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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC  
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION PARAGON

Reference: Operation E18/0736

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 16 JUNE, 2021

AT 10.30AM

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

THE COMMISSIONER: Yes. Good morning, Mr Nachabe.

MR NACHABE: Morning.

THE COMMISSIONER: I'll have the affirmation administered again, or the oath, I think you took yesterday. If you wouldn't mind standing and my associate will administer that again.

THE COMMISSIONER: Thank you. Just take a seat. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Nachabe, you'll recall that yesterday afternoon, I took you through some evidence in relation to the contract that A&A ultimately got to do the gantry inspections and provide reports.---Yes.

10

And just before we finished, I took you to a document which was a letter of acceptance of your quote for that job.---Correct, yeah.

And just to reiterate, if we could go back, please, to volume 8, page 487. And you'll see it was on 6 March that the email was sent by Mr Dubois to Mr Al Banna, but with the letter of acceptance. And if you go, please, to page 488, you'll see that the letter of acceptance confirmed the acceptance of your tender of 25 February in the sum of \$89,665 to do that job inspecting the gantries and reporting on them.---Yes.

20

And if you go to the next page, you'll see it's signed on 6 March, 2011, by Mr Dubois.---Yeah.

And just having orientated yourself then as to time so that – it was actually a quote rather than a tender, but a quote put in in February, then accepted on 6 March. Do you recall that the process was that there was then a purchase order that was generated, so you were given a number that was then to be put down when you put invoices in?---Yeah, I recall that.

30

And if we could go, please, to volume 8, page 716. You'll see that on 21 April, after the purchase order number has been generated within the RMS, Mr Dubois sends to you an email with the purchase order number.---Yep.

And you recall, don't you, that over the period April to June 2011, you and Mr Al Banna then basically travelled around the state to the various gantry locations? There were 19 of them, as per the documents I took you to yesterday.---Yep.

40

And you carried out your inspections?---Correct.

Now, it's also the case you've then prepared reports for each one?---Yes.

And rendered your invoices.---That's right.

So I take it, it was a fairly busy period over those couple of months, April to June, when you were going out, I take it, on the road quite a lot?---Correct. Yes.

And just to perhaps remind you of some of the gantries you went to and inspected and the reports you prepared, can I take you first of all to volume 8, page 662? Do you recall that Gundagai was the first of the gantry structures you went and inspected?---(No Audible Reply)

And you'll see there's a report. It's dated 1 April, 2011.---Yep.

10 But if we go through the following pages. Just keep going, please. You'll see that it was a draft. I'll come back to this subsequently, but do you recall that with Gundagai, it was one of two gantry locations where you identified some problems that you thought needed urgent attention?---Correct.

And you informed Mr Dubois of that?---Correct, yes.

So there was some urgency about getting that report out?---Definitely.

If we could then go, please, to volume 8, page 788. Do you see that's the A&A report for Balranald?---Yep.

20 And it's dated 1 June, 2011.---Correct.

And it may be that you can recall this now, but do you recall that you went out and did multiple inspections and then came back and issued a lot of reports around 1 June?---Correct, yes.

So, I've taken you to the Balranald report. Can I take you then, please, to same volume, 8, page 920? Do you recognise that as a report that A&A prepared in respect of the Boggabilla gantry?---Yes.

30 Again dated 1 June, 2011.---Yep.

Can I take you then, please, to same volume but page 1026? You'll see that's the Broken Hill report from A&A, again dated 1 June, 2011.---Yep.

And finally, can I take you to volume 8, page 1224? And you'll see it's the report for Tomingley.---Yep.

Again, dated 1 June, 2011.---Correct.

40 And is it the case that it was both you and Mr Al Banna who were on the road in effect dividing up the inspections?---No, we were together.

Oh, so you both went out to each location?---Yeah, for sure.

Thank you. Now, having prepared all of those reports, do you recall that you issued invoices on a progressive basis?---I don't remember if it was progressive or whether it was – maybe it was split. I don't recall.

All right, no, look, I'll take you to the documents rather than there being a mystery. Can I take you to volume 8, page 721. And do you see on 10 May, 2011, you send an email to Mr Dubois.---Ah hmm.

With the invoice for program payment dated 10 May, 2011.---Yep.

And if we go to the next page, please. Invoice itself doesn't look like it's been entirely completed in that you'll see at the top the date has been left just with, looks like template form.---Yeah, right, okay.

10

But in any event, it's invoice numbered number 2.---Yep.

And do you recall that these were the first invoices, that is for this job that you were doing for the RTA, you'd ever issued on behalf of A&A?---Yep.

And you'll see in the body of it, you'll note there's been submission of six draft reports to date.---Yep.

20

That the original contract sum, even though the lines don't quite line up, was \$89,665.---Yep.

You refer there to an amount having previously been invoiced for \$22,652.21.---Yep.

You seek a progress payment of \$49,079, and then again there's some problems with the numbers in that you've got four numbers beyond the decimal point, so \$49,079 and then some cents.---Ah hmm.

30

So that the balance still to be invoiced is \$17,933.---Yep.

Can I take you then, please, to page 723. And you'll see that on 27 May you send through, via email, the final invoice for the different gantry inspections.---Ah hmm.

And if you go, please, to page 724, you'll see you've now got a date on it, 27 May, 2011, and in the invoice you refer to the original contract sum, the \$71,731, I'll call it 99, that's already billed. And the final payment that you seek, which is \$17,933.---Yep.

40

Plus GST.---Ah hmm.

And you recall, don't you, that at the time – well, I withdraw that. Ultimately you billed all of the amount that was due, that is the \$89,665 plus GST as per the quote.---Yes.

And you remember, don't you, at the time that A&A had an ANZ bank account that you and Mr Al Banna had set up?---Correct, yep.

And can I take you, please, to volume 5.1, page 205. And do you see this is an account company/formal trust account authority form from the ANZ for A&A?---Yes.

And you'll see down below when it came to who was to sign, it was any two signatories with all to sign.---Yep.

You'll see that the account number, if we go back to the top of the page, ends in 6-1-9-9.---Yep.

10

And if you go ahead two pages, to page 207, we see there, don't we, that you and Mr Al Banna were both signatories.---Yes.

And I take it that's your signature on the left, next to your name.---Correct, yep.

And Mr Al Banna's on the right, next to his name.---Yep.

20

Now, having taken you through the invoices, can I then take you to the bank statement pages, please. Can we go to page 203. And you'll see that this is the ANZ account statement for A&A, and the account number is as per the account opening form I took you to, 6-1-9-9.---Yes.

And do you see on this page it shows two payments by the RTA? First of all on 6 June there's a transfer of \$24,917.43.---Yep.

30

And you'll recall that the second, the invoice number 2 I took you to made reference to a previous invoice amount of \$22,652.21. I'm going to ask you to accept my maths that that's that sum plus 10 per cent GST gives you the \$24,917.43 paid.---Yep.

Now, the second amount of \$53,987.76 was the amount that you sought in the second invoice. That is progress payment number 2.---Yep.

And if we could go, please, next to page 204. You'll see that there is then a final payment on 14 July from the RTA of \$19,726.30.---Yes.

And you'll recall that there was invoice number 3 sought that final sum. ---Yep.

40

Now, you'll see also on the same page that on 18 July, so some four days after that final payment by the RTA was made, you'll see that there is a debt sum of \$9,665 that's highlighted.---Nine, yep.

And you'll see that there's a number next to it, I'm going to suggest a cheque number, 1-0-0-7.---Yep.

And do you recall that there was a chequebook that you had on this account?---Yes.

Do you recall who it was that signed cheques for the business when they were required? Was it either of you or both of you?---I don't remember. I would have expected it to be both of us but - - -

10 In any event, can you now recall what that cheque was for? That is the payment made four days after the last of the RTA payments.---Yeah. That was when Alex - - -

THE COMMISSIONER: Sorry, I can't hear you.

MR DOWNING: You just need to get closer to the microphone.

THE COMMISSIONER: I cannot hear you.---Yeah. That was when Alex asked for his project management fee.

20 Sorry, I still missed that, what you - - -?---When Alex asked me for a project management fee.

When Alex?---Asked for his project management fee, yeah.

Oh, I see. Yes.

30 MR DOWNING: Well, I'll come to the details of that discussion in a moment but just in terms of precisely where the money went. Bear in mind that I've shown you this statement and it shows that your account number is 6-1-9-9.---Yes.

Can I take you back, please, to volume 5.1, page 4? And you'll see that there is a deposit into this account which is for a company named MWK Developments Pty Ltd.---Yes.

On 18 July, and it's \$9,665, which was the sum of the cheque that is shown as being drawn on the A&A account.---Okay, yeah.

You'll see that this account number is 4-5-6-9.---Yep.

40 And if we could go, please, next to page 20, same volume. You'll see this is an internal ANZ bank record but in respect of that payment of \$9,665 you'll see that there are two account numbers shown for this transaction on 18 July, 2011. You'll see at the bottom is the account number 6-1-9-9, which is your account number for the A&A account.---Yes.

And you'll see at the top, the account number is shown, 4-5-6-9, which is the account number that I've just taken you to on the MWK Developments account.---Right.

So what I'm suggesting is that the cheque that you drew, or you or Mr Al Banna drew on the A&A Structural account, was deposited – sorry. So the cheque drawn, it would seem, on or about 18 July, is deposited into the MWK Developments account on 25 July, 2011. Now, just pausing – I'm sorry. On 18 July, I apologise. So the same day that it's shown as being drawn on your account.---Yep.

10 You indicated in your evidence a couple of minutes ago that that was where Alex asked for his project management fee.---Correct.

Can I ask you to go through the entire discussion. First of all, when did he first raise with you the idea that there needed to be some payment of a project management fee?---I don't remember exactly to be quite honest but it was during a process of us conducting the work that he was raising this claim about, you know, his position and the work that he does to make, you know, this, make this type of work available to, you know, people like us and - - -

20 So just pausing there. It's after you've received the letter of acceptance indicating you got the job?---Yeah. I, I, that was always the case. It was, like, after we received the letter for acceptance, we kind of got told that there's a project management fee in there.

