you to those four packing lists.---Packing lists, yeah.

10

Do they represent tens of thousands of dollars in spare parts?---It's the labour that was, you know, they kept coming in for repairs all the time and we kept having to repair boards and stuff like that and it just become, because once you do a repair, we do a repair in Newcastle, then we'd have to take it to the tester down in Rockdale, so it was the travel time and everything like that was building up over a period of time. So it was parts and labour involved in that.

20

Just to deal with my question, the four packing lists, did that to your knowledge represent tens of thousands of dollars in spare parts?---Yes, it did, a lot of money in parts.

Did you know the price of those parts that you ordered?---No.

So how could you say that it represents tens of thousands of dollars?---I would just be surmising on how much it costs to make a bearing and stuff like that.

30

A bearing's not very expensive, is it?---To get it machined and hardened and all that sort of stuff, could be a couple, a hundred bucks.

You got the prices on the packing lists?---Yeah, after, after we ordered them, yeah.

But you've said that when you wrote this letter, what you meant was tens of thousands of dollars in parts and in labour, is that what you - - -?---That's what I meant, yes.

40

That's what you meant.---Yep.

And did Mr Soliman ask you to send this letter to him?---Yes.

Was it shortly before you sent the letter, when did he ask you?
---It was before, he wanted an update on the pads and that, yeah, reliability, because he was looking at getting new pads in the budget, looking for a budget and he was looking to get new pads for the supply, for the RMS.

When you refer to pads, you mean the portable weigh scales?---Portable weigh scales, sorry, yeah.

Did he tell you why he wanted the letter?---So he could have, you know what I mean, so he could go to his bosses I gathered to do a budget for, to see if he could get it into the budget, next financial budget I gather.

You actually recommend in this letter that he, that RMS purchase the Series III model of the SAW scale.---Yeah.

10

Why did you do that?---Because he wanted more scales to go in for the next, next, next lot sort of thing, he wanted to be able to do the next - - -

Did Mr Soliman tell you anything about the previous maintainer, and I'm not referring to AccuCorp or AccuWeigh, did he tell you anything about the company that had previously done the maintenance of portable weigh scales?---No.

20

Did he ever mention the company to you?---I knew the, knew of the company because they done the in-motion, like the in-motion weighers on the highways and that, because they'd hired or truck previously, and that's the only way I knew of them, sort of thing, but yeah, I'd never, I don't even know where they, they're based at or anything like that.

Did you know whether they also did portable weigh scales?---I knew they did portable weigh scales, yeah.

30

How did you know that?---Oh, just in the industry people just know what people do.

And what's the company's name?---I don't know, to tell you the truth, no more.

And Mr Soliman didn't talk to you about that company's role in maintaining portable weigh scales?---No, not that I remember. Not that I remember on that one.

40

This letter that's still on the screen that I've asked you about, Mr Soliman asked you to write it, did he?---He asked me to put a thing in what I recommended with new pads and stuff like that.

Did he tell you what the content should be of the letter?---No, not really.

Did he say it would be helpful if you recommended the SAW III model? ---He didn't say to recommend the SAW III, he just said, "We want to go to the next stage."

Did he draft the letter?---No.

He said that they wanted to go to the next stage.---Yeah, they wanted the next model and you couldn't get the SAW IIs any more, you could only get the SAW IIIs, and I seen that on the IRD website.

So you looked at the website?---IRD's website, yes.

Did Mr Soliman mention the SAW III model to you?---Yes.

10 So he did say to you, we want to go to the SAW III model?---We want, we want the next model because the SAW I and SAW IIs are older models, so we want to get the newer model.

And did he ask you to confirm that by way of a letter from WeighPack?
---Yeah, that's correct. So yeah, that's the letter, the recommendation, what's my recommendation on parts and stuff like that and upgrades.

It's not a letter you would have written had he not asked you?---No, I wouldn't have.
20

Did you even have a view about whether RMS should go to the next stage?
---I, I, I thought they should because the SAW Is were an old, they were old and they were getting harder and harder to fix.

But you never raised that with Mr Soliman, he raised it with you. Is that how it happened?---He asked me, he, he initially asked me sort of thing, that's correct.

