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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 THURSDAY 17 JUNE, 2021

AT 10.30AM

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

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

THE COMMISSIONER: Yes, good morning.

MR DOWNING: Good morning, Commissioner. Just before we resume with the next witness, there are some documents to tender. I hope a copy of the schedule has been placed - - -

10 THE COMMISSIONER: Yes, thank you. I could just say, there's some technical problem with the connections, which is probably interfering with livestreaming. That problem is being worked on at the moment, but I don't want to hold up the proceedings this morning on that account, I think we just need to forge on, and those who need to consider what has been dealt with this morning will have to resort to the transcript. I think it's undesirable, but – it may be that we at some stage need to pause and allow the technical people to remedy the problem – but I think that's the way to go at the moment, Mr Downing.

MR DOWNING: I'm content with that, thank you, Commissioner.

20 THE COMMISSIONER: Yes, you proceed.

MR DOWNING: Thank you. So there should be a schedule in front of you, and the documents that I tender are volumes 4.11, 4.12, 3.3 part B - - -

THE COMMISSIONER: Sorry, I'll just check, 4.11 - - -

MR DOWNING: 4.12, 3.3 part B, 13.5, 3.5, and then finally a schedule of BMN Electrical Services payments from the RMS.

30 THE COMMISSIONER: Very well.

MR DOWNING: And - - -

THE COMMISSIONER: Well, I'll just put on the record that 4.11, Financial Areva, will become Exhibit 185.

**#EXH-185 – VOLUME 4.11 FINANCIAL AREVA**

40 THE COMMISSIONER: The Alameddine green notebook, 4.12, will become Exhibit 186.

**#EXH-186 – VOLUME 4.12 ALAMEDDINE GREEN NOTEBOOK**

THE COMMISSIONER: ECM contracts, that's 3.3 part B, will become Exhibit 187.

**#EXH-187 – VOLUME 3.3 PART B ECM CONTRACTS**

THE COMMISSIONER: Documents produced by Rahme, R-a-h-m-e, which is 13.5, will become Exhibit 188.

10 **#EXH-188 – VOLUME 13.5 DOCS PRODUCED BY RAHME**

THE COMMISSIONER: And New Zealand property Twizel, T-w-i-z-e-l, 3.5, will become Exhibit 189.

**#EXH-189 – VOLUME 3.5 NEW ZEALAND PROPERTY TWIZEL**

20 THE COMMISSIONER: The schedule of BMN Electrical Services payments from RMS, referred to on day 26, with Mr Najjarin, will become Exhibit 190.

**#EXH-190 – SCHEDULE OF BMN ELECTRICAL PAYMENTS FROM THE RMS REFERRED TO ON DAY 26**

30 THE COMMISSIONER: Yes.

MR DOWNING: Thank you, Commissioner.

THE COMMISSIONER: Ready to proceed?

MR DOWNING: We are, and the next witness, Gamele Nachabe, is here.

THE COMMISSIONER: Thank you, Mr Nachabe. If you'd come forward, please. Mr Nachabe's not legally represented?

40 MR DOWNING: He's not, Commissioner.

THE COMMISSIONER: Now, Mr Nachabe, just to explain a couple of formalities. Firstly, to give evidence, you need to take evidence on oath or on affirmation. Which would you elect?

MR NACHABE: The Koran.

THE COMMISSIONER: The Koran?

MR NACHABE: Koran, yeah.

THE COMMISSIONER: So you wish to take an affirmation on the Koran.

THE COMMISSIONER: Was it your choice to swear on the Koran, or do you wish to affirm?---That's my faith, it's what I follow.

Yes. But I think I'll administer the affirmation as to - - -

10 MR DOWNING: Commissioner, I think he's expressed a preference to swear, but on the Koran rather than the Bible, so that is to give an oath.

THE COMMISSIONER: Is that your preference?---Yeah, it's my preference, yeah.

All right, okay, well, we'll leave it as it is.---Yep.

20 Thank you. Now, you may sit. Now, Mr Nachabe, you are not legally represented. That being the case, I'll just explain some of the provisions of the Independent Commission Against Corruption Act, and the Act contains provisions which entitle a witness to object to answering questions or producing documents, other things. The witness still has to answer the questions, but the objection means that the evidence a witness gives can't be used in other proceedings in the future, with the exception that the evidence can be used in a prosecution for an offence under the Independent Commission Against Corruption Act. An example of an offence would be if a witness deliberately lies or gives untruthful evidence, that's perjury. The evidence could be used for prosecution for perjury. Do you understand what I'm saying?---I understand what you're saying.

30 So you are entitled to, however, state that you object to give evidence, if that's your wish.---It's, it's, yes, it's my wish.

Do you wish to object? Do you wish to do, do object?---I wish to do that, yes.

40 You do. All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness, Mr Gamele Nachabe, and all documents and things that may be produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection. There is no need for him to make objection in respect of any particular answer given or document or thing produced.

**DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS, MR GAMELE NACHABE, AND ALL**

**DOCUMENTS AND THINGS THAT MAY BE PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

10 THE COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Nachabe, if you could just confirm your date of birth.---[REDACTED], 1971.

And the name you were given at birth, as you understand it, was Gamele Nachabe?---Correct.

As an adult have you been known by any other names?---Also by Jim as well.

20 Ever Jamal or anything else?---That's it, just Gamele or Jim.

Now, you are the older brother to Abdula Nachabe.---Correct.

And it's correct you grew up in Sydney.---Correct.

And you attended [REDACTED] High School.---Correct.

Is it correct you left school in year 11?---Correct.

30 And you then undertook an apprenticeship in boilermaking?---Correct.

And you then worked as an employee for a period of time in that field of boilermaking.---Correct.

And is it correct that you also then worked not just in boilermaking but in structural steel more generally?---Correct, correct.

40 Now, is it the case that you ultimately started your own business in structural steel?---Correct.

And was that business known as Structural One Structural Steel?  
---Structure 1 Fab Constructions.

Right.---That was in 1997.

All right. And did you then run that business from 1997 through until about 2006 or 2007?---Correct, correct.

Now is it the case that the company was ultimately placed into liquidation?  
---Correct.

And did you end up arising out of that liquidation also being bankrupt?  
---Correct.

10 And thinking about the period, did you remain in bankruptcy for a period from about 2006 through to a particular time?---It was a, from memory it was around a four or five-year bankrupt that was placed against me by insurance, well, not actually insurance, my brokers.

All right. But you were bankrupted and you spent that period in bankruptcy.  
---Correct.

Now, you're aware, aren't you, that your younger brother, Abdula, went to university and became an engineer?---Correct.

20 You remember that he attended [REDACTED] University and obtained engineering degrees from there?---I do recall that, yes.

You're also aware, aren't you, that after university he got a job as an engineer at a company known as Kellogg, Brown & Root.---Correct.

And do you recall that he worked there between about 2008 and 2011?  
---From memory, yes.

Now, that coincided with your period of bankruptcy. Correct?---Correct.

30 Now, do you recall that during that period that he worked with a colleague at Kellogg, Brown & Root known as Abdula – I'm sorry – Ahmad Al Banna?---Yeah, I do recall.

And that they ultimately set up a company together after – well, I withdraw that, let me go back a step. You recall that the Ahmad – I withdraw that – Abdula's employment came to an end when he was made redundant?  
---That's right.

40 And it was at that point that he and Mr Al Banna set up a company together?---Correct.

And do you recall the name of that company?---A&A Structural Solutions.

In the course of your evidence I'm just going to refer to it as A&A, if that's convenient.---Yeah, yeah.

Now, in terms of time frame, does it accord with your recollection that it was early 2011 that they set up A&A?---From, from memory, yes.

And did you learn through your brother that one of the early clients that A&A obtained was the RTA?---Correct.

And did Abdulla tell you that A&A obtained a contract to go out and inspect some gantry structures?---Yeah, when he actually was awarded that contract I was informed about it.

10 Right. And did you understand that that involved them going to different gantry structures around New South Wales - - -?---Yeah, well - - -  
- - - and inspecting them and reporting on them?---That's, yeah, based on that, like, what he was telling me, yes, that's, that's what I knew.

Did you know at the time who the person was that he was dealing with at the RTA in respect to that?---No, no idea.

Did you subsequently learn that that person was a man known as Mr Dubois?---No.

20 You never did?---No. I didn't have any dealings with the RTA at that particular time.

Right. But did Abdula tell you at any point that - - -?---No.

- - - the person he was dealing with - - -?---No.

- - - was known as - - -?---It was just basically it was all - - -

30 No, if you just wait for my question.---Yeah, okay.

The person he was dealing with was known as Alexandre Dubois?---No.

Did you learn that at some subsequent point?---No.

Never?---Well, like I said, at that particular time he was excited about his business and he informed me about a contract he's just been awarded and basically I haven't asked too many questions from there.

40 But at some point down the track did you learn that the person that was responsible for that work at the RTA was a man known as Alexandre Dubois?---Eventually, further down the track, we're talking further down, yes.

But at the time - - -?---No.

I take it at the time your brother told you he was doing the work you had no idea who the person was?---No idea what's going on, no.

Now, I take it you became aware that your brother, in respect of that work, was going out to various locations and doing the inspections?---Yeah.

And did he tell you at the time that he was going to places around the state, like Gundagai et cetera?---Yeah. Briefly, briefly. I was informed about it but - - -

10 And did you understand that he was then coming back and he and Mr Al Banna were then writing reports about the condition of the gantry structures?---Yeah, basically, yes. But I understand what was going on but like I said, I, I wasn't much involved with that, when they had that kind of work going on.

As far as A&A was concerned, you had no role in that business?---No role at all. No role at all.

20 But at some point – I withdraw that. Do you recall what you were doing yourself workwise in that period where you were bankrupt and you understood that your brother had set up A&A?---I was actually a, I was part-time employed by other companies, various companies to do certain hours a week because I was actually limited to the, to the capacity, I was – incapacitated - incarcerated in the sense of my turnover. I couldn't, I couldn't breach a \$40,000 a year turnover.

So there was a limit on what you were permitted to earn?---Correct, correct.

As part of your bankruptcy?---Correct, correct.

30 And was the work that you were doing in the structural steel area?  
---Correct.

Now, at some point do you recall your brother saying to you that arising out of some of the inspection work he'd been doing that there was some structural steel work that needed doing on one of the gantries?---No, no. basically he was doing his report and I was doing my thing at that time.

40 But at some point though you become aware, don't you, that the RTA needs someone to do some work on a gantry?---It was further down the line. He actually pretty much finished his reports, that was pretty much when he was finished and he compiled his report and he didn't know where it was going from there. He says, you know, we, we spoke of his inspections on completion but he said there could be a chance where they might be talking in future if they were wanting any rectifications done. So - - -

Now, it's the case, isn't it, that in the early part of 2011, you and your brother, Abdula, set up a company?---Correct.

And that's Senai Steel?---Correct.

Can I take you to the search for it, which is at volume 8, page 39? So this is the ASIC search showing the formal details of the company.---Yep.

And you'll see from the search that the company is registered on 7 April, 2011.---Correct.

And if we go over the page, please, to page 40, you'll see as far as directors, that you were a director from the outset, from 7 April, 2011.---That's right.

10

And then your brother is listed as a previous director so that he was a director from 7 April, 2011, until 27 May, 2015.---Correct.

And you'll see with share structure there were two shares of a dollar each. ---Ah hmm.