When you say "we always" are you referring to later instances that involved Senai Steel?---Yes, correct.

Let's just focus on A&A for the moment.---Yep.

30 So you get the letter of acceptance back in March, on 6 March, 2011, confirming you had the job.---Yep.

And then as you've confirmed when I took you through the reports, you were then out on the road April through to, it would seem, the beginning of June, doing the inspections.---Correct.

40 And you start writing the reports and they then, it seems, get prepared, largely sent out on 1 June but it seems that at least one or two perhaps where there was some urgent work identified get gone a little earlier?---That's right. Correct.

What's your best recollection as to when and where? Was it a face-to-face discussion?---I don't recall, but I, I sort of remember that the reports were in draft format and sent to him for some time, and we usually, as a protocol, don't issue final, a final issue until there's been a review by the client, so that if there's any concerns, any changes that they would like made in terms of format or, or content, we, we do that, then issue a revision zero, and that took some time before we even got that, you know, approval back from

Alex. And during that process it was kind of obviously a bit frustrating because we wanted to just finalise the project, invoice it and then done with it. And I, I recall at that period was when I was told that he wants a project management fee for the amount of effort he's putting in and, and extra work, and I really didn't understand it.

But is your – sorry, Commissioner, I know you wanted to ask a question.

10 THE COMMISSIONER: No, I just simply what you to tell us what did he say.---Yep. Well, it was basically a project consultancy fee that he was seeking.

Just try and put it back into his speech. I know it's difficult to say "he said, I said".---Yeah.

20 But doing the best you can, what was the message? What did he say by his words?---Oh, he, he would have said that you need to pay me a project management fee for my, for my effort and time. I mean, word for word exactly what he said is - - -

When you say - - -?---It's been 10 years, so it's a bit hard to - - -

When you say he would have said that, are you saying to the best of your recollection that it was effectively what he said?---What he said, yes.

Okay, thank you.

30 MR DOWNING: Thank you. And as best you can recall, was that before you had received any payment? You'll see from the – you will recall from the invoices I took you to that there's reference to two progressive payments and then a final payment.---Correct.

Over that period May to July, it would seem.---Correct.

But do you believe that that discussion occurred before there'd been any form of payment?---It was definitely before the last payment was made. Like, I can definitely recall that, but I can't recall whether the first or second payment was made when, when he made that claim.

40 And as best you can recall, was it a face-to-face discussion or phone discussion?---I think it was a phone discussion, actually, and then obviously a face-to-face at some point. But it did initiate as a, as a phone discussion because I do remember that I was sort of trying to press towards having those reports reviewed by him or his, his superiors, whoever that was going to be, and then at one point that conversation did take place and it was over the phone.

THE COMMISSIONER: So just to be clear about it, you told us effectively what he said to you on this question of a project management fee.---Yes.

Was that said during the course of the telephone call you've just referred to or the face-to-face meeting that followed or both?---Both.

MR DOWNING: And in the course of that discussion, did he say anything as to a specific sum?---Yeah, definitely. I mean, he kind of claimed it as a percentage of the, of the work, pretty much.

10

Just pausing there. You knew from the quote that had already been submitted and accepted that all up you were due to earn \$89,665 plus GST. ---Correct.

So in round terms, about \$95,000. Or, sorry, closer to \$100,000, actually. ---Yes.

And you say that he definitely indicated a sum. I mean, you know that you ultimately paid the sum of \$9,665.---Yes.

20

Is your recollection that he indicated that was the sum that was to be paid or was there some backwards and forwards?---Oh, he, he definitely indicated the sum and made it up for himself. Obviously I questioned that and how or why he'd even, in existence, redone all the work and the effort. I mean, and then he just kept on claiming the extra work he does late at night, the amount of effort he needs to put through to get, you know, these budgets approved and these projects approved and, and all this stuff. And he was basically saying, "If it wasn't for me, you wouldn't have the work." And at that point he also sort of coerced us into the fact that - - -

30

Sorry, when you say "us", are you talking about a conversation that just involved you and him?---Oh, well, yeah, me. When I say "us" because I was still referring to a partner that I had, which was, he wasn't really involved in these conversations. But at that point he kind of presented what he could have had the work done for, with these other consultants, which obviously were cheaper, but I didn't know at that point.

And I've taken you already to the quotes that he obtained from other engineering companies.---Correct.

40

Is that when he mentions then to you, putting aside Parsons Brinckerhoff whose quote he'd sent you already - - -?---Yes, I had known about that, but at that point I recall clearer now that he did disclose that he could have done the work for a lot cheaper but he opted to go with us trying to have that sort of favour upon us and obviously that was an act of coercion I believe, that that was his sort of negotiation strategy to try to get me to pay him his fee.

So he, in the course of discussing with you why he's entitled to a project management fee, he mentions the other companies that he got quotes from. ---Yes.

And does he in effect suggest that he was helping you by awarding the contract to your effectively start-up company as opposed to one of the big established engineering firms?---Well, that's, that's the way he put it to me, yeah, I mean he's the one that's helping me and getting me the work and if it wasn't for him I wouldn't have anything, basically.

10

Did you have a sense at the time that you were being played?---Yeah, it didn't feel good, I mean it didn't sit well, but you know, I kind of sort of just bit the bullet, if you, if you like, and just let it be for the sake of, you know, obviously being employed and obviously having a business that potentially is going to be successful, but I wasn't happy about it, I didn't understand where it came from, wasn't, it didn't really sit well.

20

Well, accepting that you were fairly new in running your own business, albeit you'd worked for a period beforehand for KBR, you knew, even from the paperwork you'd gotten, that is that the contract that A&A had was not with Mr Dubois or his company, it was with the RTA?---Well, well, this is what raised the question because obviously that was my understanding, but then his explanation was that he's a contractor to the RTA and a consultant, and this is where he kind of got me sort of cornered in a sense where I couldn't really substantiate or prove anything against him in, in that regard. Like, he's claiming that he's a consultant and a contractor, he's not an RTA employee, so I kind of accepted that and sort of in some way believed that that was the case because working for KBR, we frequently hired contractors to, to do project work.

30

Well, just pausing there though, you would have known from your work with KBR, when you get contractors in, just say you direct work the way of a particular contractor, it would be improper for you to then go to the contractor and say, look, you're getting paid by KBR, but I'm entitled to a percentage for managing your work. I mean that would be a secret commission, wouldn't it?---Well, I, again, because I wasn't involved in working for KBR the sort of commercial aspects of how these things work, I wasn't really too familiar with it, so his presentation to me was he's just simply a consultant, that he has his own entity and he's engaged by the RTA and that's just the way it is. So yes, of course there was questions about that in my mind which obviously became clearer and clearer further down the track, which is why I ceased working with him.

40

So is it the case that at the time you had some suspicions about what he was proposing, but felt in a sense cornered into doing what he asked for? ---Pretty much, yes.

And I take it you understood that the money that he was saying was due to him as a project management fee wasn't going to the RTA, it was going to him?---Oh, I knew that, yeah.

And you must have been familiar, even if only in a sort of, in the sense of hearings things through media or news reports, of the idea of kickbacks or secret commissions.---Yeah, I always understood that as, you know, somebody passing on some cash or something or a gift or a bottle of wine or whatever it was, but - - -

10

Well, this was a cheque - - -?---This was - - -

- - - but at the end of the day - - -?---Yeah, so - - -

- - - it was a cheque going to the person who - - -?---So I, I think - - -

Perhaps just wait for the question.---Sorry.

20

It was a cheque going to the person who had impressed upon you that he was responsible for you getting the work.---Exactly. So I, I, I mean in many ways that kind of, I wouldn't say gave me comfort, but I just thought to myself, if somebody's asking for a kickback, surely they wouldn't ask for it in the form of a cheque, so - - -

Well, just pausing there, though. I've already shown you that the records indicate that the cheque went into an account for MWK Developments.---Correct.

30

Do you have a recollection of Mr Dubois saying that he, when he had the discussion with him and he nominates that he gets this project management fee and he nominates a sum, does he also nominate that it's to be paid into a particular bank account?---Well, no, he just told me that he'll give me an invoice and you just pay me. So he didn't really indicate whether he wanted an electronic transfer or a cheque. For me, a cheque was just easier because we, me and my partner didn't both have to go into the bank to, to do the approval process.

40

You do say that in the course of the discussion with Mr Dubois, when he tries to explain to you why it is that you are now up for a project management fee, he makes reference to the time and effort he'd spent in respect of the work.---Yeah.

And did you understand that what he meant was, that is, the time and effort that he was spending in his job with the RMS to, in effect, review reports, provide feedback in respect of your drafts, and then make recommendations about them?---He actually put it to me the extra work he does, like, after-hour work, late-night work, weekend work. He doesn't put it to me in the 9-to-5 sort of obligations he has for the RTA.

But nonetheless, work for the RTA.---Absolutely, yes.

Now just going back to the form of payment. You say that he said that he'd give you an invoice.---Yes.

Is your recollection that he actually gave you a paper invoice for you to pay?---He gave me a, he did give me a paper invoice, yes.

10 And accepting that the record seemed to suggest that ultimately the cheque was paid into MWK Developments, do you have a recollection that that's the name on the invoice that you got?---I would have expected that's the name, definitely, yes.

And did you retain the invoice?---I wish I did, but no. I mean, it would have been saved, if he did send it, electronically or it was handwritten. I suspect, I think, at some point it was handwritten as well.

20 But handwritten as in in handwriting, or typed?---Hand. No, handwritten invoice.

Well, it would have been, accepting that at the time he paints the picture to you that it's a project management fee for your work and that you're then paying this sum of \$9,665, I mean, that would have been a business expense that you, as part of your business, would have claimed on your tax return. ---Which, which I would have, yeah, yes.

30 And you say you had a handwritten tax invoice.---Which I would have kept for some time. But, I mean, 10 years, I don't keep all these records for this time, yeah.