30 Okay. And could you just tell me how the conversation went about this letter, when he asked you to write it.---What I remember, I think he rung me and asked me how's everything going, blah, blah, blah, blah, we want to put in a budget, you know, for new, new pads, can you make a recommendation on the SAW Is and IIs how you see, see fit sort of thing. And that's basically what I did, wrote the SAW Is should be, you know, replaced, you know what I mean, you should still move forward with some of your stuff. The SAW II, some of the SAW IIs will still get by but you need to look at upgrading because, yeah, there was age with some of the, some of the, the scales.

40 Now, could I show you volume 6 at page 49. Did you make an inquiry of IRD about becoming a distributor?---I did, I asked, yeah.

Why did you do that?---Because it was to start up a new business to get distributors, distributorships going with, with, with, you know what I mean, that just saves me, I can get parts direct from them and it's more beneficial.

And you knew that Novation had the distributorship at that stage?---I knew, yeah, yeah, yep, yep.

But you thought that IRD might be willing to supply to your company as well?---As well, yeah.

And what response did you get?---I was told no, sort of thing, where was I from, you know, what, what was I doing and, yeah, and then - - -

Now, just going back to 9B at page 61, you appear to have had contact with Mr Thammiah about parts that you needed.---Yep, I can see it, yep.

10

And you've told him that you're short a couple of mainboards. So that doesn't seem consistent with the arrangement whereby you'd go to RMS and then RMS would make orders to Novation.---I think I was attached to, in a, in an email somewhere there where I would have got Steve's details to follow him up and just to tell him that, yeah, I don't have the boards, sort of thing.

But why didn't you go through RMS?---I don't, I don't know why I didn't go through RMS.

20

Did this happen more than once?---I, I don't think so. I didn't, I have very rarely dealt with Steve, from what I remember sort of thing, so yeah.

Did you speak to him?---I spoke to him on the phone a couple of times but I've only ever seen him once in person.

And what did you speak about on the phone?---Parts and how much a wheel pad was and stuff like that, an actual pad, because I had other customers that might have been interested in them so I got prices for a pad off him.

30

So you asked him for a price on a pad?---Yeah.

And he gave you a price?---Yeah, eventually.

And did you accept that price?---No, they were too dear so I didn't worry about it.

Now, you had that three-month maintenance probation period, and then did you have to respond to a further request for quote at some point?---I think so. I don't remember 100 per cent but I think so, I had to do another quote. There was a couple of quotes I had to do through the process, sort of thing, that they kept coming backwards and forwards with.

40

Okay. If you could just excuse me for one moment. Can I show you volume 9B at page 87. Do you see there's an email at the bottom from Jai Singh, and it says, "Attached are two updated request for quotes for scheduled maintenance and reactive maintenance of portable weigh scales?" ---Yeah.

Do you recognise the name, Jai Singh?---Yeah, yeah, yeah, Jai, yeah.

Are you familiar with Jai?---Yeah, yeah, yeah.

How?---I haven't met him but I've, I think I seen him once when I was in the, the building at Parramatta and, and I spoke to him on the phone a couple of times because if you couldn't get hold of Samer you went to Jai or Alex.

10

Do you recall whether you received this email?---Yeah, yeah, I do, I do remember, I don't know the dates, if the dates are correct, but I'll go with that, but yeah, I do remember having to do a quote up a couple of times.

For scheduled maintenance and reactive maintenance?---Yep.

So scheduled maintenance was for annual - - -?---When they were due, yeah.

20

- - - maintenance, and then reactive maintenance was as required.---For breakdowns, yeah.

For breakdowns.---Correct.

So you believe you responded to this request for quote?---I, I believe I did, yeah.

And then if I could also show you page 102. You see this is another email from Mr Singh?---Yeah.

30

And it says, "Please find attached request for quote for the maintenance verification and repairs of the RMS fleet of portable weigh scales for the 17-18 financial year?"---Yep.

This is 25 August, 2017, so that's about a month after the previous request for quote.---Yep.

Did you receive this request for quote?---Yep.

40

And you recall getting those in fairly quick succession?---Yep.