And if we go over the page, you'll see that you're shown as a shareholder and your brother is shown as a former shareholder.---Ah hmm.

20

Now, thinking about the company being set up, can you recall why it was that you made the decision to set Senai Steel up?---Well, like I said I was, we were just, I was completing my bankruptcy term and I was wishing to go back to, to, to re-establish a business and go back into incorporating a company. And basically my health wasn't, and still is, I'm still, you know, until this day, I've still got issues with my health, so I needed an offsider of someone I can trust to look after, yeah, basically the office, well, well, there office, so - - -

30

So just breaking that down. You'd previously run your own structural steel company?---Correct, correct.

And I take it that by the point in time at which this company is registered, which is - - -?---2011.

If we go back to the page before, please. So 7 April, 2011.---Ah hmm.

You wanted to go back into business through a company?---Correct.

40

I take it doing similar structural steel work?---Correct.

And do you say that the intention was that you would do the hands-on work?---That's right. Shop and site supervision.

Shop being the actual fabrication works in the shop?---Fabrication and also site, and also site, yeah.

And is it the case that the intention was that your brother would, in effect, take care of the admin side of it?---Correct.

So paperwork?---Correct.

Emails?---Emails, paperwork.

Banking?---all the diligence, banking even.

10 Now, do you recall though whether – was the company set up with a view to doing specific work for the RTA or was it really set up in a more general sense so that you could just get back into structural steel work?---I wanted to get back into structural steel.

And as far as the financial arrangements would have been concerned, did you and your brother talk about what might happen with any income that Senai Steel generated?---Well, basically we just wanted to build the business from scratch. You know, so we needed to establish workshops and, and all the overheads and stuff like that that goes into it.

20 But presumably the intention was to obtain work and to earn some income?  
---Obtain work, yeah, to earn an income, correct.

So was there any discussion about whether perhaps a wage would be paid to each of you or you would share profits, draw dividends?---Oh, yeah, we, we, we had a wage set up, like minimum wages, like, but basically we were in the early stages of setting up a whole new business from scratch. And like I said, it was four or five years that I wasn't self-employed, so - - -

30 But had you discussed with him at the outset, that is, when the company was set up, what might happen with any profits that would be earned by the company?---Well, basically if there's a profit, it will be shared fifty-fifty around the end of financial year. You know. But it was too early that, to even speak of it, because we needed to set up from scratch.

Well, you say it's too early in the sense that you hadn't earned any income.  
---Correct.

But it sounds like you did at least have the discussion that, "Look, whatever we earn" - - -?---Let's see how we go, yeah.

40 - - - "beyond a wage and meeting costs, we'd split fifty-fifty."---Yeah, and we need to get there first though, don't we, somehow?

I understand.---Yeah.

But you also knew, didn't you, that separate to whatever he was doing with Senai Steel, your brother was working with Mr Al Banna in A&A.---Yeah, I knew that – correct, I knew he completed some works for, on the RTA inspection report, but I wasn't guaranteed any - - -

Oh, I'm not referring to whether you were guaranteed any work.---Yeah.

What I'm really asking about though, is that you were aware that he had his own endeavour.---Yeah, I was aware, yeah, that's - - -

So that he wouldn't have - - -?---I actually encouraged him to set up - - -

Please just wait for the question.---Yeah, okay.

10

It'll just make it an easier process.---Yeah. Sorry.

You were aware, weren't you, that he would need to be putting some of his time at least into the work with A&A.---Yeah, that's right.

So that I take it the intention with Senai was that his admin work would not be a full-time thing.---Correct.

20

Now having set the company up as the documents indicate on 7 April, 2011, do you recall where the first work came from?---Well, basically, it was set up and, and it was set up, and at that particular time, I think, they were talking about some urgent work to be carried out. Recall, I'm going back, I think it was Gundagai, would have been something that we were talking of, because they needed something to be attended to, you know, urgent matter.

All right. So do you recall that that was a discussion that you had with your brother - - -?---With Abdul, correct.

30

- - - at around the time that Senai Steel was set up?---Correct.

So that there was some urgent work that had been identified with the gantry structure at Gundagai.---Correct. Correct.

And just on that point, do you recall that the first knowledge you had of the work at Gundagai was the discussion with your brother, or was it receiving some sort of email?---Oh, just Abdul, it was verbal.

40

But did you subsequently – well, I withdraw that. Did you have anything to do with setting up an email account for Senai Steel?---No.

Was that, Abdul took care of?---Abdul. Abdul took care of that.

When it came to emails coming in or going out, would you actually receive them or send them, or would Abdul take care of it and show you things? ---Well, look, oh, Abdul will – he set up the accounts. I'd be on emails like towards, a bit later on, but in the early stages, he was setting up the office, because we were sharing the same office. We actually worked out of the same office.

And where was the office?---Eventually down the track it was at Regents Park. We were working from home first, but we, we ended up with a workshop at Regents Park.

But for instance, in the early days, thinking about the early period after being established on 7 April, 2011, if an email came in, would that be received by Abdul?---Abdul. Yes.

10 And he would, I take it, then inform you about what had been received?  
---Correct. Correct.

And was there then a process that you established for the period that Senai Steel was doing work where – I take it you understood that where jobs were being perhaps offered to you, there would need to be a quote provided?  
---Correct.

20 And once the work was done, there would then need to be invoices rendered and you'd get paid.---Correct.

So, and I take it from the work you've done through Senai that you also knew that typically where a job was being offered, some documents would be provided so you could work out your quote.---Correct.

And is this the way that it worked with Senai, that Abdul would receive whatever email was sent in with whatever background documents or the plans were available.---Ah hmm, correct.

30 He would show them to you?---Correct.

Would he actually take you to the computer to show them to you, or just print them out and give them to you?---Well, basically, it, it depends on the, on the, on the, on the type of work that was to be looked at and, and like I said, when Gundagai was sort of something to be attended to, there wasn't any formal fabrication. It was more like labour, something that you could pretty much, don't need any documentation. You know, we were talking like, it's, at that particular point, it was work to be carried out onsite which is purely, was labour. Labour and equipment. So, it all goes back to the type of work that had to be looked at.

40 Well, you recall that after Gundagai that Senai did work on a number of different gantry structures.---Correct, oh, we did, we did.

And there was a sort of fairly similar pattern, wasn't there, in the sense that what would happen was the – just wait for the question.---Yeah.

The gantry would be taken down.---Yep.

Whatever repair work would be done on it as needed to be done.---Right.

It'd then be put back up.---Correct.

So, is this the case that with the various RTA jobs that Senai did in respect of the gantry structures, you would typically get initial information which would include the report that A&A had done on that gantry?---Well, we were both on the report.

10 But just in terms of what you received, you would typically receive the report, wouldn't you?---Yeah. So the report was on Abdula's knowledge what, what they saw or what they inspected onsite but in, in normal cases like, as a fabrication company, we, we tender on drawings provided by the RTA. It's something that we were provided. So it was based on our experience and knowledge and through our doing engineering on the job. We actually worked out what needed to be done and I, and my background would be knowledge of what meets the BCA codes, which is the Building Codes of Australia.

20 I understand. But in terms of the way in which the jobs would come to you and you would then put in quotes, is it the case that Abdula would show you the report that had been prepared by A&A?---Correct.

Would you then go and look at the site?---Correct.

And you would then come up with your costings for whatever work was required?---Correct.

I take it in consultation with Abdula in the sense of discussing with him - - -  
30 ?---With Abdul, of course.

- - - what work he'd identified was necessary?---Correct.

Would he then prepare a written quote?---Both of us. Basically, I, I would draft it up and I'll work of the costings.

Would you do that by hand or with - - -?---By hand.

40 And would he then type the document?---Correct.

And did you understand he would then email it off to the RTA?  
---Something like that, that's right.

And then over time, did you learn that in order to be paid you then had to get what was known as a purchase order?---Correct.

So a purchase order would come in?---Correct.

And I take it that was via email and that was something Abdula took care of?---That's right.

And then ultimately invoices were submitted?---Correct.

And was it the case that when it came to putting the invoices in that you would talk to Abdula about the specifics of the job?---Ah hmm.

10 Whether it was to be billed simply as per the quote or with some variation included?---Oh, well, basically the variations, if they, if they were to be up, it's under the circumstances that we weren't aware of.

Oh, no, I understand. But I'm just talking about - - -?---Yeah. So - - -

Just wait for the question.---Yeah, yep.

When it came to preparing the invoices, you and Abdula would speak?  
---Yep.

20 You would provide the detail of the work that was actually done?---Carried out, correct.

If there had been variations, then you would provide that information about what the variation was?---I would provide that if there was any but - - -

He would then type it up?---Correct.

And send it off?---Correct.

30 And it's the case, isn't it, that Senai Steel set up a St George bank account?  
---That's right.

And do you recall that the bank account was set up so that both you and Abdula were signatories on it?---Correct.

And could I take you, please, to volume 5.1, page 219? And if you need anything enlarged when it comes up on screen, please let me know.---Sure.

40 This is quite small type.---Yeah, it's pretty small. Yeah, yeah.

But do you see on the top left, the details of the account is Senai Steel?  
---Yep.

And you'll see the account number just below ends in 3-8-5-5.---Yep.

You will also see to the right, that the date opened is 18 April, 2011.---Ah  
hmm.

So, 10 days/11 days after the company was set up.---Correct.

And if you go down below, you'll see that there are signatures there for the two applicants.---That's right.

The one on the right is you, correct?---Correct.

And the one on the left - - -?---Is Abdula.

10 - - - is your brother?---Yep.

Thank you. And that was the bank account that Senai operated for the purpose of its business, correct?---Correct, that's right.

Now, if we – I withdraw that. And that was the account into which, for example, the RTA would pay money where you'd done a job and invoiced for it?---Correct.

20 Now, going back to Gundagai, if we could. You've indicated already that you recall that that was the initial job.---Ah hmm.

And you've indicated that that came about, or it came to your attention because your brother indicated to you that there was some need for urgent work there?---It was, yeah, urgent.

Now, can I take you, please, to volume 8, page 1334? And you'll see this is a 5 April, 2011, email from a Mr Alexandre Dubois at the RTA.---Ah hmm.

30 And it's to senaisteel@hotmail.com. Now, just pausing there, did you have any involvement in setting that email account up or do you believe that was your brother?---That, I can't recall to be quite honest, a Hotmail – because we did set up senaisteel@ – I had another account by jimnachabe@senaisteel.com.

Right.---So there is a senaisteel@hotmail.com but - - -

Do you believe Abdula was - - -?--- - - - Abdul set it up or I set it up, I – it's that far back.

40 You'll see that this is an email from Mr Dubois to Jim asking for a quote to carry out recommendations of the scope as per the STC gantry, sorry, attached document for the STC gantry at Gundagai.---Yep.

And if you go to the next page you'll see that what it's attaching, if we scan down, that it's the A&A report of 1 April, 2011 in respect of Gundagai. ---That's right.

And do you recall – first of all do you recall seeing this email at the time, that is the email requesting a quote and then attaching the A&A report?  
---Possibly, I can't remember back that far back.

But in any event, you did go to Gundagai, didn't you?---I did go to Gundagai, correct, I was on, actually I was there, I was supervising the work.

10 And also, before you got to doing the work, it's the case, isn't it, that a quote was put in?---Correct.

And do you recall that you were part of preparing that quote?---Yeah.

Now, just bearing in mind the date, the email, if we go back to it, please, page 1334, was dated 5 April, 2011, which is two days before Senai Steel was incorporated.---Right.