Yes, understand. But in any event, he gives it to you and you then – is it you, you believe, draws a cheque?---Sorry?

You believe you draw a cheque then to pay it?---Correct, yes.

And do you give the cheque to Mr Dubois?---Yes.

40 Now, you and Mr Al Banna at this point – that is as at July 2011 – were still both actively involved in the business?---Yes.

But Mr Dubois was your contact effectively.---Yes, correct.

Did you speak to Mr Al Banna at all about the project management fee that Mr Dubois had asked about?---I had to, yeah.

And at the end of the day did he agree – or perhaps disagree, I don't know – with what you were proposing to do?---Oh, we, we had a lengthy

conversation about it and we kind of, like, tried to understand, you know, the whole thing. But given that we had already concluded that we're going to part ways and, and just finalise things, we just pretty much - - -

10 Do you mean part ways between yourself and Mr Al Banna?---Correct, yes. Yeah, I mean, it was just finalising all these things and just parting way. I mean, there was, I wouldn't say, I mean, we, we parted ways on relatively good terms, but me and Mr Al Banna weren't seeing eye to eye, so we basically just wanted to – he wanted to be done with me, I wanted to be done with him, and that was it, so - - -

Did you get a sense, then, that he was agreeing to the cheque being paid but with perhaps some reluctance?---Yeah, there was. I mean, there wasn't a reluctance on my end, but at the same time it was like, I felt like it just had to be done.

20 In the course of the discussions you had with Mr Dubois, when he's talking about the project management fee and the extra work he's having to do, did he say anything to perhaps dangle an offer of further work if you were to do what he asked?---Oh, for sure. I mean, he was, you know, continuously talking about how this project – particularly because we identified some real concerns with the Gundagai inspection, which was the first inspection, which we raised, like, alarm bells on that as an emergency - - -

30 And I will come to that in the course of the Senai Steel works, the Gundagai job.---Well, at that point he was indicating that, you know, this is work that we need to substantiate as further rectification that needs to take place. It's not just now reporting obviously that there's going to be a second phase to this project, which is - - -

That is doing the work?---Rectification, yes.

I mean, had you disclosed to him at that point that your brother Gamele worked in steel or steel fabrication?---Yes.

40 And was there any discussion then that perhaps flowing on from the work that you had done, that is inspecting the gantries and reporting on them, that there may then be work that might go the way of Gamele?---Well, he asked me basically, "Who, who do I go to?" I mean engineers always get asked for recommendation of contractors to carry out work and of course I did recommend my brother because he's, he's had 25, 20/25 years' experience in steel fabrication and, and that type of work. So - - -

And thinking again about time frames, is that discussion about your brother perhaps being a person that might do the work that you'd identified as needing to be done, is that before he raises with you the idea of the project management fee or in the course of the same discussion?---Well, Gundagai,

no. It was, so, we done Gundagai, we saw the condition of, of that gantry. We notified Alex immediately via email with photos - - -

All right. I will take you to that but the draft report for Gundagai is 1 April, 2011, whereas all the other reports seem to be 1 June, 2011.---Yes. But – sorry, come again on that?

Sorry, the dates?---Yes.

10 So Gundagai, the draft report was 1 April, 2011, whereas the other reports I took you to in respect of Balranald, Tomingley, Boggabilla et cetera, were 1 June, 2011.---Yes, yep. So we issued that fairly quickly.

But is that your way of saying that you believe that the discussion around your brother Gamele potentially doing the work - - -?---Was at that period.

- - - happened at that early point in time when you'd identified the need for urgent work at Gundagai?---Correct. That's right.

20 So before the approach for the project management fee?---That's, that's right.

But when he mentioned to you that he wanted you to pay the project management fee at that later point, you say before the last payment was made by the RTA but perhaps after the progressive payments had been made, did he say anything further at that point about Gamele and whether work might go the way of your brother now that the reports had been issued?---Well, yeah, yes but at the same time, given the risk associated with the Gundagai project, it was, we had to get that done fairly quickly.

30 I understand.---So we, we basically identified that as urgent work and I think it was, I think around the 20 grand, which was below a certain threshold where he could issue an acceptance based on, I think, one quote.

Is that something he communicated to you at the time?---Well, around that period, yes.

So that, in effect, he could just sign off on the work being done by Gamele on Gundagai without having to go through a long-winded process?

40 ---Correct. And so there was, yeah, I mean, all those conversations were happening pretty much all around the same time.

Now, just again focusing just for the moment back on A&A. Having done that job of inspecting the gantries, provided your reports, being paid and having paid that cheque to Mr Dubois, was there in fact any further work that A&A obtained?---Not after that, no.

And was that because you didn't seek any or because he didn't offer any?  
---We did seek further work but, yeah, it was all kind of not really dealt with the way I expected.

Sorry, what do you mean by that?---In the sense where typically what would happen is we would do a conditions report and the next phase of the work would be the client would make a decision on whether they want to rectify any of the gantries, and of course that's based on the condition and state and recommendation that's present in the report, and the client would come back and say, give us a specification or a work method or a drawing or whatever it is that needs to be done to carry out the work so that they can have a scope of works that they can then issue to contractors for tender to get, get the work done, and then - - -

So following on from the inspection reports that you'd issued for the 19 gantries, did you discuss with Mr Dubois then, well, if you're going to do the work, then we, that is A&A, could provide a scope of works to then go to the contractor that would do the work?---Not necessarily go to the contractor, I did present to him two scenarios. The first scenario is that A&A stays on board as the consultant for the RTA and we - - -

The consultant in what capacity?---Obviously specifying, overlooking and signing off the work of the contractor because the RTA didn't have any internal, well, my understanding was that they didn't have internal - - -

THE COMMISSIONER: You had an expectation that this would lead on to other work in the actual execution phase.---Correct, yeah.

That didn't happen.---No.

No explanation given as to why?---The explanation wasn't really given, but what I kind of gathered further down the track was, well, if I'm going to give the work to Gamele to do the rectification work, you're his brother so why should I pay you, A&A, more money to overlook the work, why don't you just do it kind of a like a two-in-one-type thing, is what he was trying to achieve without formally having a separate entity.

Did your brother or his entity actually go on and do any work on these gantries?---Yes.

They did. Okay.---I was a partnership with him actually in the business.

Of the, I think there were nine gantries inspected.---19.

19.---Yes.

19 gantries. I think you said there was a couple of them required some urgent attention.---Correct, yes.

Gundagai was one, wasn't it?---Gundagai, and I think we also identified, if I'm correct, Dundee, one of them was, was, had no braces installed.

Well, then - - ?---But Gundagai was the first.

10 But the other, the balance of the 19, did they only require, as it were, non-urgent work to be performed on them?---I would not – it was actually urgent because it was just a matter of time before the corrosion got to the point where the floor plates, which get used for maintenance, would have – there was already holes and, and, and massive corrosion issues with them.

Okay. All right. Thank you.---So yeah, they were pretty much all urgent, but not as bad as Gundagai.

20 MR DOWNING: I will come to the reports and the recommendations in terms of urgency with respect to specific gantries in a moment, but you say that you put forward to Mr Dubois, after doing your reports, two options for ongoing involvement by A&A. One is in effect project managing the contractor, so whoever does the work that you've identified as being required on a particular gantry would then be subject to A&A's project management on the ground.---Well, it's basically, in technical terms it's called EPCM, so it's engineering, procurement and project management, or construction management.

Right.---So we're - - -

But is that, that's option 1?---That's option 1.

30 All right.---Option 2 is instead of the RTA throwing all the responsibility onto A&A, basically let's call it a turnkey approach where we just deliver the whole thing.

Including the work?---Including the work, where then it becomes up to us to engage or procure - - -

40 The subcontractors.--- - - - materials and subcontractors. The alternative to that was the RTA procures or hires the contractors, but then the RTA also needs somebody to overlook their work and so that they're then satisfied that the work is getting carried out with a specification that's been presented by an engineering firm which would have expected to be A&A given that we did do the conditions report. The conditions report doesn't specify rectification procedure because every gantry had its own (not transcribable)

So in effect you proposed two alternatives to A&A's ongoing involvement. One is where, having identified the need for the work, you would then obtain the contract to actually do the work and supervise performance. ---Correct.

But you would subcontract the physical task out.---Of course, yes.

Because neither you nor Mr Al Banna were steel fabricators.---We're, we're not steel fabricators or welders, no, of course.

10 Second alternative was that the RTA would directly engage the contractor, but you would still supervise the performance of the work.---We will supervise the performance of the work under a separate contract with the RTA, yes.

So that they were the two bases upon which you proposed ongoing involvement by A&A.---Yes.

20 And is it the case that, consistent with what you indicated earlier, that Mr Dubois didn't agree to either?---Well, yeah, you can say he didn't agree to either. You, he sort of gave us his own hybrid, I saw later, where he just engaged Senai Steel and just had his expectation told to us that, well, you're an engineer, you're involved, it's your brother, just make sure the work gets done the way it should be. I did let him know that that's fine and well, but you won't be getting any formal certification from A&A or myself to say that, you know, the work's been carried out in accordance with particular standards and so forth. And he understood that, and I was like, well, I can't force him to, to engage us to do that.

THE COMMISSIONER: So does that mean at the end of the day the work was done on these 19 gantries by your brother's business?---Correct.

30 Without supervision?---I did supervise it. I did.

You did?---I did, yeah.

Oh, you did.---I mean, I did do all the supervision, I did do all the specification on what needs to be done.

On each one of them?---Yeah. On the, on the ones we did work on, which was I think about four.

40 I'm sorry, for the 19 gantries?---We didn't rectify all 19.

No. Only for those two that needed urgent attention.---There was I think one that we attended to urgently, which was Gundagai, and then there were three or maybe four. There was - - -

All right, well, apart from two or three - - -?---I think three. Four, sorry. Four after Gundagai.

And in effect you got paid for those four that you did?---Correct, yes.

It was wrapped up in the contract price, in effect, was it?---Correct, yes.