What did you understand the difference between them to be?---I, I don't know. It was frustrating me at the time when I was doing it because there was a lot of changing around of what, what they required sort of in their quotes. At one stage they were supplying spare parts, then the next stage I had to supply spare parts or vice versa, I don't know which one come first, but it was round that way and my question was, if I've got to, I don't know what spare parts I've got to do, so how am I going to be, how is everyone

going to be compared on the apples for apples sort of thing, so I questioned that, and then I think they must have spoke to other people then they come back and changed it again, and then I think there was another, I think there was another request after this one as well, from what I think.

And did you respond in writing to each of the request for quotes?---I believe I did, yeah. I had to submit, I think, I think it had to go through that portal, the, the tender portal, I think it went through that.

10 You said about getting your own parts, did you sometimes source your own parts?---No, I, I, they asked us on, on one of these tenders to go and get our own parts, a price of our own parts, you know, what's required, and then that's where I had to then go to Novation and get a part, like had to put a list down for parts that I wanted and they had to reply back to how much they were going to charge me for the parts at that time and then after, after I done all that, like it was a bit of messing around, that's why I do remember these things, these ones, because it was annoying me that then it went back and then they changed their mind again and then it went back to just, yeah, this is the price and that was it.

20

Then at page 147, this is 30 August, 2017, so that's five days after the request for quote that I just showed you, you tell Jai that you're outstanding on wheel pads, waiting on a purchased order, and you say you're doing wheel pads weekly.---Yep.

Was that the case?---Yeah, we were, they were coming in all the time.

30 And you had to replace the wheel pads weekly?---No, no, no, no, the parts, we'd have to service them and all that sort of stuff, the breakdowns and all that sort of stuff.

I see. I'm sorry, I misinterpreted. So you were, well, what were you doing with the wheel pads weekly?---They were coming in and they'd come in in batches of four, six or eight, sort of like from, from the back of the cars so we'd have to test them and then take them down to Rockdale obviously on the equipment down there and test them and then bring them back and then freight them off to the, to the area they come from.

40 So you weren't using parts to repair them?---We were using some parts, if some parts needed to be repaired, if some of them were coming in and they were broken, we'd repair them with parts that were supplied.

Okay. But when you say, "We're doing wheel pads weekly," that's not just necessarily referring to replacing parts, it's just you were doing the calibration?---Yeah, that's, that's correct, yeah, yeah.

Was it the calibration?---Calibration and breakdowns we were doing regularly, they were coming in.

How often did you invoice RMS for your labour costs?---We tried to do it weekly, every week sort of thing, because we were only just a start-up business and we didn't have cash flow sort of thing, so I'd try to do it as regular as I can and, and that amount there that come up, they stopped paying at one stage there, sort of thing, everything just stopped after the, I think it was before the financial year, end of the financial year, they just stopped, and then, yeah, no, nothing was happening sort of thing.

10 So you never had to pay for spare parts?---No. Sorry, batteries, batteries, sorry, batteries, I had to buy batteries.

And you paid for that out of your own costs?---Yeah, we'd, we'd buy batteries, yeah, and charge them for the batteries.

20 THE COMMISSIONER: And, sorry, the batteries are the AAs?---The AAs, yeah. They'd get, we'd get the rechargeable ones, it was a certain rechargeable that you had to get, that they wanted, and then sometimes the other inspectors would buy the Everreadys or Duracells or whatever they were.

MS WRIGHT: What did you charge RMS for the batteries?---I would have to look for you and let you know. I, I, I don't know off the top of my head. Maybe \$5 a battery or \$6 a battery for the rechargeables, and the other ones just went back to what they were, like \$2 or something like that.

Okay. But that's the approximate amount?---Yeah, approximate amount, yeah, that's correct.

30 With your weekly invoicing, did that vary or was it about the same each time?---No, it, it varied on what was coming in and what was going out sort of thing. So it just depended some weeks. I've got all that information on, on my computer.

Do you have a range between, you know, the lowest and the highest on a weekly basis?---Well, the lowest, the lowest could have been 1800 bucks, the highest could have been 10,000 or \$15,000.

40 Depending on how many scales you'd received that week?---That have come in, that's, that's right. And sometimes it would be fortnightly, if I couldn't get to the invoicing on that week it might go to two weeks sort of thing, but we tried not to let it go too far.

When was the busiest period for wheel pads coming in?---I think around February/March when we first took over was pretty busy, from what, what I can remember now, I think around then was pretty busy, and then that period, you know, those periods then, and then the wintertime didn't seem to be as busy, you know what I mean, the August, July sort of thing.