20 So just looking at those dates, does that assist at all in terms of whether perhaps the thing that spurred you to get the company set up was this request that you provide a quote with the potential of then doing work at Gundagai?---Right. Basically I was, I was basically going to go back into business regardless, it was just waiting for that time frame where my bankruptcy expires.

Okay.---So basically I was looking down that road and Abdul being redundant, we were going to do something together regardless. This work was actually just perfect timing to be quite honest, just coincidence.

30 All right. Now, if I could take you, please, to volume 8, page 1388. Do you see that this is now a Senai Steel email account, but a different one. You recall the last one was at Hotmail, this one's at Yahoo.---Yeah, Yahoo, yeah.

Now, do you know who set that one up?---No. I've never used the Yahoo.

You assume though if it was an email being sent on behalf of Senai Steel and it wasn't you who set it up, it must have been your brother?---Probably my brother.

40 Now, do you see it's providing a fee proposal for the Gundagai works?  
---Right.

Do you see though it's signed off, "Jim Chamsine, Managing Director?"  
---Right.

And there's a mobile number.---That's right, that's my number.

Now, pausing there, that's your mobile number.---Correct.

But you don't go by the name Jim Chamsine?---No, I don't.

So do you have any knowledge of who sent this email?---No knowledge.  
Could be my brother or it could be Alex. I'm not quite sure.

Now, Chamsine is the maiden name of your wife.---Correct.

10 Have you ever gone by the name Jim Chamsine?---No.

And did you ever speak to your brother about him sending an email on behalf of Senai in the name of Jim Chamsine?---I said, like I said, this is the first time I'm aware of this particular email.

In any event, can we go to the next page, please. You'll see that one of the things attached is a certificate of registration for Senai, confirming that it had been registered on 7 April.---Yeah.

20 If you go to the next page, please, you'll see there's a quote for the Gundagai works, 19,500 plus GST.---Ah hmm.

And it's ultimately 21,450 incl of GST.---Yep.

Now, you'll see that's also under the name Jim Chamsine, Managing Director.---Yeah.

Did you prepare this?---No, I didn't.

30 Do you recall speaking to your brother about him preparing it?  
---Probably he would have prepared this but I worked out the figures and the concept of the work that's to be carried out.

Now, looking at the detail in terms of the scope of works, if you look through that, does that reflect what you believe was your estimation of what was going to be involved in the work?---Yeah, yeah, that's correct.

All right.---I do recall those kind of figures and, and what we allowed onsite.

40 And does that price reflect a genuine price for the job?---Correct.

So based on, I take it, the materials that were going to be involved?  
---Correct.

The labour?---The labour.

The travel?---The travel.

And then I take it some estimate as to a profit margin for the work?  
---Correct.

And do you have any recollection as to what sort of profit margin you were working on?---Well, that particular job we, we actually stayed away for three days and - - -

10 I know it ended up having some complications, didn't it?---There was complications on it. We were lucky to actually square off with the job, to be honest.

But in terms of quoting, when it came to quoting a job, did you try and work on a margin of a certain percentage?---Well, this one was hard to predict because I didn't go to the job. I actually didn't go to this particular one because the urgency to get there, to, to get the rectifications done.

20 So this one you didn't physically visit before providing it?---No, I did not physically visit it. They, I didn't know how many bolts we needed, where the bolts were, so it was hard to work out. And then a dual gantry on, on the main road. It wasn't an easy job to do.

But when you typically go to try and estimate a job, do you work on a rough percentage?---I, I, I remember this job clearly. I thought we were going to have it knocked over in about two days.

I understand, but I'm trying to ask about something different, Mr Nachabe.  
---Yeah. Yep.

30 When you go to quote a job, do you typically try and work on a profit percentage of - - -?---Yeah, of course, we do, we do, there's 20, 30 per cent, you know, we try to, we try to achieve at the end of the job.

Understand. And I take it once you actually do the job you can have things that arise that knock that out.---Correct. Correct.

So that in some jobs you might make perhaps even a little more.---Yeah.

Some you might make very little.---Exactly right.

40 All right. Now, you go and do the job, having provided this quote.---Yep.

And was there a problem that arose when you got there?---Correct.

And what was that?---Incorrect size of bolts and diameter.

So that you'd purchased them before you went down?---Correct.

And when you got there, they didn't fit?---They were actually the other size box.

So what did you have to do?---I had to make a trip to Canberra. We lost half a day that day.

And then got the right size bolts.---Correct.

Came back and completed the job.---Correct.

10

Now, if we go, please, to same volume at page 1391, you'll see that the email on 11 April, at 5.33pm, there's an email from Mr Dubois to Jim, using that senaisteel@yahoo.com address, with a letter of acceptance and contract documents for the Gundagai job.---Ah hmm.

Now, do you recall whether you received this or was this something that went to your brother?---That's probably in the office ---straight to -- correct.

20

Now, when you were onsite doing the job, did you meet anyone from the RTA?---No.

On this job you didn't meet anyone?---Nobody from the RTA. We only had, the only thing that RTA provided to us was the road closures and traffic control. So no particular person from RTA, no.

At later jobs did you meet someone from the RTA?---Correct.

30

All right, well, I'll come to those. But in any event, you do the job over a period of, I take it, two to three days.---Correct.

And then ultimately provide, submit an invoice.---Ah hmm.

And you're paid on the job.---Correct.

Now, it's the case, isn't it, that Senai Steel had a chequebook on its account?---That's right.

40

Who typically held that and looked after it?---Basically it was kept in the office in a drawer.

And was it both you and your brother who wrote cheques where need be? ---Where needed, correct.

Now, if I could take you, please, to volume 8, page 1431. And just while it's coming up, you recall I asked you before about whether you understood that a purchase order had to be created with the RTA in order to - - -?---I'm aware of that.

- - - put your invoice in and get paid.---Ah hmm.

And if we go, please, to 1431. You'll see that this is a purchase order from the RTA and there are actually two jobs referred to on it. The first one is the Gundagai at 19,500.---Right.

And the second is the Tomingley job at 122,400.---Correct.

10 And if you go, please, to page 1432, you'll see that there's a line item breakdown. So it refers to the Gundagai job as "replace nuts and bolts for the STC gantry".---Correct.

And that's, in summary form, what was done there.---Correct.

20 So your evidence is that when it came to pricing that job that there was no discussion with anyone at the RTA with any suggestion that there be some set price or an increase in price?---What I was told, through my brother Abdul, with the gantries prior to they engaged us, they were actually physically carrying out the work with rectification onsite without dismantling the structure itself, and then it was causing delays because the cameras were deactivated.

I understand, but I'm really just asking about your price.---Yep.

You say the price reflected your genuine quote based on calculations as to costs.---Correct.

And trying to include a margin.---Correct.

30 And is it the case that in the end you were after the extra work that was involved and having to travel to Canberra to get the bolts that you made not a lot on the job?---That's correct.

And to your knowledge did anyone ever ask for some sort of cut of the income that was received?---No.

Can I take you, please, to volume 8, page 1434 and do you see that this is the invoice and it's invoice number 1 for Senai Steel?---That's right.

40 And it was indeed the first invoice you'd ever rendered for the work that the company did.---Ah hmm.

That is on Gundagai.---Correct.

You'll see that the date has been left off but the sum billed was the 19,500 quoted plus GST.---Ah hmm.

And consistent with what you told us before about who took care of paperwork, I take it this reflected a document that – I withdraw that. That this was a document that Abdula had prepared.---Ah hmm.

And would have emailed off on behalf of Senai.---Correct.

10 And as far as payment, can I take you, please, to volume 5.2, page 210 and you'll see that this is the bank statement for Senai Steel with that account number 3-8-5-5 that I took you to with account opening form before.  
---Ah hmm.

And you'll see that there is a payment by the RTA of the 21,450 on 16 June, 2011.---That's right.

Now, you recall that after that request for urgent work that Senai ultimately did work on a number of other gantry locations around the state.---What's that?

20 That after that first job that was done on an urgent basis at Gundagai that Senai did work on a number of other gantry - - -?---Correct.

- - - structures around the state.---Correct.

And do you recall the locations of them?---The first one was Tomingley and the next one after that I think was Dundee I think it was.

Dundee then?---And then we went to Boggabilla.

30 And then?---And then after Boggabilla we did Broken Hill.

Now, I'll take you to the documents in respect of those but do you recall at any point during those works meeting someone from the RTA?---I actually met, for the first time met Alex at Tomingley when the work was carried out, like prior to this meeting.

40 So that is when you were actually onsite doing the work at Tomingley Mr Dubois was there.---Basically at the end when I was re-erecting – well, I was actually putting, was dismantle but this took a period of four weeks of actually carrying out the works so - - -

So at our around the time that it's re-erected?---Towards the end of it we, we had it on the back of the truck so he actually flew in that day to see. We had the work closures that day so I couldn't have too much discussions with him. I had a lot going on onsite.

Now, was your brother Abdula there or were - - -?---He was there.

All right.---He was there.

Now, did he introduce you to Alex?---Yeah, I got introduced to him that day.

Now, thinking about the Tomingley job then, had your brother at or around the time of the Tomingley works said anything to you to indicate that Alex – or first of all, that Alex was the person that was responsible for - - -?  
---Correct.

10 - - - A&A getting the work?---Correct.

So did he introduce you to Alex as the person that was now looking after the job that Senai was working on?---He introduced me but like I said, I was, that particular day was, like I said, we were back onsite re-erecting what we actually pulled down.

20 All right.---And my discussion was very short and sweet. It was just, “Hello. Nice to meet you. Got things to do at the moment.” So Abdul was pretty much left with him on the day.

So was that really the extent of your discussions with Alex at that point?  
---Yeah, because I’ve got a lot of things going on. I’ve got cranes. I’ve got trucks. I’ve got guys in machines, you know, and we needed to get moving because of the road closures. We only had about a 15 minute window to get things done. 15 or 20 minute window and to get, you know, traffic back flowing again.

30 Now, did you meet Alex subsequent to that meeting at Tomingley?  
---Correct. That morning. That morning he flew in.

But did you meet him again after that one occasion at Tomingley?---No. Not, not at Tomingley, no. It was only, he, he left that day.

But at other jobs? So you’ve told us about the other jobs being Dundee, Boggabilla and Broken Hill.---Correct.

Did you meet him at those jobs?---Okay. No, I met him also at Boggabilla. At Boggabilla as well.

40 And thinking about the discussions at Boggabilla, did you have any discussions with him then about the work that you were doing or any other topics?---Well, basically he came up and at that particular point, well, it depends on, on your questioning at the moment.

Well, tell me, you’ve told us that it was really just a very quick meet and greet at - - -?---Yeah, correct. At Tomingley.

At Tomingley.---But you've got to remember now we, we were actually working down these jobs towards Boggabilla and, and I've started to actually work out this particular person of the way he was operating.

Well, by Boggabilla had you been told something by your brother about an unusual request that Mr Dubois had made?---Correct, correct.

10 And did he tell you that Mr – I withdraw that. Just tell me what he told you about his interactions with Mr Dubois.---Well, basically, having a meeting with Alex Dubois at first, I was told that he was a contractor to the RTA and - - -

And, sorry, told this by your brother?---That's what I was, that's how he informed me, that he was actually a contractor.

And are you talking about the first meeting at Tomingley?---Correct. Yeah. And, and also his supervisors, so he takes on work from the RTA and basically supervises it and, and, and gets the work going. So - - -

20 But is that all you - - -?---So, not, I never knew that - - -

Just wait. Just wait for the question.---Yeah.