But you didn't supervise the balance of the 19.---No. I had no - - -

And your brother went ahead and did the work on the other balance of the 19.---No, he didn't.

Oh, he did not?---No.

10

Oh, I see. He only did the four?---Yes, yep.

I see. Thank you.---So we, we ceased working with Alex after the fourth gantry.

MR DOWNING: Now can I just take you then to Senai Steel, which is the company that, well, you and your brother were involved in, but it was him ultimately doing the physical work on the gantries, as you've just confirmed to the Commissioner?---Correct, yes.

20

And it's the case, isn't it, that it was set up shortly after A&A were set up in early 2011?---That's right, yes.

You recall that I took to the search yesterday and A&A was set up in March 2011?---Yes.

And if I can take you now, please, to volume 8, page 39. And you'll see that this is now the Senai Steel search, and it shows a registration date of 7 April, 2011.---Yes.

30

And if we go over the page, please. As far as directors are concerned, you'll see that your brother Gamele was the director from inception on 7 April. ---Yes.

And you were a director for a period of time, 7 April, 2011 to 27 May, 2011.---Ah - - -

Oh, sorry.---Longer than that.

40

27 May, 2015. I apologise.---That's all right, yep.

And then if we go down the page, you'll see that there were two shares. And if you go over the page, your brother was a shareholder and you were a former shareholder.---Correct.

So it's correct, isn't it, that when the company's set up, you were equal shareholders?---Yes.

Now, your brother's background was in boilermaking and steel fabrications.---Correct.

Can you explain to us why it was that you were also a director and a shareholder in the business at the time it was set up?---My brother was just come out of bankruptcy at the time. He had some obviously health issues as well associated with his, you know, ability to, you know, manage, a whole company the way he did previous.

10 And just in terms of his bankruptcy, it's the case, isn't it, that he had previously run his own steel fabrication business?---Yeah, several of them, yeah.

But that there had been a particular business that had gone into liquidation and he had been bankrupted in the process?---Correct.

So in 2011 when this company was being set up, it's the case, isn't it, that he was recently emerging from bankruptcy?---Correct.

20 So, sorry, go on then. Explain why it was that you were involved in the company.---So, it was just to sort of make it easier in terms of getting accounts sorted with suppliers and so forth that I was involved and also taking care of the management side of things to try to avoid, you know, the pressures that he was facing in his previous experience which caused him to go into bankruptcy, which included, you know, invoicing and not being paid on time and people kind of ripping him off because, you know, he wasn't able to stay on top of it because he was too busy on the tools. So that was the idea.

30 And was there also some arrangement in terms of how any income that Senai Steel would generate would be split between you?---That wasn't really spoken about but typically it was like a fifty-fifty-type arrangement but, you know, everybody gets paid like a salary or weekly wage and then at some point it was kind of split fifty-fifty. But none of that actually happened on a regular basis in terms of the splitting of profits up until I ceased to be a director. We just kind of balanced the books and that's, that's what we, sort of, I moved on with my company and so did Gamele.

40 But it seems that you were involved for a period of years, from 2011 to 2015.---Yeah. We done a lot of other work after that, yeah.

So that is separate to the RTA?---Yeah. Just private work, yeah.

Well, over that period then, how did you work things financially? Did you work out whatever profits were there – I withdraw that. Did you pay each other a wage and then whatever was left in terms of profits after all expense had been deducted, split it in a particular proportion?---There, there was – oh, not necessarily. I mean, Jim was obviously, you know, getting his wage

or his expenses, you know, taken care of week to week, and over the period of four to five years after that, there was a lot of overheads that the company was, you know, dealing with and Gamele's health wasn't helping him, he wasn't keeping up very well. So, the decision was made to close the fabrication shop, which we opened in 2012 I think. So three years later, 2015, we just decided to close it and, yeah, not, not to keep Jim on the tools because obviously his, his health wasn't, wasn't keeping up with him. So - -  
-

10 If you can just focus perhaps on the period when Senai was doing RTA and RMS work, which is 2011/2012. You recall that, don't you?---Yep.

During that period, were you both earning money from Senai?---Oh, yes. We, we, I was maybe just paying myself a, a small wage for the time I'd spent going to sites, supervising Jim's work and the hours in the office with documentation in terms of specifying what Jim needs to do to, to get this particular gantry rectified.

20 And was he also drawing a wage?---Yeah. He would draw his expenses out of the business. It wasn't particularly a wage that would go from the company into his account, it was just whatever expenses he had, he paid for through the business.

Sorry, do you mean like travel expenses or - - ?---Personal, travel, whatever. It wasn't a particular wage that he was drawing.

Were there any profits earned by the business in the time of doing the RTA and RMS work?---There were some profits, yeah,

30 And how were they split?---It, it wasn't particularly split, that's what I'm saying. It, like, there, there was no particular split that occurred over that period. The money just stayed in the business and eventually got spent in overheads in the business.

40 So do you say that neither you nor Gamele took any profits out of the business in the time of the RMS work?---No, we, we didn't really make money out of those particular projects for us. I mean, the money was utilised, whatever profits there was, it remained in the business and it was all utilised into overheads and of course when we did win other private work, it was used as cash flow but it wasn't like a profit split that went each way after that completion of the work.

But to the extent that either of you took any money out of Senai, it was from, I take it, the Senai bank account that had opened?---Yes. It was a St George account.

And in that regard, if I could take you, please, to volume 8, page 1427. You'll see that it's a St George account opening form, and it's dated 18 April, 2011.---Yeah.

And for Senai Steel.---Yes.

And if I could take you – and you'll see the account number ends in 3-8-5-5.---Yes.

- 10 If I could now take you, please, to volume 5.1, page 219. And do you see again it says St George form in respect of the Senai Steel account. And you'll see again the account number is 3-8-5-5.---Yep.

And it's correct, isn't it, that both you and your brother were signatories on the account?---Yes.

And on the right, where you see the signatures, your signature is signature applicant 1, correct?---Yes.

- 20 And your brother is signature applicant 2.---Correct.

And who actually operated the bank account during the period that you were both involved in it?---We both had access to it. I mean, both had a card. But I would be doing all the transfers, internet transfers and stuff like that.

And when it came to paperwork for Senai Steel, was it the case that you took care of that?---Yeah, on a majority basis, yes.

- 30 So that typically Gamele was on the tools?---Typically, yes.

And when it came to preparing quotes or invoices, that would fall to you? ---Pretty much, yep.

I take it informed by what he told you about a particular job in terms of the pricing, et cetera.---Yeah, yeah, we communicated all those things, yes.

But also emails. Would it normally fall to you to do that or did Gamele sometimes send emails.---He did sometimes send emails.

- 40 But was it more often than not you?---More, more often me.

Now, it's correct, isn't it, that Senai's first job was the Gundagai job that you, through A&A, had identified in your draft report?---Yes.

And just in that regard, can I take you back, please, to volume 8, page 711, which is now – actually, if we go back to the first page of the report. I apologise. First page of the Gundagai report is 662. So just to remind you, it's a draft report but dated 1 April.---Yes.

And it was a lengthy report, but I'm just going to take you to pages within it. So if we go back to the site report, which starts at page 711. And if we then move, please, to page 712. And just if we flip it round, please, into portrait, you'll see that you, with respect to the Gundagai job, first of all you note that the inspection had been 15 March, 2011.---Yes.

And then you set out details in terms of different work that has been identified.---Yeah.

10

And there's a rectification priority in the second column to the right.---Yes.

And do you recall there were different priority codes that apply.---Correct.

And just in that regard, so that we can understand the codes, if we go back, please to page 672. And in terms of the rectification codes, you'll see that there is immediate, which requires action zero to three months; urgent, three to six; short term, six to 12; long term, one to five years; and then preferable, which speaks for itself.---Correct.

20

If we can go back then, please, to the report at page 712. And you'll see that the work identified on that page, none of it is either immediate or urgent.---Yep.

If we go then, please, to page 713, you identify some urgent work required there in terms of the bunker housing.---Yep.

Similarly, some urgent work down below with the pole columns, base plate, and the base plate grout.---Yes.

30

But you'll recall that urgent was three – I think it was, was it one to three months or - - -?---Six months.

Three to six months it was, wasn't it. So not urgent in the sense it needs to be done today.---Yes.

If we go to the next page, there were two types of work that you identified as immediate, being the truss corner knee bracings and the truss end plate connections to the columns and splice connection.---Correct.

40

And it's the case, isn't it, that you identified some problems with loose and short bolts that needed work.---Correct.

And if we could go then, please, to volume 8, page 569. You'll see that this is an email you actually sent to Mr Dubois on 4 April, so that is three days after the draft report was generated, where you raise the two sites that have work that you've got concerns about and believe need to be done urgently, being Gundagai and Bargo.---Correct, yes.

And it's the case, isn't it, that you learnt soon after that, that Senai had been engaged to do the work.---Yes.

Now, bearing in mind that that's 4 April, you'll recall from the search I took you to before that Senai was actually incorporated on 7 April, so some three days later.---Yep.

10 Do you recall, was Senai incorporated at the time in order to do the urgent work at Gundagai?---Yeah, we just needed to prepare for it, yeah.

So had Jim – I withdraw that. Your brother, Gamele, is sometimes known as Jim.---Yes.

20 Had you been talking to him about him setting up a company separate to this or was it really that the reason for setting up Senai was in order to be able to do the RMS work?---Well, it kind of came together, because I mean he was coming out of bankruptcy, I was starting my business, this came up as an opportunity so it kind of all just moulded in itself at the same time.

Right.---Just fell in place basically.

Well, had you had any discussion with Mr Dubois at this point about whether there might be work beyond Gundagai for Senai?---No, no. We just dealt with the immediate work that we were dealing with. We were still working, actually my recollection is, on the final, on the rest of the reports at that time, so I didn't know where it was going, to be honest.

30 But you say that he did indicate that in respect of Gundagai, when you'd identified to him that there was a need for urgent work, that he needed it to be done quickly and asked you for some advice about who might do it and you identified Gamele.---Correct.