So February/March very busy?---February/March/April.

April.---Yeah, before the financial year was always seemed to be busy.

And then what about May/June/July?---No, July/August didn't seem to be that busy. I don't, what I remember. You know, I didn't do it long enough to know the, you know, the cycles that it come in, sort of thing.

10 Could I show you volume 19, page 29. Could we go to the next page and to the next page, maybe to the end, and then we'll work backwards. So that's the last page. You've written to Mr Thammiah.---Yep.

If we could go to page 33. And it needs to go up. You say, "Hi, Stephen. I'm chasing a price on a new SAW weigh pad. I need to replace a lost one." ---Yeah.

20 "Could you get me a price freighted to Australia, please." Was that for RMS?---That's correct, yeah. The Kempsey one got lost in freight when we freighted it from our, our shop up to Kempsey, it disappeared in freight.

Why were you sending it to Kempsey?---That's where one of the inspectors is based at.

So why didn't you seek a new one through RMS?---Because I was told to go to Steve and get a price.

So the lost one, you lost one?---That's correct.

30 Who did you raise it with?---With, with Samer, and I think the inspector's name up there was Michael. I just can't remember his last name, I think it was Michael.

So you said to Samer, I've lost, or a scale has got lost.---A pad's been lost in, yeah, in freight, yeah, correct.

40 In freight.---I didn't know it had been lost until, until the inspector contacted me from Kempsey and said he hadn't received it, and I said, "Mate, well, I sent it on this date," delivery dockets, blah, blah, blah, blah, you know, and that's when it come back and then I had to raise that with Samer.

Had you received a new scale from IRD? So when you said you sent it in freight, where, where were you sending it from?---I was sending it from my factory at, at, at Barnsley to Kempsey after I'd done a service on it.

I understand. You've done a service on a new SAW, that was a Series III? ---No, no, no, it was a Series I or II, I don't know.

I see. You'd done a repair on one of the ageing ones?---Yeah, yeah.

And you sent it to the inspector at Kempsey. It got lost.---Yep.

You then contacted Samer.---Yeah. Oh, well, I, yeah, the inspector up there contacted me first to tell me that it was lost, because I didn't know until they raised it with me.

10 Yes.---And then I contacted Samer and said, "Mate, this scale's gone missing, I'm chasing it up with Toll at the moment sort of thing." So yeah.

It was never located?---Nah.

And did Samer say you contact Novation?---He said, you got to, you got to replace it with another one at, you got to go through your insurance company and replace it.

20 So it was a question of you bearing the cost through your insurance for the replacement.---That's right.

And does that explain why he – that is, Samer – didn't make the order to IRD himself?---Well, we, we never ended up purchasing a scale off them. We ended up getting the couple that we had in the shop, a couple of old ones and remade, made one up to Kempsey at the end there.

Okay, well, we'll come to that. So you've contacted Mr Thammiah?---Yep.

So you wanted a price?---Yep.

30 And then if we could go to page 31. He asks you what model you're after. ---Yep.

And you've believed you can only get the SAW III Series now?---Yep.

And then the page before that, you follow-up asking for an update.---Yeah, got, yeah, yep.

And then he gave you the prices indicated on the screen there?---Yep.

40 Now, for the 10A, 10C, and 15C - - -?---Yep.

- - - did you have in mind one particular one?---I didn't.

Okay.---Yeah, I didn't, sort of thing, so yep.

And then if we could go forward, you asked, "Are the prices correct?" ---Yep.

And you refer to speaking to Rish Fernando back in July?---Yep.

That they were from IRD?---That's right, yep.

And they gave you a price of 4,595?---Yep.

You'd had contact with IRD directly?---Yep. Oh, I messaged for a price, because Steve wasn't replying back to me quick enough.

10 I see. And - - -?---And this was back, back previously, so yeah.

So what did you think of Mr Thammiah's price?---It was a little bit expensive.

And he said – you questioned it, obviously, and he said, “Yeah, that's the price I'm quoting you for a once off.”---Yep.