Is that all you were told about Alex at the Tomingley meeting?---Correct. But - - -

But you then meet him subsequently, you say at Boggabilla?---Correct.

30 And does your brother, either at Boggabilla or before you go there, tell you something more about Alex?---Well, basically I, at Boggabilla, there, I knew because basically things weren't the way they should have been with our - - -

What had your brother told you between Tomingley and Boggabilla? ---Well, at Boggabilla, to give you an idea, our, our purchase orders were raised.

40 But had your brother said something to you before you even got to Boggabilla about - - -?---I was informed about it.

Well, what had your brother told you?---Well, basically that purchase orders have come in at about 50,000 over, roughly about \$50-odd-thousand over to what we originally quoted. And he asked me, "Well, what do you want to do about it?" I said, "Why don't you bring Alex to site?" I asked him to.

But had your brother told you anything about any requests that Alex Dubois had made that A&A actually pay him some money as some sort of fee? ---That's what – yeah. Basically I was informed that he was just a

contractor just like us and he was engaged by the RTA and that's his project management costs. And now it didn't seem that far off with, with the kind of figures in those early stages - - -

All right. Just pause for me there.---Yeah.

I'm asking you though about any knowledge that Alex had asked for a payment from A&A, that is your brother's company?---My brother said there's a fee that he had to service but we didn't discuss - - -

10

Did he tell you how much?---We ever discussed it, no.

But you understood that in return for A&A getting this work inspecting and reporting on gantries that Alex had asked him for a fee?---Well, like I said, it wasn't to my knowledge until our purchase orders were raised.

Well, sorry, as best you can recall, when did you your brother – and whether by dates or by reference to jobs – when did your brother first mention to you that Alex had asked for some payment from A&A? Not Senai, from A&A.  
---It was just, it was basically mentioned but I can't remember. I, I don't remember. He, he, he, he actually mentioned to me that basically he had paid a service fee for his project management costs but it wasn't discussed on terms other than that.

20

Did you learn though, subsequently, that not only had Alex asked for a fee in respect of A&A but he was now asking for fees in respect of Senai?  
---Correct. Correct.

30

And do you say that you learnt about that during the Tomingley job or the Boggabilla job?---Well, after Tomingley was completed basically he was raising issues about project managing the costs and him attending these reports, basically which I was trying to work out what his position was.

And what did your brother say to you about what Alex was asking for in terms of a fee?---Well, basically, I, I, I don't think, I don't recall, but I don't know what was discussed between them over Tomingley but I, like I said, further down the track, I did realise it that it was excessive kind of money to be paid to, to Mr Alex Dubois. It was something I learnt the hard way, to, to give you an idea.

40

You understood that Mr Dubois was doing work, I take it, for the RTA?  
---Well, I, I found out at the end that he was actually employed by the RTA.

We'll come to what you found out later but at the time that Senai is asked to start quoting for work and doing work, you understood that he was doing some form of work for the RTA?---That's right.

And you knew, didn't you, that the RTA is a government authority?  
---Correct.

So it looks after licencing, registration for cars.---Yeah, I'm aware of that.

And also road and road infrastructure.---Correct, correct.

So, on being told by your brother that – I withdraw that. I'll go back a step.  
You understood that the contracts that Senai had were with the RTA?

10 ---That's right.

And you understood that in return for doing work Senai was being paid by  
the RTA?---That's right.

But your brother then tells you that, first of all, A&A has been asked to pay  
Alex a fee.---Correct.

And that subsequently on Senai getting work that Senai was being asked to  
pay Alex a fee.---Unfortunately we were asked to pay, correct.

20

Now, that must have struck you as a somewhat unusual arrangement.  
---Well, at first you think, well, what's it going to be, you know. Like I  
said, I don't recall in the early stages how much his request was, but  
towards the end the figures were, were quite out there.

Well, didn't your brother speak to you about how much Alex was asking for  
each time there was a request?---No. Not at the particular point. See, it was  
a point where I, I said if you can send an invoice, provide documents for his  
backup, then we'll work out what he wants and how it works with him. But,  
30 but like I said, it was eventually down the track that our purchase orders  
were raised and I couldn't work out how, you know, how was this possible.

So in order, first of all, before there's any change in the purchase orders,  
you learn that Alex is asking for a fee from Senai?---Yeah, there was  
something going on, correct.

And I take it that you had some, it raised some concerns for you about what  
was - - -?---Of course. But I didn't know the figures. I didn't know until I  
saw it, and I said, wow, you know, that's - - -

40

Well, did your brother not speak to you about writing cheques for Mr  
Dubois?---Well, basically I, when the purchase orders were raised and that  
did take place, I said, "Well, I don't want this money".

Well, before the purchase orders were raised – and I'm going to come to  
that.---Yeah, yeah.

But you learn that he's asking for money.---Yeah.

Did your brother tell you that he was going to write a cheque?---Well, he never told me about writing a cheque but we didn't know the amount until the purchase orders were raised.

So you say prior to any purchase orders being raised, you weren't aware of any - - -?---Yeah, there's no knowledge, no.

Well, just wait for my question.---Yeah, yeah.

10

Based on what your brother was reporting to you, you weren't aware that he was writing cheques from Senai Steel?---He told me that he had to pay a service or he had to pay one invoice for MWK. That was project management costs. I remember it was a couple grand. And I said that - - -

Just so we're clear, though, you're talking about Senai, not A&A?---Yeah, that's right. Okay, and, and - - -

20

All right, so you do recall - - -?---I do recall that one. And I said that's fine. I go if he's got documents and the invoice to prove it, maybe that is his cost to manage the job. But it's when they became excessive, that's, that's - - -

Even based on the initial figures that you say weren't excessive, did you have some concern that in effect what he was seeking was a kickback? ---Well, not yet. I'm trying to work out his character. I didn't know much about him. And I'm trying to work out basically what his position is with the RTA.

30

But didn't you, even at the early stage, work on the basis that he must be getting paid by the RTA for whatever work he's doing?---Well, well, he put this picture that he's running a company, and he's engaged close with the RTA to take on work off the RTA. And he had that kind of power. Now, I, to me it was a little bit odd, but at the same time thinking, well, for some reason he seems to be getting the purchase orders out and, and the work out when we actually submit the quotes.

40

All right, so you mentioned MWK. Do you recall that it was MWK that Senai was being asked to write cheques to?---At that particular time, yeah, yeah, like, basically when he came onboard, what I, introduced to him at Tomingley, but I was told that, basically, that is the position as the project manager for the RTA and also his company is, is a private sort of identity or basically he carries out work just like the way we carried out work. So basically we take on the work from the RTA and basically turn around and in that time that we're given and - - -

Did you have any concern about whether the RTA knew about the arrangement that he was asking you to be part of?---My concern came when, when the figures were excessive. That's - - -

Do you mean when the purchase orders were altered?---Correct.

All right.---That's when I was sort of, well, something's going on here. It doesn't sound right. Because I'd like to see a purchase order raised for him, not particularly under my company. You'd think - - -

THE COMMISSIONER: If you construed this as a payment for him - - -?  
---Mmm.

10

- - - what was one feature of it that made it very unorthodox was that any fee that he might be entitled to under an arrangement he had with RMS was in fact being inserted into a purchase order.---Correct.

20

It was very unorthodox, wasn't it?---Correct. That's, that's where it raised my concerns, and it happened twice, and that's where my sort of gut feeling was correct, that this is not right because if you were to be a company, just like myself, you should be invoicing the RTA direct. He should be taking it head on to get a purchase order for his fees. And why should I be managing his fees?

Exactly.---And that's the way I looked at it.

If he was entitled to some form of remuneration on a project basis - - -?  
---Correct, correct.

- - - then that was a matter between him and the RTA.---And the RTA. And that's where my concern was.

30 The unorthodox - - -?---Correct.

- - - the unorthodox approach that he was taking included the fact that the so-called fee for him be being made part of a purchase order which I trust you had never seen that done before?---Never saw it done before.

And the purchase order is, as the name suggests - - -?---On the quote.

- - - the price of the job.---What we've submitted, correct.

40 The price of labour and materials.---That's, that's correct.

And it's not designed or intended to also - - -?---That's where my - - -

- - - have embedded within it some fee arrangement which the contractor has with the principal.---Correct. It did raise a lot of concerns for me and I, I never operated on that basis with anybody, and the fact is that I submit a quote to the best of my knowledge and sometimes you win or you can lose a lot on a job, depending on weather, depending on conditions, depending on

the location you're at, but that's something that we take as a risk as contractors, but when somebody implies a figure that you are not quite aware of that's been added to your contract and then I have to sort of manage that payment or my brother, I find that a little bit, you know, this is not right, this is something that he needs to be pulled up on.

10 Did you ever consider making inquiries in a more senior or higher levels within RMS?---I actually did that with my brother towards the end. I said, "Isn't there anyone else that we need to talk to regarding this matter?" And Abdul was like, "The only link we have is Alex. We don't have anyone else."

But you would assume that there's a hierarchy within RMS - - -?---Of course there is, yeah.

20 - - - and there's somebody above him.---Correct, but I just wanted to know how he was doing it, like, for me to see that, to see that going on inside the office of the RTA where our invoice or basically our quotations are being reworked or recalculated and how is he getting this across the line, like, how was he doing it through that department.

But those questions could have been raised with his superior, you'd find out. ---But we had no – like I said, I've never been to the office, I've never met anybody.

30 No, but I mean there's ways and means of making legitimate inquiry with a government agency, who's in charge?---It's true, I agree with what you're saying, and, and the fact is that I didn't know much about this person and, or his background, and at that point, you know, at this particular point where there's two, two jobs were raised and we're talking close to about \$50,000-odd - - -

Well, the risk is if you don't start asking questions you get drawn into the scheme.---Well, that's why I'm here now. I'm giving you guys the evidence and, and the fact is I chose to – I said to Abdul, "The best thing we could do is just walk away from this guy because I don't know his background, I don't know what, what kind of trouble that he's going to get us into."

40 Just pause there if you would.---Ah hmm.

Mr Downing, we'll take a morning tea adjournment at 11.30.

MR DOWNING: Thank you, Commissioner. Now, did you become aware at some point in respect of the jobs after Gundagai that separate to Senai being asked to put in quotes, that your brother, through A&A, was also being asked to put in quotes on the same jobs?---Like I said, I was, a lot of the times I was outside the office, I'd be on the road.

I know, but I'm asking really about – you're close with your brother?  
---Yeah, I'm close, I'm close, but basically whatever he did in the office and basically whatever Alex requested was something that I've just left.

Did Abdula ever raise with you that on the one hand he's asking Senai, that is he'd sent a request for quote for Senai to quote on a job like Tomingley, but literally at the same time he was asking A&A to quote for the same job?  
---I can't - - -

10 Did he tell you that?---I can't recall that, to be quite honest. A lot of discussions took place back 10 years ago, but Abdul never, I don't recall him raising that because Abdul wouldn't have raised that with me, or maybe if he did or not, but why would he because at the end of the day he's, he was an engineering firm.

Well, you knew that Abdul himself, through A&A, was in no position to be carrying out the works.---Oh, of course, of course. Well, well, maybe whatever interactions he had with Alex, maybe Alex was saying, "Look, how about we do a job under A&A and your brother still gets paid?"  
20 Maybe that, that was, that could have been the cause that what made him to do it, like, you know, just to make it look, on their behalf, whatever the interaction was.