And it would seem that you then discussed with Gamele that the work would be available and then Senai is incorporated.---Correct.

40 Now, was the decision to set up a company, that is Senai, was that your and Gamele's idea or was that something Mr Dubois asked be done?---No, it was me and Jim's idea or Gamele.

Right. Okay. In any event, between the email on 4 April where you identify the need for that urgent work and the incorporation on the 7<sup>th</sup>, do you recall that Mr Dubois sent a request for quote for Gundagai?---Yes.

And if we go, please, to volume 8, page 1334. And you'll see on 5 April, so that is the day after you'd sent your email on behalf of A&A identifying the need for the urgent work, Mr Dubois sends an email to Jim using the

senaisteel@hotmail.com email address, asking for a quote for the work at the Gundagai gantry.---Yes.

Now, do you recall whether you'd been the person that had set up this email address for Senai Steel?---I would have set it up, yeah.

So it's a couple of days before the company's incorporated, but I take it you discussed with Gamele then that the company would be called upon to do the work and it needed to get itself ready.---Correct.

10

And do you recall whether you received this email from Mr Dubois or whether it was your brother, Gamele, that did?---It would have been me that received it but obviously with Jim's knowledge.

And it's the case then that you're aware that between 2011 and 2012, starting with this job, Senai Steel then does work on, I think you've already identified four different gantry structures, following on from the reports that you'd prepared.---Yes. Well, five with, five with Gundagai.

20 Five with Gundagai. Okay. Thank you. Now, I take it that with each job when it came to actually pricing what was involved, that was something that fell to Gamele?---Well, me more than Gamele at the beginning to identify what needed to be done, because again Alex didn't take upon the usual protocol, so I needed to, but the expectation was still there, and of course I have a - - -

30 Sorry, what do you mean by the usual protocol?---Well, the industry protocol is you get engineering specification and a set of deliverables either through a drawing or a, or a particular report which outlines a methodology or a specification or whatever needs to be done, and then that goes to tender to, to contractors, then gets priced. That wasn't done. So it was kind of left up to the contractor. Now, the only thing the contractor had at his disposal is the conditions report, but that doesn't stipulate what the repair specifications are. And that's the gap which I had to fill before the pricing could take place, so - - -

At least in respect of the jobs that Senai Steel did.---Correct, of course, yeah.

40 Because you only did - - -?---Only did ones that Senai Steel did. I didn't - - -

So I take it you had no idea as to how things were then specified in terms of the repair works in the other jobs?---After we, after we ceased, no. After Senai Steel, I have no idea.

In any event, is it the case, though, that starting with Gundagai, when you get the email in requesting a quote and attaching some of the, it would seem,

the report that you'd prepared, that your brother based his then estimate in terms of the works partly on your report?---Well, I, my conditions report, yes, yes. Partly on the report, yes.

Did he go out and actually inspect the gantries himself?---Yes, we did that, yes.

So you actually - - -?---Before pricing, yeah.

10 You accompanied him to each inspection?---Yes, I was with him.

So for each of the gantries that work was done by Senai, there would be two sources of information for the pricing? That is, first of all, your report from A&A.---Yes.

And then, secondly, Gamele would conduct an inspection with you present as well of the actual gantry.---Correct.

20 Did you see anything at all untoward or concerning, perhaps an idea that on the one hand, through A&A, you're recommending work and being paid for that by the RTA, but then on the other hand being a partner in a business that then conducts the work?---No. Not necessarily, because I, I wasn't, I mean, for me it wasn't a conflict of interest in the sense where responsibility was sort of, the responsibility on A&A was not there. But having said that, I still had to do my due diligence because I do have a duty of care based on my expertise and qualifications. So I, I had to ensure that it gets done properly. So I took that upon myself as principle.

30 Understand, but to a third-party, arms-length observer, would you accept that there might be some perception that, on the one hand, when you were recommending how much work needs to be done and being paid for that, and then, on the other hand, having a financial interest in the company doing the work - - -?---But I wasn't getting paid for how much work should be done. Like, when I done the conditions report, the conditions report only stipulates the condition of the gantries which, yes, of course we got paid for, but then the RTA never paid me to give them a recommendation on how to fix it. That was done through Senai Steel but it was done informally.

40 Understand, but the evidence that you've given seems to indicate that from a fairly early stage, once Gundagai had been identified as needing urgent work, you have an idea that Senai might be able to do the work that you were identifying as necessary.---Yes.

So not suggesting that this was the case, but to a third-party observer, there might be a perception that there might be an imperative to you - - -?  
---That's, that's their perception. It wasn't, it's - - -

- - - to recommend extensive works because you've got a financial interest in the performance of those works.---Well, to me I saw it as a duty of care. I didn't see it as a financial benefit in any way, although there was obviously some financial benefit, I'm not going to deny that. But, you know, we go into business to obviously be profitable, but in essence I saw it as a liability and a duty of care. I mean, Gundagai was a, a very scary structure over a dual-carriageway freeway which was completely unstable.

It's over the Hume Highway, isn't it?---Yes. The M5.

10

Well, just going back to the email address that had been set up for Senai Steel, can I just take you to a couple of documents? Can I take you, please, to volume 8, page 1334, which is the document I took you to earlier. So Mr Dubois sends an email to senaisteel@[REDACTED] and it's addressed to Jim. ---Yes, yep.

And I take it, did you have a [REDACTED] account yourself at the time, that is in 2011?---Yeah, that was, that was ebahcan@[REDACTED], yep.

20

And I take it you would have set up the senaisteel@hotmail.com address rather than your brother?---No, I, I, yeah, I believe I would have, yes.

And I take it that you would have – I withdraw that. Had you actually introduced your brother Gamele at the point in time when he gets the email about – that Mr Dubois sends the email about Gundagai or not?---I don't recall. No, I don't think he would have been introduced to Alex, no.

But I take it you'd told him that his name was Gamele or nickname Jim or something of that effect?---Yeah, yes.

30

Now, can I take you to another document, please. So, volume 8, page 1388. And you'll see that, Mr Dubois having sent out the request for quote on 5 April, 2011, to senaisteel@hotmail.com, then on 8 April, 2011, an email is sent from senaisteel@yahoo.com.au, so a different email address, and it's CC'd to your personal email address and it's the fee proposal for Gundagai rectification. Do you see that?---Yep.

And first of all, from the fact that it's copied to your personal email, it's likely that it was you sending it?---This is from – yes, yep.

40

But also, can you think why a separate email had been set up rather than the senaisteel@hotmail, why there is now – and that's the email address to which Mr Dubois had sent the request for quote, there's an email now being sent from senaisteel@yahoo.com.au?---Oh, I don't remember why. I think that would have been because Jim had access to that particular one or whatnot but - - -

So, had access to which one?---Well, he would have had access to both but I don't recall why. Maybe because he sent or set up that email. I, I don't recall to be honest why there was a Yahoo and a Hotmail.

Now, you'll also see that in this email, I think you'd accept that it's likely that you were the one sending it, given that it's copied to your personal?  
---Yeah, yeah. Yeah.

10 You'll see that it's signed off, "Jim Chamsine, Managing Director."---Yes.

And I take it you recognise that mobile number, that was your brother's mobile, wasn't it?---Correct.

Now, you would have been sending this in his name, I take it?---Yes.

Can you think why though you've used Jim Chamsine, which wasn't his surname?---No. Again, because it was the bankruptcy issue that, you know, we were kind of concerned about at the time. So - - -

20 Well, just pause there for me. By this point, you might have been concerned about the bankruptcy but you'd also, the day before, set up a company with him as a director and a shareholder. So, whatever concerns you had must have passed by this point, correct?---Well, yes. But at some point it still sort of, you know – try to deter any sort of attention in that regard, so - - -

Well, if that be the case, wouldn't it have been an option that you might have sent this in your own name, given that you were a shareholder and a director of the business?---Yeah. I mean, that was an option.

30 But what you did was use Jim Chamsine where your brother's name was Gamele Nachabe.---Yes.

Now, Chamsine is his wife's maiden name, isn't it?---Yes.

Do you think that what you were doing in sending this was perhaps in some way trying to disguise any connection between you and your brother?---No. Because Alex knew clearly I was the brother of Gamele.

40 THE COMMISSIONER: Well, what was the reason?---I, I don't recall the exact reason. My recollection would be that just to deter any attention in regards to somebody doing a search on his name and coming up as him being previously bankrupt, which potentially would have negatively impacted the opportunity of, of working with the RTA I would say. But I couldn't recall any other reason for it.

MR DOWNING: Well, could it be that - - -?---I mean, Alex knew I'm his brother. He - - -

Could it be, though, that you would discuss with Alex that while he knew that, in effect, you controlled or you and Mr Al Banna controlled – I withdraw that – controlled A&A, and you and Gamele controlled Senai Steel and he was fine with that, he didn't want anyone else to know?---Well, I mean, I don't know if he wanted anybody else to know or not. I mean, for me, I was just dealing with Alex, so I didn't know who, what he was doing with whatever I was proposing to him. But my understanding is he knew clearly that Gamele's my brother. I mean, there's nothing to hide there.

10 But again it's, please tell me if there's some further explanation. It's difficult to understand why you wouldn't just use your name, if you were fine and you thought it was above board, that you were effectively an equal partner in Senai Steel, why you wouldn't use that name and instead use a fictitious name for your brother.---True. But, you know, you don't want to overshadow somebody who's really been involved in that particular line of work for years and years. So I was, like, you know, just maintaining his presence in the company, obviously. But it's not that I hijacked his name and he didn't know about it. He, he knew very well.

20 So do you say that you spoke to him about using Jim Chamsine as a name for him?---Probably not particularly using. I don't recall whether I spoke to him about using Jim Chamsine or not. I probably did in regards to having many discussions with him in regards to how, you know, how to deal with potentially, you know, people searching up names and finding out history on, you know, creditors or bankruptcy and stuff like that. But whether on this particular occasion I did seek his approval or not - - -

THE COMMISSIONER: I think you've said enough. Let's move on.  
---Yep.