Did you do anything about that? Did you respond to him? Did you - - -?
---Nah. That, that's where it left, I, I just - - -

20

Okay.---Yeah, I've got an idea of what things should cost, and yeah, it wasn't - - -

Did you respond it to, sorry. Did you raise it at all with Samer, or - - -?
---Not, not that I remember, sort of thing. So yeah.

And so how did your involvement with the RMS portable weigh scales come to an end?---I was taken to court with, through, with AccuWeigh, a breach of my contract that had come up.

30

Was that in relation to that December RFQ?---Yep. Yeah, that's right. Yeah, exactly.

And did the court order you to - - -?---Cease dealings.

- - - or order the cessation or your business arrangement?---Yeah, cease dealing with, yeah, with, with RMS for 12 months.

And after the 12-month period, did you resume any work with RMS?---Nah.

40

No. Could I just take you to 9B, 165, page 165? This is another request for quote. It's for the supply of parts. That's the end of November, 2017.
---Yep.

And it's for parts for the Series I portable weigh scales. Was that issued to WeighPack?---That's for parts. I don't remember parts. I remember I had to respond back to say that I can't, can't do your work. And I can't

remember if it was parts or for the new, new scales that they had purchased or were looking at purchasing.

And the reason you couldn't do the work was the court order.---Because the court, court order, sort of thing.

Did you, so you would request parts from Soliman?---Yeah.

10 Was he your sole point of contact when you requested parts?---It was either Samer or Jai.

How did you communicate with them your request for parts?---Just on emails, I'll put it in writing what I want, what I needed sort of thing.

Ever by phone?---Not that I remember. I'd ring up and do a follow-up phone call to make sure they got my email, I normally do that sort of thing. But on that, on, on each one, I don't exactly remember if I've rung them every time. But the majority of the time I would have.

20 And when you emailed, did you email both, or did you email one of them? Did you have a practice in that regard?---I, to start with, I think I was only emailing Samer, because I didn't really know Jai. And then at the end there, I think I was cc'ing both of them in on it. Whoever they would reply back to me, I'd reply back all to whoever was on there.

And so you'd list the actual parts that you needed in your emails?---Yep.

And then you'd eventually receive delivery of parts?---Yep.

30 And except for that one time when Mr Thammiah came with a box - - -? ---And dropped it off, yep.

- - - they came through freight?---The freight company, yep, yep.

And was there any, to your knowledge, was there any reconciliation of what you'd ordered with what was actually delivered done?---Was only, only what was on that sheet that you showed me there a minute ago.

40 Okay, so that's what you did, but do you know whether there was any formal process conducted by Mr Soliman or Mr Singh?---Only that I know of that I had, I was asked to send the copies of the delivery dockets to them after, after I'd gone through and made sure they were there.

Who asked you to send the delivery dockets?---Samer would ask me.

When you say he would ask you - - -?---He sent me a, he would send me an email, and say, "Can you, when you get the parts, can you send me back what they are?"

So did he ask you, “When you get the parts, tell me what they are by email,” or did he tell you at the start of the process that’s what you should do?---No, he, he told me on email, I think it was an email that you showed me earlier as well that was, that it said there that, “Here’s the parts, there’s some missing,” sort of thing. So yeah.

10 Okay, but did he ever say to you, “Whenever you get parts, let me know what they are”?---Not that I remember. I just checked the packing slip and ticked them off and then I’d send them, send them in.

Would you always send him the packing slips?---Yep.

So there were only four packing slips?---That’s correct.

And you sent all four to RMS, did you?---Yep.

20 Who to?---To Samer. I don’t know if Jai was on that email that I sent, but I’d always send them to Samer. Samer was always the main person, so - - -

Did Samer ever tell you not to contact IRD?---Not that I remember. I don’t remember him telling me not to contact them. But I stopped contacting them when I knew their prices and that they had a distributor in Australia, basically.

Did IRD ever suggest to you, you shouldn’t contact them, you should go through RMS?---Should go through, yeah, RMS or, or, or the distributor in Australia.

30 Who at IRD told you that?---Rish. He’s the only person I ever knew.

So you spoke to Rish?---Yep.

Many times?---About three times in my life.

Did you contact him?---Yep. He - - -

40 What for?---I contacted him recently to ask about some prices on some weigh pads that, the tender would come up again recently for RMS weigh pads.