Do you have any recollection of your brother saying to you, perhaps expressing surprise or concern - - -?---Well, well - - -

Just wait for the question.---Yep.

About Alex asking both - - -?---I don't recall.  
30 - - - A&A and Senai to quote on the same job?---I'll be honest, I don't recall. I don't recall, any of it. Because I have done work for A&A, and he has paid me. We have carried out work straight away without any purchase orders or anything, like just gone up there.

Do you mean on the RMS or RTA jobs?---Other jobs, private jobs.

So not for the RTA?---Yeah, yeah, because like, being my brother, I do know that he's not going to do anything wrong by me.  
40

But you did know that A&A's role in all of this was to go out and inspect the gantries and report on what needed to be done.---Yeah, but also he's part partner with Senai Steel, so he's also my partner on the fabrication side. So he's got, he's got access to get fabrication done as well.

Well, which would have put him in an awkward position in a sense, if he was being asked to quote both - - -?---Well, oh, that - - -

Just wait for the question.---Yeah. Okay.

If he was being asked to quote as a partner in A&A and a partner also in Senai Steel, can you understand that competing against each other where he's a partner in both would put him in a fairly odd position?---Yeah, but he, but he probably thought that if he submitted a quote under A&A, it was, wasn't going to go anywhere, it wasn't going to go further than that, and maybe that's why he did it. I, I'm just trying to work out - - -

10 What do you mean by it wouldn't go anywhere?---Well, basically if he was to submit a quote, if he was instructed to do a quote by Alex, all the ways to do things, maybe Alex instructed him that maybe this quote, I wasn't going to use it, or just something that I'm leaving the office. Yeah, I'm, I'm just saying, like, oh, this is the way it works in the game. I, I tell you what, I've worked for a lot of - - -

Sorry, is this, this just - - -

20 THE COMMISSIONER: Just wait a minute, just – Mr Nachabe, if you try and confine your responses to questions to answering the question rather than making longer statements.---Yep, okay.

You will be given an opportunity to clarify something if you wish to.  
---Yeah, okay.

But otherwise, it does take longer to get through the evidence unless we can follow that sort of pattern of you focusing on the question, answering the point of the question.---I understand, ah hmm.

30 And you can indicate if there's a need for you to respond in greater detail. Do you understand?---Fair enough. Okay.

MR DOWNING: Just on that point, so I asked you about whether you believe it would be putting your brother in an odd position, given that he was involved both with Senai and A&A, where he was being asked to quote by Alex on the same job, and in part of your answer, you indicated that perhaps Alex had his own reasons for asking to quote that way.---Correct.

40 And is that based on your knowledge of Alex in some way?---At the end, correct.

All right. That is - - -?---Yeah. I'm trying to answer the - - -

By "the end", you mean once you'd gotten to the end of all the work?---Of work, all this work, correct.

And there'd been these requests for payments?---Yes.

And there'd been alterations of your price from the quote to the purchase order.---Correct, correct.

All right. Commissioner, is that a convenient time?

THE COMMISSIONER: Yes. We'll take a morning tea adjournment, about 15 minutes or thereabouts.---Not a problem.

Okay, we'll adjourn.

10

**SHORT ADJOURNMENT**

**[11.32am]**

THE COMMISSIONER: Have we got the livestreaming on, do you know? has that problem been fixed?

MR DOWNING: Apparently, yes, Commissioner,

20 THE COMMISSIONER: It has been fixed? Mr Downing, today I will conclude at quarter to 1.00. The luncheon adjournment I'll take at quarter to 1.00 until 2 o'clock.

MR DOWNING: Thank you.

THE COMMISSIONER: Thank you.

30 MR DOWNING: Mr Nachabe, I took you before the break to the documents in respect of Gundagai and I took you that initial email from Mr Dubois to Jim at Senai asking for a quote on Gundagai.---Correct.

Can I just bring that back up again, so volume 8, page 1334. I think you agree with me that it's likely that you saw it and the A&A report that was provided as part of it so that you could provide a quote?---That's right.

40 If we can just bring it back up, it'll come up on screen in front of you in a moment. You would haven't noticed at the time, wouldn't you, though that Mr Dubois was sending an email on the RTA letterhead, if I use that term, but his position is described as a Technical Project Manager within the Project Delivery and Installation Section, Compliance and Enforcement Branch, Road and Traffic Authority.---Right.

So, from what was being provided to Senai, Mr Dubois wasn't sending it on behalf of MWK to anyone else other than the RTA.---Correct.

Did that not make you a bit suspicious about his idea that in some way that he should be getting a cut of what you were earning from the RTA for his role in managing the project?---Well, well, basically this particular email, I

don't, I don't recall receiving it. Okay. Like I said, I wasn't in the office at lot of the times but looking at the bottom of the page, Technical Project Manager, Project Delivery and Installation but also he, he, further down the line, he instructed and basically told us that he's got his own thing going on, on the side, where he does design work and he's - - -

10 I understand that you say he told you those things but at various points during the period when Senai was working, you would see emails from him where he was requesting quotes, wouldn't you?---Yeah. Well, like I said, I, I never paid too much attention to the detail. See, the, like I said, it's towards the end that you sort of, it was an eye-opener of what's going on.

No, I understand that but is your evidence that - - -?---In the beginning it's not, you've got to trust the person you're talking to, to take it on faith.

So that whilst it's likely you saw the emails, you probably didn't quite spend a lot of time analysing what section he worked in?---Correct.

20 Can we move then to Tomingley, please. And if I could take you, please, to volume 8, page 1439? And you'll see on 27 May, Senai, using the senaisteel@yahoo.com.au email address, sends a preliminary quote for the Tomingley works and it's signed off, "Jim."---Yep.

But it's likely, isn't it, that this was prepared and sent by your brother? ---Correct.

But based on your discussions with him and a costing that you'd come up with.---Correct.

30 And it's the case, isn't it, that with each of the sites other than Gundagai, you did actually physically go there and try and come up with a scope of works.---Every single one, correct.

If we go to the next page, please, to 1440, do you recognise this as the Senai Steel quote for the Tomingley job?---Yep.

And you'll see there's a description there of a scope of works.---Correct.

40 And if you go over the page you'll see that it provides disassemble the gantry structure, then there's a description of the rectification works that then had to be done.---Correct.

And you know, don't you, from the various jobs that there was a bit of variation from job to job, but there was quite a bit of similarity in terms of what had to be done in each gantry.---Correct.

And if you go over the page you'll see it finishes off the scope of works and then lists deliverables. And if we go to page 1443 you'll see that the price, that that quote on 27 May from Senai was \$70,200.---Ah hmm.

And it's signed off as Jim Nachabe.---Right.

Now, do you remember that with Tomingley there was then a subsequent quote put in for an expanded scope of works?---Correct.

10 And if we go, please, to page 1445, you'll see an email of 1 June now with a further quote for Tomingley.---Yeah.

And if you go to 1446 you'll see it's a 1 June quote, again for the Tomingley rectification works.---Right.

Now, I'm not going to take you through the whole description, but if I could take you, please, to page 1448, you'll see that this now includes some detail there, road base for access track and concrete slab on ground and also work as executed drawings that wasn't in the original quote.---Correct.

20

And if you go ahead, please, to page 1450, the price is \$112,400, so it's gone up as the same time as there's been an expanded description. ---There's additional, there's a lot of additional work, yeah.

Now, does that reflect, to your recollection, a genuine estimate based on what was required?---Correct, yeah, correct.

All right. You see down below it's signed off as Jim Nachabe.---Yeah.

30 But if we expand it, please, do you see that there's an electronic signature there?---Yeah.

And that's not your signature, is it?---No.

It's your brother's.---I think it's my brother's, yeah.

Do you know if he ever spoke to you about using your signature on documents?---Yeah, well, see, again, that's probably just a template sitting on the system.

40

Right.---And probably just made it easier for him to put a signature there than sort of leaving it blank. But it's something that we didn't go into detail about, stuff like this. It's between me and him so basically.

Were you aware that on this job, the Tomingley job, that he submitted a separate quote from A&A?---I can't recall that far back, to be honest.

Can I take you, please, to page 1452. You'll see that this is a 1 June, 2011, so same date as the date of the Senai Steel quote.---Yeah.

You'll see it's an email from Mr Nachabe from, he's actually using a private email address, not the Senai – I withdraw that – not the A&A.---Yeah, I saw that, yeah.

But you'll see it's a 1 June, 2011 email to Mr Dubois with a quote for the Tomingley job.---Ah hmm.

10

And if you go ahead, please, to page 1453, you'll see that it's an A&A quote for Tomingley.---Right.

And if you look at the scope of works you can see there it's for the same job.---Same job, yeah.

And if you go to the next page you'll see that the price is quite a bit higher than the price that - - -?---Senai.

20

- - - had been submitted on behalf of Senai, so it's 137,500.---Right.

Do you believe you've ever seen this quote?---Not, my memory doesn't serve me that well, no, I don't recall it.

In any event, you're aware that Senai ultimately got the job.---Correct.

And performed the work.---Correct.

30

And if I could just quickly take you back, please, to the purchase order which is at volume 8, page 1431. This one, I took it to you earlier, it covers both Gundagai and Tomingley, but you'll see that the approval on the purchase order dated 9 May, 2011, was for \$122,400 for Tomingley. ---Right.

Although that date 9 May, 2011 is well before the quotes were actually put in. Remember I took you to Tomingley quotes from Senai, an initial quote of 27 May and then a revised quote of 1 June?---A revised quote, yep, yep.

40

In any event, the price that's approved there is 122,400.---Right.

And if you go back, please, to page 1450 that's not quite the price that was the subject of your revised quote, and I'll show you again. It's 112,400. ---Yeah, but that's 112,000 without the GST I think. It just says total.

But I'm going to suggest if you go back to the purchase order that that's also exclusive of the GST.---Yeah. I do recall there was something that they asked us at the last minute and we had to do ramps on both sides. There was no ramps to get, to get service vehicles to the gantries.

Right, but - - -?---I do remember on, on those lines that something was mentioned verbally. It was something outside of Abdul's reports.

10 But that's something that happened well after 9 May when the purchase order was created. Correct?---Yeah. Something in between the, talking the delegation of the contract because we, we, we priced the structures based on the report and Abdul's recommendations and not being provided with the proper documentations of, of drawings. So basically the structures were priced up as you can see in the quote but then something came up in between where the technicians needed service ramps to be accessible for their vehicles. It was like – basically I do recall this. When they come to site they had an issue where they park their cars, the guys that service the cameras, and basically there was a lot of grass growth around the structures and access was quite difficult for there so, so something else was raised by - - -

So that happened in the course of the works.---Correct.

20 Can I take you, please, to page, so volume 8, page 1468. You'll see that this is an email of 20 June, 2011 from senasteel@yahoo.com to Mr Dubois with the final invoice for Tomingley.---Ah hmm.

It's signed off Jim but it's likely, isn't it, that it was your brother who sent it on your behalf?---Could have. Yep.

And if you go to the next page, please, you'll see it's invoice number 2. ---Ah hmm.

30 The description indicates that it's for the Tomingley rectification works. ---Yep.

The total is 121,660.---Ah hmm.

But do you see that what it lists is – so under the description of works the total lump sum is 110,600 and then GST is added.---Yep.

Do you see that?---Yeah, I saw it.