30 MR DOWNING: All right. In any event, the fee proposal is sent, and if we go to the next page, please, you'll see that you also attach the certificate of registration showing that the company had been registered on 7 April.  
---Yes.

And then if we go to the next page, please, you'll see that it's an 11 April quote from Senai Steel to Mr Dubois at the RTA.---Correct.

There's a price of \$19,500.---Yes.

40 Plus GST.---Yep.

And then it's again at the bottom signed off as "Regards, Jim Chamsine."  
---Yep.

With your brother's mobile number.---Yes.

Now, pausing there, would the price have been a price he came up with?  
---As in my brother?

That is your brother.---Yes, that would have been my brother.

And the scope of works, that is the detail of what's listed there under the different bullet points, would that have been something he came up with?  
---Yep.

10 Did Mr Dubois have anything to do with either the detail of the quote or the price?---No. No, he wouldn't have had any sort of involvement in that.

Did Mr Dubois have anything to do with even setting up the templates for the quote that Senai Steel is sending him?---No, no. This is a very familiar template for me when I saw, when I see this.

Do you recall whether Mr Dubois spoke to you at that point, that is around the time of this quote being submitted, about him wanting something in return for the work that was to be done by Senai Steel?---I don't recall that  
20 at that point, no.

Is it your recollection that there was a discussion later down the track?  
---Correct, yes.

Do I take it that this would have been a document, though, that you had prepared after a discussion with your brother in order to put the quote together?---Yes.

So that there would have been a process of him looking at you're A&A  
30 report, the two of you going out and physically inspecting the site, and then he discusses with you the details to include in the scope of works and the price to put in for it.---Correct.

Now, you know that that job was done and that Senai Steel was paid.---Yes.

And you know also, don't you, that over 2011-2012, Senai ultimately did work on I think it's five gantries all up, but to a value of just – well, I'm going to suggest \$726,472.55.---Total value?

40 Of the work.---Yep.

THE COMMISSIONER: Give me that figure again.

MR DOWNING: \$726,472.55.

THE COMMISSIONER: So that was in respect of five gantries over time.  
---Correct.

Were you involved in each of the jobs, projects?---Yes, I was, yes.

MR DOWNING: Thank you, Commissioner. And with each job, was it the same process, that you'd get a request for quote, your brother would then prepare, or he would cost the job based on the A&A report and a physical inspection that the two of you attended on?---Yes. I think the only one we didn't inspect physically prior to quoting was Broken Hill because of the distance and plus because we had already had the prior knowledge of executing three or four gantries prior to that one, we kind of knew what to expect.

So in that case there was no physical inspection.---Not prior to quoting, of course.

And then you prepared each of the quotes, I take it?---Yes.

Based on that information from your brother.---Yes.

And then you would then do the emailing submitting them to Mr Dubois. ---Yes.

And over time then he would confirm that the job had been accepted.---Yes.

There would be a purchase order generated?---Correct.

And ultimately invoices rendered and paid.---Correct.

In the course of that process, and I'll come to the individual jobs with respect to particular gantries in a moment, did Mr Dubois at some point indicate to you that he wanted further project management fees?---At what point, sorry, if you can come again?

We've moved on from A&A. We're now to Senai.---In Senai, yeah.

And really, starting from the quote that's put in for Gundagai, that's the first one.---Yes.

And then there's a series of other gantries over 2011/2012 which I'm going to take you to.---Yes.

But do you have a recollection that at some point after the submission of the quote for Gundagai, Mr Dubois raises now in respect of Senai Steel that he wants a project management fee?---Yes.

And do you recall when it was? Was it while you were – was it during the Gundagai project or one of the other projects and I'm really interested again is, when was it in the process, was it at the quoting phase, was it when the work was underway, was it when you issued invoice, was it after the invoice

had been paid?---Well, yeah, there's a lot there in terms of chronology, but I, it was kind of the first instant was sort of at the same time because we were still doing the A&A work and we were still, and we had just executed or executing the Gundagai work and then obviously we, when he did come to me for the A&A he was kind of presenting to me holistically how he does all this extra work and how he applies a project management fee to whatever work that he issues to, to contractors.

10 Do you believe that's during the Gundagai works or one of the later jobs that Senai did?---No. I mean obviously he raised the first, at the first instant we done the A&A work, so that was when he first raised the project management fee to us, and of course that continued later on down the track with Senai still.

So in terms of chronology, the first mention by Mr Dubois in respect of either company, A&A or Senai, was you believe not long before the last of the A&A bills was paid.---Yes.

20 Which is in July 2011.---Yes, around then.

And the Gundagai works were done prior to that, weren't they?---I believe so.

Well, I've taken you already to the report, the draft report of 1 April, your email identifying a need for urgent works on 4 April, 2011.---Yes.

The request for quote Mr Dubois sent on 5 April and then your quote, which was sent - - ?---7 April.

30 Well, it's actually, it's dated 11 April, but if you go back to the email, please, the couple of pages before, you'll see it's actually sent on 8 April. So strangely the email is sent three days before the date of the actual quote. ---Yeah, okay.

But in any event, you're aware, aren't you, that - - ?---I think this was on a Friday so it was Friday but it was late.

40 So you've dated it for the Monday.---It was 8 o'clock in the evening so it's - - -

Right. So you've dated it for the Monday.---For the Monday.

All right. Thank you. But you're aware, aren't you, that the work was done not long after that because it was urgent work.---Correct, yes.

So is your evidence that you don't believe that there was any mention of a project management fee during the Gundagai urgent works.---Not at that point, no. It was very early on in the piece, yeah.

So I take it then that the price, 21,450 inclusive of GST for the Gundagai works, to the best of your knowledge was a genuine price reflecting the work that was to be done.---Yeah.

Presumably with some profit margin in it as well.---Yeah, of course.

10 Now, did you and Gamele discuss at all what the profit margin would typically be or did you have any understanding of what it was?---Well, it was very small. I mean, we had, I think it was three days onsite and there was a crew of about four people living out in, I think they were living in Canberra because we, we had issues with procurement of bolts on the day, and the bolts I think sent were, were wrong, so they had to go back to Canberra, and there was a lot of travelling done. So there was three days onsite all up, boom lift, I think probably it was lucky to walk away with like three or four grand in profits after labour and costs.

20 So is it the case that after the quote had been done and you actually got to the site, there were some problems with the bolts and there had to be a trip to Canberra to source the right size bolts?---Yeah, which took, took us into the next day and it was an overrun which, of course, is not the fault of the client, it's, you know, just things that happen.

Sure. But ultimately the work was done, a purchase order was created, and in that regard can I take you to volume 8, page 1430. And you see a purchase order for the Gundagai works is generated and then sent on by Mr Dubois to Senai Steel at the Yahoo email address on 9 May?---Yep.

30 And if we go to page 1432, you'll see the detail of it. There's actually two as part of this, but the first part, ignoring Tomingley at the bottom, is the Gundagai job of \$19,500.---Yep.

Plus GST. And then if we could go, please, to volume 8, page 1433, so next page, you'll see that there's an email sent from the Yahoo email address on 10 May with the invoice.---Yep.

40 And it's CC'd to your private email address. And I take it this would have been you sending the email and wanting to send it to yourself at your private email address for your own records?---Yep.

And you're attaching the invoice for the Gundagai works.---Yep.

And you've used Jim, but I take it again you're sending it on behalf of your brother?---Yes, of course, yeah.

And if we could go then, please, to the next page. You'll see that the – it's invoice number 1 for Senai Steel. So this is the first invoice you'd ever issued.---Correct.

It looks like you've made an error in the date, that you haven't put it in properly.---Yep.

But in any event it's the bill for the Gundagai works at the quoted price of \$21,450, inclusive of GST. And you would have generated this, I take it?  
---Yes.

That is prepared it and sent it?---Correct, yeah.

10

And you'll see again at the bottom it indicates that the contact is Jim Nachabe.---Yep.

Can you think of any reason of putting Jim Nachabe rather than Jim Chamsine on the invoice?---I would have just basically been comfortable with the fact that, you know, we've, you know, crossed the line in terms of being able to do the work without having that deterrence of him being looked at as previously being bankrupt or whatever, which could have caused some issues in terms of - - -

20

So it was now okay to use his real name?---Yeah, pretty much.

Now, that invoice having been rendered on 10 May, I'm going to suggest was paid by the RMS on 16 June. And in that regard could we go, please, to volume 5.1, page 210. And do you see this is a statement for, the St George bank statement for Senai Steel. The account number is 3-8-5-5 and it shows that payment made by the RMS, 21,450, on 16 June, 2011.---Yep.

30

And your evidence is that there was no kickback sought in respect of that job at that time?---For Gundagai?

Yes.---I don't recall, to be quite honest.

Now, do you recall that the subsequent jobs, where Senai Steel was retained to do the work that had been identified by A&A, were Tomingley?---Yes.

Boggabilla?---Yes.

Dundee?---Yes.

40

Broken Hill?---Correct.

Was Armidale one as well or not?---No.

So that Gundagai is - - -?---Armidale was, was Nyngan, not – Nyngan was the closest one to Armidale, which I think we done.

You think Senai did?---We, we done, we done Nyngan, Tomingley, Nyngan, Boggabilla and Broken Hill.

Dundee?---I don't remember.

Look, I'll take you through the records and if we can move next to Tomingley. So, do you recall that Tomingley was the next in order after the urgent Gundagai works?---Yes, yes.

10 And if we could go to volume 8, page 1439, please. And do you see that this is a 27 May, 2011, email from Senai with a preliminary quote for the Tomingley rectification works?---Yep.

And there's reference in the email to some exclusions. Just reading that, do you believe that was sent by you or your brother Gamele?---I would have sent that.

And again using the Yahoo email address.---Yep.

20 And if we could go, please, to page 1440. You'll see that this actually a reasonably lengthy quote. It runs from 1440 to 1444. But just reading, starting at the first page, reading that, do you believe that that's something you'd prepare?---Yes.