So is that in 2019?---That’s correct, yep. Just, I think, April, May. I contacted him then, to get a price.

Did you have any contact with him in 2017?---Yes, once. He come to Australia, and I met him at, at Parramatta downstairs from RMS downstairs.

Who was at that meeting?---Me and Rish. And some other bloke come in and left sort of thing, I don't know who he was.

Not Mr Soliman?---Nah.

And what did you discuss?---The, the pricing and what sort of products that he had at that time. What, what sort of products that he offered from an IRD point of view, from a company point of view.

- 10 Was that in relation to portable weigh scales?---Nah, he wouldn't give me, do the portable weigh scales because he already had a distributor for them. So I was talking to him about bigger, bigger stuff and other stuff that they were doing.

Were you interested in distributing their products in New South Wales other than the portable weigh scales?---Yeah, we were interested in some other products that they had, in-motion stuff, and different other bits and pieces.

You mentioned a spreadsheet.---Yep.

20

What is that document? Is that the packing list that you ticked off, the spreadsheet, or - - -?---The, the spreadsheet was when we had to do that, the tender again. We had a spreadsheet of parts that we had to put in, an Excel spreadsheet. And they had all the parts listed that we had to do for the thing, and then they, they changed their mind, then they just wanted to go back to the, the, how it was before, just the standard price, not with parts in it. So we had to do a spreadsheet up of all the parts and list the parts and that, and what they were going to cost us and what - - -

- 30 Sorry, are you saying that RMS in their request for quote documentation had table showing all the parts that they would need?---No, I had to supply the table showing all the parts.

What parts, the parts that - - -?---That, that were going to be, spare parts that were going to be used in the machines over that 12-month period.

Is that in your response to a request for quote that you provided to RMS?
---Yes.

- 40 A spreadsheet?---Yeah, it's an Excel file sheet and it was converted into a PDF thing.

Indicating, did it indicate the parts that you expected to need for maintenance purposes?---That's correct.

When did you provide that?---It was in, it was in either the first or second time where they asked me for, when they had the tenders and the tender - - -

When you had the three-month probation tender?---Yeah, the three-month probation was over so it would have been, I don't know if it was July, I think it might have been July.

2017?---Yeah, in '17, yeah. And there was, yeah, there was a list, because that's what I was saying before, that it just started to annoy me that everything, everything kept changing, you know, you wanted this, now you want this, then you want this, then you want something else sort of thing, so yeah.

10

And that response you gave in about July 2017 listed all the parts you would expect to be needing as the maintainer for what period of time?---For the next, next six-month period, I think it was, it was a six-month period then and they were going to review it after six months.

Or whatever was indicated in their request.---In, in their request, yeah.

Do you still have your tender submission for that?---I think, I think so.

20 Do you have all of your tender submissions?---The majority of them stay on my computer sort of thing, so yeah.

Well, we may follow up with you about that.---Yeah, if you just send me a message what you need.

THE COMMISSIONER: Could we just go to volume 9B, page, start at page 88, please. So that's the request for quotation in July 2017?---Yeah, I think so, yeah.

30 Then if you go to the next page, 89, under request for quotation, Description of Works, down the bottom it's got, "The table below specifies all the parts that will require labour to replace which should be quoted on individually or one bulk price per scale."---Per scale, yeah.

40 Is that what you were referring to that you answered?---We, we had that, we had that thing there, so they wanted, wanted me to, also this is a, this is another one, they wanted me to do a price for all these parts but also how much, how much labour it's going to take me to put in a screw, you know what I mean. That's what started annoying me, sort of thing. I said, how, how am I going to work that out. Now, these list of parts here, how, you know, I just didn't get what they were asking me. So the first one started off like this but with, yeah, then you had to put prices there, then the next one started off, we'll supply and how much is it going to cost me to do these parts, then it referred back to, it's all getting too hard, just give me the price to do the service on the scale again.

MS WRIGHT: And then just at page 103, this is the one at the end of August 2017, the request for quote, and if you go over to page 105, sorry,

104 it says under Description of Works, it's for the, "Annual routine servicing, repairs, calibration and certification."---Yep.

Were you providing all of those services during the period you were doing RMS portable weigh scales?---That's correct, yeah.