40 But it also indicates that “foundations not to be replaced, subtract 11,800”. ---That's right.

So that there had been a deduction from - - -?---That's what I was telling you about.

Okay.---I do recall this, yes.

But that involves work not being done and therefore - - -?---That not be done. Correct.

Well, just bear that in mind. So the price after presumably the deduction has occurred of 11,800 is \$110,600.---Ah hmm.

10 If we go back to the revised quote, please. That is the 1 June, 2011 quote at page 1450. Do you see with a breakdown of the works there the last item E which is “the replacement of footing foundations if required” and it’s marked as a variation if required, was 11,800?---Yes, if required.

So that the price if you took that out comes to almost \$100,000 exactly. ---Right.

Do you see that?---Yeah.

So that if that was to be included the price was to be 112,400.---Yeah, I agree.

20 If you take it out it was to be - - -?---I agree.

- - - roughly 100,000.---I agree, yes. But then - - -

And if we go back to the invoice, please, at 1469.---Yep.

You’ll see that according to the invoice that foundation work wasn’t required so there was to be that deduction.---Ah hmm.

30 Which should have taken the price back to about \$100,000.---Right.

But it doesn’t.---But then you’ve got to add what we actually did. Where we, we didn’t replace the footings we gave them service ramps on either side of the gantries.

40 So you say other work was done in lieu of that?---Correct. We actually cleared all the debris and the bushland and we, we actually put down some road base and we had some rollers and we did some excavation works around the gantry sites to make it accessible and that, that was again included in that price. So basically what we took out in one component we added it with, with a different type of component.

Is there any reason for not making any reference to that in the invoice? ---Well, again that should have been – I agree with you. That should have been noted on the paperwork in the office, but maybe my brother because of the purchase order was raised he probably thought, well, you know, one thing for the other because it cost us that kind of money to actually get the service ramps in.

But in any event, you say that the amount that was billed on this reflected the genuine cost of work with a margin of perhaps 30 - - -?---Yeah. Correct. So one component was replaced - - -

Please wait for the question.---Yeah, okay.

It's partly for your own protection because I don't want you answering questions that you don't know what they involve.---Yeah, fair enough.

10 Do you say that ultimately the price that was billed reflected the cost of genuine work plus your margin of perhaps 30 per cent?---Right.

So that this did not reflect in any way, you say, any alteration of your quote at the purchase order stage by Mr Dubois?---Correct.

And having submitted that invoice, you're aware, aren't you, that it was paid?---Correct.

20 And if we go, please, to volume 5.1, page 211. And you'll see that that sum, \$121,660 is paid by the RTA on 12 July.---Ah hmm. Correct.

Now, if we go over the page, please, to the next page of the statement, you'll see there are a series of debits there and you can see some of them involve cheques being drawn?---Ah hmm.

And one of them on 25 July, is a cheque for \$13,200.---Right.

30 Now, are you aware that that was the first cheque that was drawn in favour of MWK?---I wasn't aware, no.

The banking records, and I'm not going to take you to them now, I've taken your brother to them, but the banking records demonstrate that at the very same time that that cheque is drawn it's deposited into an account for MWK Developments. I want you to assume that.---I can assume that.

Can you recall your brother speaking to you at or around that time, that is just after Tomingley had been paid, and telling you that Mr Dubois had asked for a payment for MWK?---No.

40 So you weren't aware of it at the time?---I wasn't aware at the time, no.

Now, you do say though Mr Dubois was present at Tomingley?---Correct.

And did you have some discussions with him at the time where he said anything about payments being required?---It was a very short discussion.

So he didn't say anything about project management fees being part of your ongoing work?---It was just purely an introduction and that was pretty much it.

10 But is it the case that at some point, perhaps after Tomingley but before the next job, Dundee, your brother said something about being asked to make these payments?---Well, I can't, I can't remember. Probably further down the track it was, it was mentioned along the lines that basically there was a project management cost that would be included in the cost of works. Yeah, basically the question I asked was, "What kind of figures are we talking about?" And at that particular point, no answer given by my brother. He wasn't quite sure himself but it was raised. It was raised, yes.

Now, after doing the job at Tomingley, the next one that you've identified in order was Dundee, correct?---Correct.

20 And if I could take you, please, to volume 8, page 1471. And you'll see this is another email from Mr Dubois to the senasteel@yahoo email address and it's attaching documents and seeking quotes for both Boggabilla and Dundee.---Correct.

And do you have a recollection that it was, in effect, whilst the jobs were done in a slightly different order, that you were asked to put forward quotes at the same time?---Correct, correct.

And I take it, you'll see from the attachments, there are documents in respect of both Dundee and Boggabilla?---Ah hmm.

30 And you recall, don't you, that on each occasion you got the A&A report for each of the gantry inspections?---Correct, correct.

And you've confirmed that you went out to both Boggabilla and Dundee to review the gantry before putting in a quote?---Not, not at the same time but.

Oh, no. Not suggesting at the same time.---Okay.

But you went to each on order to physically inspect them so you had your own knowledge from an inspection?---Correct.

40 And knowledge from your brother's report.---Correct.

I should say the A&A report.---Yep.

And I take it you spoke to your brother about again what he understood was required for it?---Ah hmm, ah hmm.

And that was then taken into account when it came to preparing your quotes?---Quotes.

Now, were you aware that, at the same time as Mr Dubois requested quotes for Boggabilla and Dundee from Senai, that he sent an email to your brother asking for quotes from A&A on exactly the same jobs?---I wasn't aware, no.

And I take it you weren't then aware that your brother submitted quotes on those jobs from A&A?---Correct, correct, I can't, I can't recall those, nah.

10 Now, can I take you, please, to page 2451 of volume 8? You'll see that this is an email from your brother dated 12 August, 2011, submitting quotes for Dundee and Boggabilla on behalf of A&A.---Yeah, I can see that, yeah.

And if you go to the next page, you'll see the A&A quote for Boggabilla. ---Right.

And if you go over the page, you'll see a price of 156,118.51.---Right.

20 Do you say you've not seen that before?---I don't recall it, no.

Do you see that the name it's signed off under is Michael Chamsine? ---Right.

Now, it's the case, isn't it, that you do have a relative Maher Chamsine through your wife?---Correct, is her brother.

And he goes – sorry?---It's her brother. It's my brother-in-law.

30 Right, your brother-in-law.---Yeah.

And he's known, isn't he, as well as Maher, by the anglicised name Michael?---Michael. Yeah.

Do you have any knowledge of whether your brother had ever spoken to you about Maher Chamsine having some role in perhaps doing works? ---Nah, no, no, no, this, this, I've never seen this quote, to be quite honest, I've never actually seen it.

40 And do you similarly say – well, let me take you to it, please, 2454, so the same volume at page 2454, you'll see that this is an A&A quote for Dundee. The last one I took you to was Boggabilla.---Yep.

And if you go to the next page, you'll see a price of 140,821.25, ex. GST. ---Yep, yep.

And again signed Michael Chamsine. Do you say you've not seen this before?---Not seen this quote, nah.

And unaware that there'd been any quotes sent out in the name of Michael Chamsine?---Unaware, correct.

Now, if I could take you then, please, to the same volume, page 2457, and you'll see that this is a 17 August, 2011 preliminary quote for Boggabilla, but from Senai Steel, not A&A.---Ah hmm.

And if we go through the pages, you'll see after the brief there is then a description of works again, that is, the scope of works.---Yep.

10

Go to the next page, please. You'll see it's similar, not exactly the same but similar to what was provided in respect of Tomingley.---Ah hmm, yep.

There's a list of exclusions. And if we go over the page, there's then a description of deliverables, qualifications, and assumptions.---Ah hmm.

But if we go to the next page, you'll see the price is \$133,874.15.---Yep.

20

And if we go then to the next page, you'll see it's signed off as Jim Nachabe, but again it seems using your brother's electronic signature. ---That's right, that's right.

But looking at the detail of that and the price, does that appear to be the quote that you had been part of preparing?---Correct, correct.

30

So you'd spoken to Abdula, and he'd then prepared it based on your information.---Yep, on the – keep in mind that I still, why it was preliminary was I recall, I had, didn't get the chance to visit this quote, out of reach to get to Boggabilla. So we decided that to finalise this price, the site visit must take place.

Sorry, so was this preliminary quote done before the visit?---It was based on the report, based on what we know, and photos. So, basically I did that full trip while I was working at Dundee, I drove there. Took me half a day.

Well, in that regard, can I then take you, please, to page 2464? And bear in mind that that initial quote for Boggabilla was sent on 17 August.---Yep.

40

Now on 23 September, you'll see that on behalf of Senai, there are revised quotes for Dundee and Boggabilla.---Correct.

So this is after you'd then been to the sites and done your inspections. ---Correct, correct.

And if we go over the page, please, you'll see that the quote for Boggabilla – if we go through the page, you'll see that the quote has the same format as the initial quote, with a brief, a scope of works.---Yep, yep.

If we go ahead, please, to the price, thank you, on page 2469, that the price has now come down slightly to \$126,791.95.---Right.

And I take it that reflected a genuine estimate based on the information in the report but also now an inspection you carried out.---Carried out, correct.

And if I could take you then, please, to page 2472, you'll see that this is the quote sent on 23 September in respect of Dundee.---Ah hmm.

10 And if we go through the pages you'll see again the same format, scope of works.---Yeah.

And if we keep going to the next page, please, deliverables, qualifications and assumptions, that's 2475. If we go to 2476 you'll see the price for Dundee is 118,566.75 ex GST.---Yep.

And again does that reflect a genuine estimate - - -?---Correct.

20 - - - based on the information in the report from A&A and your inspection of the site?---Correct.

Now, in terms of the order of performance it's correct, isn't it that Dundee was actually done before Boggabilla?---Correct.

30 And can I take you, please, then, bearing in mind the sum there of 118,565.75 as the quoted price for Dundee, can I take you, please, to the purchase order for it, which is volume 8, page 2493. You'll see that this is an internal email from the RMS but it involves Senai Steel purchase order and there's a number there you'll see that ends in 9-6-9-3/10.---Ah hmm.

And you'll see that the price ex GST which is approved is \$161,611.77.---Right.

And if you go to the next page, please, you'll see that this is the purchase order dated 10 October, 2011 in respect of Dundee.---Yep.

And that the rate ex GST is \$161,611.77.---Ah hmm.

40 So is this the first job where you'd submitted a quote and then in some way - - -?---That's right.

- - - by the time it came to the approval that was done within the RMS, the price had been increased?---Correct.

And do you recall your brother speaking to you after he'd been made aware of the purchase order number and the approval?---See, it took place and I said, "Well, we're going to have to look into it more, what's this about."

But first of all, was your source of knowledge that this had occurred, your brother?---I can't recall when, but it was discussed.

Yes, but your brother was the one that told you?---Correct.

And he speaks to you and says that in effect, we quoted at a price of about \$118,000 and in some way that it's now increased to 161,000.---Exactly, that's right.

10 And what did you discuss with him?---Well, we need to look into it, we need to know what's going on.

Did you have a concern that perhaps you were being used in some way by Mr Dubois to extract money from the RTA?---My doubts were there, I just needed to know why, I've got to understand what's behind it.

20 All right. And what did you suggest to your brother then, in terms of what you do about it?---Well, basically we've got the purchase order, we'll carry on with this until we can see hopefully they work this out with Alex Dubois, because basically, like I said, this is the way he operated and, and it was something new to us. He actually got us by surprise.