And you'll see there's a reference there to the scope of works and if we go over the page to 1441, it basically describes a pattern that was required in a lot of them, well, all of them – sorry. Do you need to do something with your phone, Mr Nachabe?---No, sorry, I was just checking the amount of projects we done, if I had it in my files but I don't have it. But I'm listening to you, yeah.

30

The pattern with each of the jobs was really quite similar, wasn't it, in that you needed to disassemble the gantry, then do whatever repair works had been identified by A&A?---Yes.

Often that then meant cutting out rust or repairing damage to the structure? ---Correct.

Then putting it, having it often painted or regalvanised?---Not regalvanised but coat protected, yes. It was - - -

40

Protective coating applied?---Protective coating, yes.

And then reassembled?---Correct.

And that's effectively what's being described here, correct?---Yep. But also new handrails, kick rails, floor plates or, or - - -

Steel grating et cetera?---Yeah.

And if we go over to the next page, again I take it you're familiar with what's being described here in terms of the works?---Yep.

And if we go to 1444, you'll see that the quote price was \$70,200.---Yes.

Plus GST.---Correct.

10 And if we could go then, please, to page 1445. You'll see on 1 June, 2011, so now some five days later, Senai Steel sends a further quote for the rectification works.---Yeah.

So the original quote was a preliminary one and now this is a further quote. ---Correct.

And see it's sent at 1.02am?---Yep.

20 Can we go, please, then to page 1446? And tell me, again, it's a similar format in terms of the pages of the report but tell me when you've seen enough of the report so that we can move to the next page.---Yep.

You'll see it refers again to disassembling the gantry at B, and then if we go to the next page, then the completion of the rectification works, the installation of web-forged steel grating and handrails, but do you see E and F on this document are addition to what was in the first version, that is the road base for access track and concrete slab on ground and workers executed drawings?---Correct.

30 So that that had been added from your original quote for Senai Steel. ---That's right.

And if we go, please, to page 1450, you'll see that the price is now \$112,400. So it had gone up at the same time as further works had been included.---Yes.

And again, I take it that you prepared this?---Yes.

40 And you'll see at the bottom, if we zoom in a bit, it's signed off by Jim Nachabe.---Yep.

But if you go to the electronic signature, that's actually your electronic signature, isn't it, not your brother's?---Yes.

So did you apply that by accident or - - -?---No, I mean, it's hard to get him in the office sometimes and obviously printing it off, taking it to him to sign and come back, I didn't have an electronic copy of his signature on file.

All right, so you didn't have it.---So I just didn't have it, yeah. I just used mine.

Can we go back, please – sorry. Can we go then, please, to page 1450. I'm sorry. I do apologise. 1452. Now, you'll see on 1 June, 2011, you send a price for the Tomingley rectification works, but on this occasion using your private email address.---Yes.

10 So noting that the quote that had been sent by Senai, which you confirmed you prepared and sent at 1.02 on 1 June, you're now sending a Tomingley rectification works quote on 1 June, 2011, but at 3.43pm.---Yep.

And if we could go then, please, to page – well, to 1453. You'll see this is now a quote from A&A Structural.---Yep.

And when you look at the scope of works, it's describing the same works. ---Yep.

20 And there's some exclusions, again consistent with the quote that had been done for Senai.---Correct.

If we go over the page, please, you'll see that your price on behalf of A&A was \$137,500.---Yep.

So on the same day that you prepare a quote for Senai, in the sum of \$112,400 plus GST, you prepare a quote for A&A for \$137,500.---Yes.

30 Now pausing there, the signature at the bottom, have you used your signature or Mr Al Banna's signature?---Ah - - -

Electronic signature.---I don't recall whose signature that is, to be honest.

You don't?---I don't recall whose it is.

Well, you know what yours looks like, presumably.---Yeah, definitely.

Is it yours?---It's not mine, but I don't recall using his. Maybe Mr Al Banna's, I don't recall.

40 Can you think why you would have used Mr Al Banna's signature?---I don't remember why.

Can we go back, please, to volume 5.1, page 220. I'm sorry, I'm taking you to the wrong page. I'm sorry, that's the bank account for Senai. I want to take you back to volume 8, page 21. And what I'm taking you back to is A&A Structural's original quote to Mr Dubois for the purposes of A&A doing the gantry inspections.---Yep.

And just so that you're confident that I'm showing you that, if we go back, please, to page 15, you'll see that this is the 25 February, 2011 quote that A&A had sent, putting itself forward to do the inspections and the inspection reports on the various gantries.---Yep.

Go then, please, to page 21, and you'll see that, at the end, Mr Al Banna is the person that signs off on it.---Yep.

10 And I take it you accept that that's his signature. You know it's not yours. ---Yeah, okay, fair enough.

Can we go back then, please, to the A&A quote at page 1453 and then to the next page.

Looking at that, do you accept that you seem to have cut and pasted across Mr Al Banna's electronic signature?---Yeah there's a mistake there, but it's 3.40 in the AM or something, what did I say, 3.00 in the morning I think.

20 No, this is 3.43pm.---PM, yeah.

If we go back to the email you'll see is at page 1452, you'll see this is an email sent at 3.43pm.---Yeah.

Albeit it seems that you had been up at 1.00am that day sending the email on behalf of Senai Steel.---Yes, definitely pretty tired, sore eyes, but - - -

So you say it must have been a mistake that you used Mr - - -?---I would have just missed – I did have both of them on file, definitely.

30 Now, go back to the body of the quote, please, which is at 1453. What you've described there is A&A Structural putting itself forward to actually do the works. Correct?---Correct, yes.

Now, you've told us that you'd had some discussions with Mr Dubois where you had proposed A&A would in effect project manage and as part of that it would supervise a subcontractor doing the works.---Correct.

40 That's not what you describe in this quote.---Well, it was said to me clearly that the understanding that A&A was to do the work it would be under the pretence that we obviously need to provide certification and approval of the work at some stage.

Could you please keep your voice up, it's just a little bit - - -?---We, it was clearly said to Mr Dubois and I probably sent him some breakdown of the rates under A&A which I don't know if you have a copy of, but I actually found, found it on my file last night when I had a look, that I had put together a spreadsheet for him under A&A carrying out the work as an EPCM contractor.

So you found documents where you - -?---It's just a spreadsheet which, which I do have on file that I found last night which I'm happy to forward to you, to you to have a look at.

10 If you could make that available, that would be very helpful. So it's a spreadsheet with rates for A&A carrying out the, in effect the project management-type role.---Yes, with different, with all the allocated people on the project. But that never eventuated, obviously he just ignored it and asked me to provide him a simple quote from A&A Structural on the understanding that I'll be providing all the background information.

So do you say then that the explanation for you authoring one quote for Senai in the sum of 112,400, and on the same day authoring one from A&A for the same work in the sum of 137,500, is that the one that you were providing in the name of A&A was based on A&A project managing and subcontracting the works?---Correct, yes.

20 Which is why there's a difference of \$25,000 also.---Correct.

Do you say that there was no request by Mr Dubois that you in effect provide a dummy quote so that he could award the job to Senai Steel? ---It's not what I was doing. What he was expecting of me, he asked me to give him a quote from A&A, yes.

30 He did?---Yes, he did. Which, but prior to that I had already given him my demonstration of how the work should be carried out and an option if it was to go under A&A, and I never heard anything back from him, or he just asked me for a quote from A&A and I done that for him on the understanding that he would come back to me with which option he'll want to go with, but that never happened.

So he requests the two quotes.---Yes.

And you say that the background to that is a discussion where you had proposed that there might be these two ways in which A&A would have an ongoing involvement, one where it would do the work and supervise the work, but the work would be done via a subcontractor - -?---Correct.

40 - - - and the other alternative being where the RTA would engage its own subcontractor but you would supervise.---Correct.

And he had not come back to you to suggest whether he was interested in either of those options.---Neither of those options.

But he asks you to just quote both from A&A and from Senai for this job. ---Yes.

And you're aware, aren't you, that ultimately it was Senai that got the job?  
---Yes.

If we could go, please, to the next page of the quote. I know this is in the name of A&A but can you explain why it was sent from your private email address and also indicated the contact was to be via email at that private address rather than the A&A email address that you'd set up?---I don't know, to be honest, why. Probably I done a, used it, I would have used a different template for it. So I just didn't update all the minor detail but I  
10 don't recall why that would be the case to be honest.

So, do you say that this quote from A&A was sent in with a genuine intent that A&A might obtain the job?---Oh, yes. I mean - - -

And if it did obtain the job, who would it subcontract the works to?---Well, at that point obviously, I mean, it goes without saying that I would have got my brother Jim to do the job, to do the work only because, you know, I can expect what the deliverables would be, but having said that, there would be other responsibilities associated with that in regards to anything that, you  
20 know, would have been outside the scope of works in terms of things like civil work, slab-on grounds, that's not Jim's involvement, that's my involvement with other contractors, which obviously I would be taking care of, not through Jim but - - -

You must have had a pretty keen sense though, given that one quote was for \$25,000 more and was going to involved Senai doing the work anyway, the other one was for Senai directly for \$25,000 less that you probably weren't at great odds to be getting the job through A&A?---Oh, I was hoping I did but, I mean, I had people sort of lined up to start working with me. I mean,  
30 and that never eventuated.

Did Mr Dubois say anything to you though about the fact that he needed, for a job of this size, to get multiple quotes?---Yes, he did.