And then at page 105 it talks about how the collection, you'd collect the scales, scale collection. Do you see that?---Yeah, yeah, yeah, yeah.

10 And then over, it says, "On receipt of any scales the contractor will commence the scheduled annual servicing and certification process as well as any repairs that may be required." And then over the page, "It's the servicing contractor's responsibility to ensure routine servicing and certification." It says, "In circumstances where parts are required and not yet available, the contractor to notify the Heavy Vehicles Programs Unit Samer Soliman and notify the applicable enforcement operation scales representative of the estimate delay for scales to be returned to their office." Sorry, I thought that might have been the reference you were referring to, but at page 107 it says, you see before the first table, "Each part listed below
20 requires the tenderer to provide a time and materials quotation for servicing where required."---That's correct.

Is that what you're referring to that you had to quote - - -?---Yeah, that's the - - -

- - - the time you would spend as well as - - -?---That's the list, yeah.

- - - materials?---That's the list, we had to give a price for all those parts. That's the spreadsheet that I'm, that I was telling you about, that's, that's
30 the spreadsheet I supplied.

They've actually put the quantity. See they've got, "Sealing screw, 2?" ---Yeah.

What were those figures, the 2 and the 1 and the 4 in that column?---How many sealing screws that you needed. They were a screw that put a bit of wire through so you know that someone hasn't got into it and tampered with the, the weight.

40 Yes, but the quantities of, the amounts of screws - - -?---I, I, I don't know where they got the quantities from. My, my sheet was bigger than that, it was a bit different, but it was, but that was all my parts list because I had to go through and pull the parts, part numbers out, descriptions.

But sorry, this table here is not something you've written, this is the RMS request for quote.---RMS has put the amounts in there.

And what did you understand those amounts to relate to?---To the parts that they needed, that they wanted to be quoted in the, in the contract.

Is that per scale?---I would have thought so, yes.

And you see down the bottom at 3.2, "Aluminium baseboard 1."---Yeah, yeah, left and right side.

10 Left and 1. So this may be the number of parts in each scale?---Per, per, per scale, that's correct.

Were you ever asked to supply any information to RMS on all the scales in operation that - - ?---Yeah, we had to do a report up on what we did, what we've done for the month, like every three months we had to, it's in the thing, the contract there, we had to report what we'd done and what issues that you were having with the scales, so we always, you know, for instance the battery was flat on scale number 1 or a foot was broken on scale number 3, or something like that.

20 Did you provide three-monthly reports?---Yes.

From the start of the arrangement with RMS?---At, at the start we were doing them, we were doing them monthly.

Right. Who did you provide them to?---To Samer.

THE COMMISSIONER: So from February 2017?---'17, yeah.

30 MS WRIGHT: When did it become three-monthly?---After, after a period where they thought we were on top of everything it stretched out, it went into the contract that you had to have a report back every three months.

And those reports were sent to Mr Soliman?---Samer, yeah.

By you?---Yeah.

By email?---Yes, that's correct.

40 How long were the reports?---Oh, just a couple of lines sort of thing, and it was an attachment as a spreadsheet, again an Excel spreadsheet with saying the location, what it was and, and the issue that we found with it, if there was an issue.

With the scale?---Yeah.

I asked Mr Mitchell some questions about the items on the schedule with the quantities and he made some comments about the prices, so the only matter remaining is whether to go back to that and ask his opinion on the prices.

THE COMMISSIONER: This is Exhibit 49, was it?

MS WRIGHT: Yes. Other than that I don't have any further questions.

THE COMMISSIONER: Did you have an understanding of the cost from
IRD of any of the spare parts?---Not really, but in general, everyone's got a
competitor, everyone's got competitors, so I roughly knew what prices of
things were, if you know what I mean. So that's where I referred back to
10 where that, where they quoted me \$14,000 for a pad and I, and I said I got a
price of \$4,000, well, I can get something similar in Australia already for
that price, if you know what I mean. So really the parts I wasn't, wasn't
sure of. I'd have a ballpark idea if I was getting touched or not.

MS WRIGHT: Did you -- I'm sorry.---Sorry.