But did you ask whether you could meet with Mr Dubois or did you ask your brother to meet - - -?---I asked my brother to get him, to get him on board, yeah, to meet onsite.

And did you then physically meet with him?---Correct.

30 And where was that, was that at Dundee?---Never happened at Dundee because there were both jobs in hand, Boggabilla - - -

Where did it happen?---At Boggabilla.

And so you have a meeting then onsite with you, Abdula and Mr Dubois? ---Correct.

40 And what did you say to him?---Well, basically just, just to get to Boggabilla, this work was carried out and back-to-back we started Boggabilla.

Right.---And there was an issue also even getting to Boggabilla because we were flooded out at a certain, at a certain point, but having said that, he didn't come to site pretty much towards the end of the project.

So when you were, when you were about - - -?---We were about to get that back online again.

So, having had this concern then that he's bumping up your prices - - -?  
---Correct.

- - - for the purposes of getting approval by the RTA, what did you say to him when you met with him?---Well, basically two purchase orders, back-to-back jobs and I finally get him onsite.

10 But what I want to know, and I know you're not going to remember word-for-word what was said, but even if they're just words to the effect of what you said and what he said back to you, can you please tell us what was said between you and Mr Dubois and perhaps your brother as well when you met at Boggabilla?---That basically I wanted a breakdown on his mark-up, his margin.

20 And what did he say?---He said that, "It's a bill, that's my management costs. You don't know what I have to put up with to get this far with this kind of work. I've got more documentations that when you guys finish, basically with the new cameras, new setups," he was explaining about the systems and the way it works. Basically the structural, we would just do the structural component but he was going into details about the cameras and their workings and these designs and schematics and that's something that he had to deal with and it had nothing to do with us.

He gave you an explanation of all the things he had to do?---He had to do.

You agreed with questions from the Commissioner earlier that really if he had some fee that he wanted for the project it should - - -?---That's, I would - - -

30 Just wait.---Yeah, yeah,

That that was really something for him to take up with the RTA?---Correct, correct.

Now, the fee had gone from being a smaller fee that your brother had told you about to a significant fee, like tens of thousands of dollars?---Correct.

40 Having him explain that to you, did you push back and say, "Well, that's really something you should be negotiating with the RTA. Why are we paying it?"---Well, that's exactly what I - that exactly took place.

And what did he say?---He said, "Well, you don't need to come and finish this work. I could have you off this job by tomorrow." He threatened me.

Well, what conclusion did you then reach after - - -?---Well, you're, you're at a point where you haven't been paid for two jobs and in the discussion on the amount that is actually included in the purchase orders and basically his trying to work out, he's, he's, he's basically telling you what he needs to go

through as well, as much as what we're doing. To get to the point, basically he asked us, if we weren't happy with the conditions that were upon us, he was happy that he can relieve us from the work that's being carried out and he'll have someone else to complete the works.

Did you then discuss that with Abdula?---Abdula was present.

But presumably you and Abdula wanted to have some of your own discussions without Mr Dubois being part of them?---Yep. Yep, yep.

10

So, did that then occur? You spoke to Abdula?---Of course it did. Of course. Of course.

And was the position you reached that while you were a bit suspicious about what was going on, you wanted to get paid and you agreed that you would pay his management fees?---Well, basically the other question that was raised to Alex is that why he couldn't take his particular involvement with the RTA direct being the company that he is. And he, and he couldn't provide that information and that's what - - -

20

So he hadn't satisfied you with what he'd said?---Correct. He hasn't satisfied me in any way.

But notwithstanding that, despite him not satisfying you, ultimately, it's the case, isn't it, that payments were made in respect of – that is management fees were paid out of the works that were done and billed in respect of Dundee and Boggabilla?---Correct, correct.

30

So, despite you not being satisfied with his explanation, did you reach the point that you wanted to get paid so you agreed that you would pay for his project management fees?---Correct, correct. And to complete the works. We were too deep at that moment, yeah.

Well, just on that. So when it comes to Dundee, can I take you, please, back to volume 8, page 2493, just to remind you of the amount that was approved in the purchase order. I'm sorry, 2494, if we go to the next page. So again, you'll see the amount inclusive of GST was \$177,772.95.---Ah hmm.

40

Can I take you, please, to the invoice from Senai, which is at volume 8, page 2496? You'll see that on 18 November, Senai sends the Dundee invoice to Mr Dubois.---Yep.

It's signed off as Jim but I take it that was your brother sending it because he took care of emails and paperwork?---Ah hmm, correct.

Go to the next page, please, and you'll see that it is in the amount - - -?  
---Yeah, it's got the figure.

- - - that had been approved?---Yep.

So that ultimately you billed it as had been approved by Mr Dubois?  
---That's right. And if you look at the date it was way after all the works are complete, 15 November, 2011.

Okay.---It was further down the track. Like I said, we had a lot, a lot going on at that time.

10 So noting that that's the sum \$177,772.95.---Yep.

I'll take you to the record of payment, please. If we could go to volume 5.1, page 213 and you'll see that that amount is paid by the RMS on 15 December, 2011.---That's right.

And if you then go over the page, please, to page 214 on the bank statement you'll see that cheque number 40 is drawn on 21 December so six days later.---Yep.

20 And it's in the sum of \$37,564.40.---Ah hmm.

And you know, don't you, that that was a cheque drawn for MWK?  
---Correct.

So do you recall that your brother told you that that was the amount that Mr Dubois had indicated was his project management fee?---Well, again discussion between both of them on, on the amounts or figures. I, I can't recall any of it but I did know that something had to be paid back on an invoice that he demands or whatever invoice he comes up with but.

30 When it came to discussions about specific figures, did that involve Mr Dubois speaking to your brother rather than you being part of it?  
---Correct.

But do you recall having had this discussion then at Dundee where you became drawn into I guess the issue between Mr Dubois and Senai, did your brother tell you that that was how much was now being - - -?---No. It wasn't discussed.

40 But you knew it was a large sum, didn't you?---Correct. I knew it cost about \$50,000-odd.

And you've confirmed that the Boggabilla work was then done back to back to Dundee.---Correct.

Now, if I could take you, please, to – bearing in mind that with the Boggabilla quote the revised quote was \$126,791.95. That was the revised figure after actually going and inspecting.---Correct.

So that was the ex-GST figure so just over 125,000.---Ah hmm.

Can I take you, please, to the Boggabilla purchase order, which is volume 8, page 2479, and you'll see that this is 11 October, 2011 so it's the same date that the Dundee purchase order was approved and you'll see that this time, and again it's for Senai Steel and the sum is \$174,036.39.---Ah hmm.

10 And if you go to the next page you'll see that for Boggabilla the amount approved by the RTA on the purchase order was \$174,036.39 plus GST. ---That's right.

So ultimately with GST included \$191,440.03.---That's right.

So this again was an instance where your quote had been received and then the actual amount that had been approved was increased.---Correct.

20 And it's the case, isn't it, that this job did involve some increase from your quote because there had been that issue with flooding and extra work and time that was involved?---It was a lot of time, correct. We couldn't get things in and out. We had to come up with different ways.

Can I take you, please, to the invoice. So first of all if we go to volume 8, page 2482 and you'll see that the invoice is sent via email on 20 December, 2011.---Yep.

And again it would have been your brother sending that on behalf of Senai. ---Correct.

30 And if you go to the next page, please, you'll see that what the invoice shows for Boggabilla is that the lump sum price was \$174,036.39. ---Ah hmm.

Which was the purchase order sum approved.---Yep.

There were then additional line items below.---Yep.

40 Which add some extra money but it's the case, isn't it, that those additional line items involved the variations as the result of the flooding and the difficulties that created with the work?---Correct.

So do you say that each of those items were genuine, those additional line items?---Yeah, it looks, looks to me that's pretty much what we did, yeah. Like it was, we lost a couple of days due to the flooding but it looks in the, in the correct (not transcribable)

But the lump sum that we see approved, the \$174,036.39, that had been inflated by Mr Dubois.---Mr Dubois.

And if we then go please to, in terms of the payment, so the total sum you would have seen with the GST added plus the additional items and the inflated lump sum was \$205,279.60.---Ah hmm.

If I can take you, please, to volume 5.1, page 214, you'll recognise that's the page I took you to before showing that cheque that had been drawn after Dundee had been paid.---Yep.

10 And you'll see that the Boggabilla sum is paid on 12 January, 2012.---Yep.

And if we go over the page, please, you'll see that then not many days later on 23 January, 2012, a cheque, number 45, is drawn for \$44,178.50.---Yep.

And again, you know that that was a cheque drawn in favour of MWK.  
---Yeah (not transcribable)

And just in that regard, if I could take you, please, to volume 5.1, page 48.  
20 And you'll see on this occasion, there is an actual record of the cheque. It's dated 20 January, 2012, written on the Senai Steel bank account, \$44,178,50 in favour of MWK Developments.---Yep.

And you recognise that signature I take it as your brother's?---That's right.

And you understood, didn't you, by this point that Mr Dubois was asking for the cheques and then having them drawn in favour of that company?  
---Correct, correct.

30 Now, having by this point done jobs involving Gundagai, Tomingley, Dundee, and then Boggabilla, and having become aware that Mr Dubois was now asking for significant sums in kickbacks - - -?---Ah hmm, correct.

- - - it wasn't the case though, was it, that Senai stopped work then?  
---Basically I, at that particular point, I did have further discussions with Alex, basically trying to work out the best solution,.

Is that after the payment of the Boggabilla invoice - - -?---Correct, all these payments, correct.

40 - - - and the payment of those two significant kickbacks in late 2011, early 2012?---Correct, correct, correct, correct.

So you know, don't you, that some months later in 2012, the work was done at Broken Hill?---That's - correct.

Now, given that you'd had concerns from the beginning about his project management fee - - -?---Yep, yep.

- - - and that you'd confronted him at Boggabilla - - -?---Correct.

- - - and he'd not been able to satisfy you as to why he was charging these significant sums - - -?---Correct, correct.

- - - why didn't you walk away at that point?---Oh, we, that's why we did, we, we sort of stopped engaging any particular work that was coming through. There was other things that he provided, like signs and road barriers, crash barriers, stuff like that, but I was - - -

10

Do you say that he asked you to tender or, sorry, to quote on those jobs?  
---Yeah, correct, correct, not interested, I wasn't interested.

And you didn't?---Nah.

But then something led to you being drawn back in when it came to the Broken Hill.---Correct, because he said that he was going to try to work out the best solution, because he wasn't going to do this again. And he engaged with us to do Broken Hill, keeping faith that he was going, he wasn't going to do what he was doing before, and like basically we were at it again.

20

Well, by this point, that is, by the point of finishing the work at Boggabilla, you were aware that he'd extracted a project management fee from A&A.  
---Correct.

And you were aware that he'd then extracted a number of project management fees from Senai.---Correct.

And that they'd grown over time from smaller sums to significant sums.

30

---Yep, correct.

How did Mr Dubois persuade you that in effect things were going to be different the next time around?---Well, basically, he said that he was going to, you know, he has recovered his losses, and he was going to do things different, and he was going to put us on a panel.

So, just in that regard, do you recall where and when that discussion was?

---I can't - - -

40

You've indicated that it was after - - -?---After.

After Boggabilla?---Yep.

Was it on site, or was it going to the offices?---I, no, it was in - basically, I remember we've met up in a café.

Where was the café?---I think it was Bass Hill.

And who was the person that organised the meeting?---I did.

And who was present?---Just me and Alex.

So not your brother?---Nah, nah.