Did he anything to the effect that he needed – well first of all that he intended that the job would go to Senai?---He didn't intend it, no. Well, he didn't - - -

He didn't say that to you?---He didn't say that he's going to give the work to Senai. He said that he needs to get several quotes and obviously we did provide a quote from Senai and then he asked me for a quote for A&A based on the conversation I had with him in – because when I, we did provide the quote for, through Senai, we obviously, I had to have that very detailed discussed with him about responsibility and, and execution and identifying the specification of the work and that was frustrating because he wasn't clear on his responses back to me in regards to which way he wants to go. He was just leaving it all up in the air but at the same time leveraging the fact that he knows that ultimately, given that I'm, my engineering  
40

background and involvement already in the project that I would inherently need to deliver the right deliverables and make sure that it's up to standard. So I wasn't happy about that but, I mean, obviously that's what he was doing. So he was probably arm twisting if you like but - - -

10 But do you say he didn't ever say to you explicitly that he wanted the quote from A&A to fulfil the role of just being a dummy quote so that he could award the job to Senai?---He, he, he didn't say that. I, I mean, I can't really say he trusts me, you know? So, he didn't really say those words explicitly to me, but obviously with my further involvement down the track and questioning of him and whatever protocols he was following and things he's doing, he didn't like all that questioning and obviously - - -

But do you say that came later?---Yes. That came, yeah, yeah, not too long later but, yeah, it did.

20 Did he say anything to you though at or around the time of requesting this Tomingley quote from both Senai and A&A to indicate that he effectively needed to make up the numbers of quotes before he could award a job?---He did say that, yes.

Do you think that you might have used your private email address for the purposes of the Senai – I withdraw that – the A&A quote because of some concern on your part that you were being asked to provide a less than genuine quote?---Well, at the point, I mean, if he would, if it was the case, it would have been done on suspicion of him.

30 But did you have that suspicion?---I, I would have had that suspicion, but it wasn't sort of explicitly said to me through him to send him a quote so that he can sort of tick the boxes. What he done on his end, I have no idea.

40 But accepting your evidence as to what you intended through the A&A Structural quote, do you accept that it's somewhat odd that there's not a reference at all in it to project managing the performance of the work by someone else?---Yeah, I mean, a lot of it was verbal. That's, that's the thing. Like, he was very clear on what he wanted, identified, and he actually said to me that he wants to look into maybe having two, another contract with A&A separate. So he was obviously leveraging between the two options, whichever suited him best at the time, off conversation.

Did - - -?---So – sorry.

No, sorry, you continue, please.---So at the time I questioned him about why he wanted me to send him a quote in a particular way. He'd say because I want to engage A&A as a separate – so indicating to mean that he wants to go with option 2 rather than option 1, but wanted an indication from me what A&A would do the work for at the same time if he was to go for

option 1. So he was kind of just, I think, leveraging whatever suited him best at the time, which these characters I think are really good at.

Can you recall whether he told you anything about whether any other company was being asked to quote on the Tomingley job? That is separate to A&A and Senai.---Yeah, he did say he's getting another quote, yeah.

Do you recall if he told you who they were being obtained from?---He never did that.

10

But you know that ultimately Senai got the job.---Yes.

And just as far as the Tomingley job is concerned, can I ask you, please, to go to volume 8, page 1462. And you'll see this is a tender evaluation report, and I'm not suggesting this is a document that you prepared, it's one from Mr Dubois, but in respect of the Tomingley gantry rectification works. ---Yes.

Do you see that there's a reference there to the estimate of the cost of the job being \$150,000?---Yes.

20

Can you recall Mr Dubois telling you that that was his estimate as to roughly what the job should cost?---No.

You'll see at the bottom there's a reference to three tenders being issued from Senai, Senai Steel, A&A and Peregrine Corp Australia Pty Ltd?---Yes.

You obviously know the first two companies. Do you know anything about Peregrine?---No idea.

30

If we go to the next page, please, you'll see that it suggests that on 1 June, 2011, at 4.00pm, there was a meeting at Argyle Street, Parramatta, which was attended by Mr Dubois, Mr Al Nachabe, Mr Shane Chahine, and Mr Jim Chamsine.---I never attended that meeting.

And were you aware, looking down at the prices below, were you aware of Peregrine Corp putting in a quote for the Tomingley works at \$152,000? ---Not at all.

All right, so you never attended a meeting in respect of this Tomingley job at Parramatta, which is, I'm going to suggest to you, the RTA offices? ---Absolutely not.

40

Can we go then, please, to volume 8, page 1468. 1468. Commissioner, I think we might be back, but not – Commissioner, do you have anything on the screen in front of you?

THE COMMISSIONER: No, not as yet.

MR DOWNING: I think we had a slight technical problem. We may need just a moment or two to reboot the system. So I apologise for that. Perhaps if we could just take a five-minute adjournment.

THE COMMISSIONER: Is there another way of dealing with it? If that can be quarantined and move to something else, we could adjourn, perhaps – although the same problem will occur.

10 MR DOWNING: Well, I'm happy to just try and deal with other matters while that's being remedied, if it could be done in the background.

THE COMMISSIONER: Yes, I think let's go through to quarter to 1.00 insofar as we're able to do it, if that suits you. I have other matters I've got to deal with from quarter to 1.00 onwards. Not in the hearing room but elsewhere. So it might be more convenient to press on if you're able to, otherwise we can adjourn. Leave it up to you.

20 MR DOWNING: Commissioner, I can press on with other matters, but I can indicate that what I do want to come to are a number of the specific jobs, Tomingley and then Boggabilla and Dundee, and it will require reference to documents. So I could go for probably five minutes now, but one way or another I'm going to need the system to be working again to take the matter much - - -

THE COMMISSIONER: All right, look, in the light of that I'll adjourn for as long as necessary to fix the problem.

30 MR DOWNING: Thank you, Commissioner. Apologies for that.

THE COMMISSIONER: No, it's all right. Yes, I'll adjourn.

#### **SHORT ADJOURNMENT**

**[12.26pm]**

THE COMMISSIONER: Well, might as well carry on for the next five minutes and then we'll adjourn.

40 MR DOWNING: Thank you, Commissioner.

THE COMMISSIONER: That's all right.

MR DOWNING: I hope the system is back working, but if we could go, please, to – sorry, before I take you to a document, you recall I was taking you through the various documents in respect of the Tomingley job before the break?---Yes.

If we could go, please, to volume 8, page 1468, and you'll see that first of all there's an email sent on the 9<sup>th</sup> with the purchase order for that job and you'll see the amount – well, you'll see from the subject matter, it's the Senai Steel Tomingley job.---Yes.

And the amount is the 122,400, which is the subject of the revised quote.---Yes.

10 And you'll see at the top that on 20 June, an email was sent from senaisteel@yahoo.com providing the final invoice for the Tomingley works.---Yep.

And looking at that, do you think it's likely that you sent that?---Yes,

And prepared it, that is prepared the invoice?---Correct.

20 And if we could go then, please, to page 1469, you'll see you still haven't fixed up the problem with the dates in the invoices, that you've still left them with the pro forma detail.---Yep.

But it's now invoice number 2, with 1 being Gundagai, you'll recall that?---Yep.

And it's the price quoted, that is the 121,660. I withdraw that. The price that was quoted in the revised quote was 112,400 plus GST.---112,000, yes.

400 plus GST.---Yep.

30 And now in this quote you've noted that there's a deduction because the foundations are not to be replaced, so there's a deduction of 11,800.---Yes.

And ultimately the price is 121,660.---Including GST.

Including GST.---Yes.

But the maths on that don't quite add up, do they, in that if we go back, please, to revised quote at volume 1447/1448.---I think the revised quote was 120, I think - - -

40 Let's go back. It could be an error in – so if we go then through to page 1450. So you'll see it was 112,400 plus GST.---Yeah.

And you'll see that that includes as part of it, the last item, E, the foundation repair and that is a variation if required.---Ah hmm.

So just looking at that, if you take that out you get a figure of just over \$100,000 if you take out the 11,800.---Yeah, correct.

If we then go, please, to the actual invoice, which is at 1469. Even though you say that you've deducted the 11,800, the total lump sum isn't the roughly \$100,000, it's \$110,600.---Yeah. That's definitely, I don't know what's happened there. That's a mistake.

In any event, the price that gets billed is 121,660, which is inclusive of GST, but close enough to what the price should have been, including the work on the foundations.---Yeah, sure.

10 In any event, it seems that that doesn't get picked up by anyone at the RTA because if we could – so bearing in mind this is an invoice sent on 9 June, 2011. If we could go then to the payment records, volume 5.1, at page 211. You'll see that this is the bank statement for Senai Steel, account number 3-8-5-5, and that on 13 July, that amount, 121,660, is paid by the RTA.---Yeah.

20 So the bill's been paid. Can we go then, please, to page 212, so the next page in the statement. And you'll see that there are a series of cheques drawn in mid-July, but the highlighted one is a cheque of \$13,200 on 25 July.---Yes.

And it's cheque number 26.---Yep.

And if we could go back, please, to volume 5.1 at page 4, but bear that date, so 25 July and the sum, 13,200 in mind. Page 4, volume 5.1. And you'll see that this is a bank statement for MWK Developments, and you'll recall that was the company I took you to before into which the cheque from A&A had been paid.---Yes.

30 And do you see that on the page, on 25 July, 2011, it shows a deposit of 62,700?---Yes.

And if we could go, please, to page 23, you'll see this is the ANZ internal record. What that shows is that on that date, 25 July, there were in fact two sums that made up the \$62,700, one being \$49,500 which I'm not going to suggest had anything to do with Senai, but the other one is the \$13,200.---Yeah.

40 And do you see that the account number that is next to the 13,200 is 3-8-5-5, which you'll recall was the account number of the Senai Steel St George account?---Correct.

And you'll see that ultimately the top number, 62,700, which was the amount of the deposit that day, is next to the account number 4-5-6-9, which was the ANZ account number for MWK Developments.---Yes.

So I'm going to suggest that what happened on or about 25 July was that a cheque for \$13,200 was drawn by Senai Steel and deposited into MWK Developments.---Correct.

Commissioner, there's more I obviously need to ask about that, but bearing in mind the time, I understand that you need to break at quarter to.

THE COMMISSIONER: Yes, yes. Well, we'll resume at 2 o'clock. I'll adjourn.

10

MR DOWNING: Thank you, Commissioner.

**LUNCHEON ADJOURNMENT**

**[12.47am]**