Did you ever quote RMS for parts, did you ever provide a quote to RMS for
the parts - - -?---In one of the tenders there I'm pretty sure that that
spreadsheet you showed me before with the amounts, the part number and
20 the amounts, I'm pretty sure my, mine's also got a price down the side there
where I had to get a price off Steve from Novation Engineering. I'm pretty
sure I got a price off him because at least I just sent him the list and then we
had to all get prices I gather and I got the price back on that list.

You obtained your prices from Mr Thammiah, did you?---Yeah, yeah, I had
to get from him.

THE COMMISSIONER: Well, for some parts then which weren't generic
that you'd have to go through Mr Thammiah for, the price he provided to
30 you should have been the same as the price provided to other tenderers?
---You would think so.

Look, I don't know if you can help, but for example with Exhibit 49, the
first one, which was the handle weigh pad coupling hardware, \$260 per
unit.---Per unit, I don't know, if, if we're talking about the handle I'd
struggle to pay \$260 for, for that handle if I was, you know, if you were
buying it off somewhere here.

What about the baseboards?---I don't - - -

40 \$7,370.---Is that \$7,300 each or is that for 37 of them?

Oh, no, no, no, each, per unit, each.---No, no, I wouldn't pay that.

Could we go to the battery pack. You see the battery pack, and you said
they were the AA batteries?---The, the, is that the second one?

Yes.---It says 44, is that - - -

44 in total.---Yeah.

\$600.---\$600 each. That seems just excessive, sort of thing.

Have you got any further questions?

MS WRIGHT: I don't, Commissioner

10 THE COMMISSIONER: Could we just go to volume 9A, and page 130.
This was the request for quotation for the maintenance and certification, and
this was the tender that - - -?---In December, yeah, that was crossed over
with.

Yes. And you were successful?---Yeah.

If you go to page 134, please. Under Scope, can you see after halfway
down the page you've got, "The contractor must have sufficient stock of
spare parts such that the scales can be repaired within 10 working days" et
20 cetera.---Yeah.

"Parts are available through RMS with an expectation of six-week delivery
and you should proactively request parts from RMS with a view of having
sufficient parts for 12 months." Did you do that?---Did I request the parts?

Did you proactively - - -?---Not until I, I didn't chase them until I knew that
I was going to get the work, sort of thing, then I - - -

30 Sorry, when you say get the work?---If I, if I was going to win the tender.

You won the tender.---So I've won the tender, then I've, then I've asked for
like, actively said, well, what spare parts do I need, sort of thing, I need
some spare parts.

Now, did you create a spreadsheet for that or was that just - - -?---No.

- - - an email?---That was an email.

40 And if you did actively or proactively request parts, the ones that were
delivered are the ones that are in the four delivery dockets - - -?
---Spreadsheets, yeah, yeah, yeah, that's it.

- - - the four delivery dockets - - -?---Delivery dockets, yeah, sorry, yeah.

- - - that Ms Wright's taken you to.---Yeah, yeah, that's right, yeah.

MS WRIGHT: And that's every single part you ever received?---That's
every part that I received yeah.

Did you ever know whether, did AccuWeigh's role and your role ever cross over, did you, were you ever aware of any other company such as AccuWeigh doing - - -?---Doing testing at the same time?

- - - maintaining all those other services for RMS portable weigh scales while you were doing them?---No, no.

10 Did you believe you were the only maintainer when you were - - -?---Yeah.

- - - providing those services?---Yeah, I did, yeah.

THE COMMISSIONER: Excuse me for a minute. The reference to the ELWC fire sale, where's that?

MS WRIGHT: Yes. That is at, I'll just find that, Commissioner. There is an ELWC pricelist at 9A 88, but I don't think that's that particular – hang on.

20 THE COMMISSIONER: But that correspondence is with Novation of course, not with Mr Mitchell.

MS WRIGHT: It is.

THE COMMISSIONER: Yes, that's all right. Anything further?

MS WRIGHT: No, Commissioner.

30 THE COMMISSIONER: All right. Mr Mitchell, thank you very much for coming along.

THE WITNESS: Go home? No worries, thanks.

THE COMMISSIONER: You are excused.

THE WITNESS: Thank you.

THE COMMISSIONER: And we'll now adjourn.

40

THE WITNESS EXCUSED

[6.37pm]

AT 6.37PM THE MATTER WAS ADJOURNED ACCORDINGLY

[6.37pm]