Do you recall which café in Bass Hill it was?---I can't recall, was at the - - -

10 I know it's some years ago, but - - -?---Oh, it's a long time ago, this was a café shop just outside Bass Hill, in the, in the plaza, Bass Hill Plaza.

So again, as best you can now, can you recall and recount the words that were used, or words to the effect of?---Well, well, basically his proposal was to get us on a panel, because we were doing the right thing, and we, we understood our work, the nature of the work that we were carrying out and, and the office was quite impressed on, on the delivery time, our - - -

He conveyed that to you?---He conveyed that to me.

20 So what did he say then about the panel? What was to be the nature of the panel?---Well, he wanted to get us on this particular panel because of our experience and our knowledge, our background in the fields, my structural background and Abdul's engineering basis.

And did he say anything about what might be the consequence of getting on the panel?---Well, basically when you're on the panel, you'd be always nominated pretty much as, you know, they'll, they'll be, you'll be tendering more work through the RTA and more scope or variety of work.

30 So he in effect indicated that if he got you on the panel - - -?---Yes.

- - - then there would be more work?---Correct.

And a greater variety of work.---Correct.

So is it fair to say that you called the meeting because you had significant concerns about what he'd been doing?---Well, basically he, he was calling a meeting because - - -

40 So he called the meeting?---Well, not, not this particular meeting but he was looking at someone to engage for Broken Hill.

Right. But your versions of events is that you called the meeting. Correct? ---Well, I said to him, "We'll meet onsite to discuss." And he had another proposal about this panel idea that basically was - - -

Sorry, are you talking about a meeting onsite that's separate to the meeting at the café in Bass Hill?---Same meeting.

Right. So, but the history leading up to it is, isn't it, that you'd done the work in 2011?---Yeah, yeah.

Culminating in Boggabilla.---Yeah.

You were unhappy with the arrangement?---Correct.

10 You then receive a number of requests to tender.---Correct.

For different types of work.---Correct.

And you don't put tenders in.---I don't put tenders in, no.

But then something leads you to propose a meeting.---Correct.

20 And was that because he had contacted you and said there's some work coming up in Broken Hill?---Well, basically he had no one to do Broken Hill and Broken Hill had to be done because he had booked in cameras and the replacement of cameras.

So is the answer to my question that the thing that spurred you to organise the meeting was he then contacts you and says, "I'm looking for Senai to do this work at Broken Hill?"---Well, basically the work was there and he would like to re-engage us, and then at the same time he was trying to sell a point where things are going to be different.

30 Right.---"It's going to be much different where I could put you guys on a panel and I can make things a lot easier for youse to get the work direct."

All right. So you have the meeting.---Yeah.

In the course of the meeting do you say something to the effect that you're not prepared to continue to work on the basis that it's going to involve paying his fees.---Correct, correct.

And do you say he conveys that first of all it will be different this time?  
---Yes.

40 That is what, that there won't be a fee?---Correct.

And that in future because he was impressed or people within the office were impressed with your work, that you could get on a panel and do more work.---Correct.

And more varied work.---Correct.

And that then leads you, doesn't it, to the Broken Hill job?---Correct.

Did you convey what had been said to you by Mr Dubois at the meeting to your brother?---Correct.

And did you then agree that you would be prepared to have a go at doing the Broken Hill work?---Correct.

10 Can I take you, please, to volume 8, page 2501? And do you recognise that this was a request for quote and an accompanying brief for the Broken Hill job?---That's right.

And if you go, please, to page 2508, you'll see that there is a breakdown there of the work that was involved at Broken Hill.---Ah hmm.

Again, fairly similar in nature to what had been done at the other locations. ---Yes, okay.

20 And if you go, please, to page 2509, you'll see it's a photo of the particular gantry structure at Broken Hill.---Correct.

And do you recall receiving this document, that is, the request for quote with the background information?---That's right, okay.

Now, did you physically go out to Broken Hill to do an inspection before doing the work?---Because that was similar to Dundee, it - - -

30 By that do you mean you didn't, because you knew it was similar?---Exactly like Dundee, so I, I based it on Dundee, but it required some additional work, but it was very, very similar to Dundee.

Now, if you go then, please, to page 2517, you'll see that on 13 July, 2012, that Jim on behalf of Senai Steel sends a quote for the Broken Hill job. ---Yep.

And I take it again it would have been sent by your brother, but sending it on behalf of the company with your okay.---Correct, yeah, that's right.

40 And if we could go, please, then to page – sorry, the next page, you'll see that this is the first page of the Broken Hill quote.---Ah hmm.

And if we scan through the pages from 2518 there's a scope of works. ---Yep.

To 2520. And then if we go to the next page, list of deliverables, qualifications and assumptions. And if we go to 2522 the price which was \$137,100.---That's right.

Were you aware that separate to Senai putting in a quote on this one that A&A had also been asked to quote on it?---Can't recall. Could have been aware, could be not at that particular time.

Well, by this point you and your brother had had a number of discussions about Mr Dubois and the way he was operating.---That's right. Correct.

Can you recall your brother ever raising with you a concern that in effect he was being asked to put in dummy quotes or - - -?---Dummy quotes.

10

- - - pretend quotes?---Well, yeah. Well, if, like I said, I can't recall it, that discussion and he could have mentioned it but I didn't take much note of it to be quite honest. I just can't recall what – a lot of these documents under Senai Steel were prepared by me.

By?---By me. Like drafted up quickly by hand and working out all the figures.

20

Well, drafted up by hand but then your brother would be the one that would type them up and email them.---Correct. Type them all up. Yeah, that's right.

But do you - - -?---And basically he put add-ons as well like basically on footings or, from his, what he saw onsite as well on his actual report.

But do you say that you don't have any recollection even on this last job at Broken Hill that your brother had been asked to put in a quote for A&A as well?---I can't recall to be quite honest. I just can't.

30

In any event, you're aware, aren't you, that Senai got the job?---Yep.

And performed the job?---Correct.

And can I take you, please, to the purchase order which is page 2537. You'll see that the purchase order approval for Broken Hill is created on, or notified on 13 August, 2012 and it's in the sum of \$182,100.---Yeah.

40

And if you go to the next page you'll see it shows that the price is \$182,100.---Yep.

Plus GST so all up \$200,310.---Ah hmm.

Now, bearing in mind that your quote had been \$137,100, do you recall your brother coming to you and saying words to the effect of "He's done it again"?---Yep.

So that you learnt that notwithstanding whatever discussions you've had with Mr Dubois that he had again taken your quote and then sought approval by the purchase order for an increased sum.---Correct.

And did you then learn that he was again asking for a fee?---Correct.

Was that something that you learnt from him or through your brother?  
---Through my brother.

10 Now, if I could take you then, please, to the invoices. Can I take you, please, to volume 8, page 2540. And before I show them to you, you do know that you ultimately did bill as had been approved, that is you didn't bill at your quoted price you billed at the price that had been approved on the purchase order?---Purchase order. That's right. That's right.

So you'll see at 2540 it's a progress payment claim for Broken Hill sent on 3 August, 2012.---Yep.

20 And the sum, if we go to the next page, is 86,515 inclusive of GST.---Yep.

And then if we go to 2542 you'll see it's an email now on 6 September with the invoice for the completion of the Broken Hill works.---Yep.

And if you go to the next page 113,795 incl of GST is the price.---That's right.

So when you add the two together you ultimately bill for the approved manipulated figure.---Correct. The full amount, yep.

30 Can I ask why you did that in circumstances where you'd made it plain in the course of your discussions with Mr Dubois that that's not the way you wanted to operate?---Basically – are you talking about the way the two invoices were done or you're talking about - - -

Not the fact it was broken up into progress payments but you'd raised with him specifically your concern about paying these project fees.---Yep.

The project management fees.---Correct.

40 And you say that in the course of the meeting at Bass Hill have indicated that wasn't going to happen this time.---It was – correct.

But it happened exactly again.---And then it happened again.

Why didn't you just invoice at the price that you had genuinely put in, that is 133,000-odd plus GST?---Again I don't know what – see again my brother looked after the office and if he had discussions with him or what

I'm not quite sure but again this is where we actually drew a line in the sand and said, you know, this has got to stop.

Well, you drew the line in the sand in the sense that you didn't do any more work.---Correct.

10 But you didn't draw a line in the sand by refusing to pay his fee or to even only bill at your genuine approved price.---I, I agree, I agree with what you're saying to me. Yeah, you know, we should have acted on it but again I didn't know much about this person's background or who I'm dealing with in the office.

THE COMMISSIONER: The invoice itself is deceptive, isn't it?---It is. It is.

Because it purports to be an invoice for work, materials and so on, and a profit margin for you, but in reality it also serves Mr Dubois's interests without disclosing that it contains Mr Dubois's interest.---Correct.

20 So, it's a deceptive invoice, it's not a true invoice, is it?---Well, the invoice is based on the purchase order that was given and the fact that he was providing invoices on his behalf. In one way it's liable because he's actually a company that's invoicing another company and it's just like us being private contractors or, you know, working for another entity. It's the same thing. We, we carry out the work and you don't get paid without an invoice. But like, like, having said that – and I, and I agree with what you're saying that the inflated amount, you know, we could have put a stop at the point with the RTA but again, I, I didn't, I didn't know anyone in the office at the RTA. I don't know who he was dealing with in the RTA and  
30 how it was getting past our quotations by raising these purchase orders. That, that was giving me, like, in a sense, but I don't know who I'm talking to.

I think you earlier addressed those points, yes.---I've addressed it and I'll address it again. And that's when we said this has got to stop because he, he promised that it wasn't going to be the case at Broken Hill, it was going to be different. And that didn't happen, it happened again.

40 MR DOWNING: In any event, can I take you to the records of the payment? You recall, don't you, that the payments were made as per the progress payment and the final payment?---Yeah, correct.

And if I take you, please, to volume 5.1, page 216. You'll see that on 30 August, 2012, that progress payment is paid by the RMS?---Yep.

And if you go to the next page, 217, 4 October, 2012, the final payment for Broken Hill is paid.---Yes. I see that.

So that's 4 October. And if you then go to the next page, please, you'll see eight days later cheque number 73 is drawn in the sum of \$49,500.---Yep.

And you know, don't you, that that was the last of the payments made to Mr Dubois?---Correct.

And in that regard, can I take you, please, to volume 5.1, page 84? And you'll see that's the cheque drawn on the Senai Steel account, \$49,500 and dated 10 October, 2012.---Yep.

10

And it's signed by your brother?---Correct.

And you say that it was at that point that you made the decision to do no more work?---No more work.

Did he offer you any more work?---He did.

But you put in no further quotes?---No. No further quotes.

20

Commissioner, subject to whether there's anyone that seeks to cross-examine, that's the evidence from Mr Nachabe.

THE COMMISSIONER: Yes. If there's any application to cross-examine this witness, that should be indicated now. No, there is no application. Mr Nachabe, we're going to release you for today.---Okay.

You're not, however, released from your summons because there may be a requirement for you to come back at some point in time if somebody wants to ask you a question.---Ah hmm.

30

But in due course, you'll be informed about that and if you're no longer required, you will be advised.---Okay.

Thank you for your attendance today.---Thank you.

**THE WITNESS WITHDREW**

**[12.48pm]**

40

THE COMMISSIONER: I'll adjourn and resume at 2 o'clock.

MR DOWNING: Thank you, Commissioner.

**LUNCHEON ADJOURNMENT**

**[12.49pm]**