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PUBLIC
HEARING

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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 FRIDAY 18 JUNE, 2021

AT 10.00AM

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

THE COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Good morning, Commissioner. Next witness is Talal Rifai and he is legally represented, and he is also present at the Commission.

THE COMMISSIONER: Thank you. Yes.

MR PICKIN: Yes, Commissioner, my name is Pickin. I appear, with the Commission's leave, on behalf of the witness.

10

THE COMMISSIONER: Yes.

MR PICKIN: I can indicate that we would raise a general objection and ask for a declaration protecting him.

THE COMMISSIONER: You've explained the provisions to your client?

MR PICKIN: I have, Your Honour.

20 THE COMMISSIONER: Yes, thank you, Mr Pickin. I grant you leave to appear.

MR PICKIN: Thank you. Thank you.

THE COMMISSIONER: Yes, very well. Now, very well. Mr Rifai is there? Mr Rifai, would you mind coming forward, please. Mr Rifai, to give evidence, you must either take an oath or an affirmation to tell the truth. Which would you prefer?

30 MR RIFAI: Sorry, what's an affirmation, sorry?

THE COMMISSIONER: Did you want to take an oath or an affirmation?

MR RIFAI: What's an affirmation, sorry, sir?

THE COMMISSIONER: You affirm rather than swear on the Bible.

MR RIFAI: Yeah, affirmation's fine.

40 THE COMMISSIONER: Hmm?

MR RIFAI: An affirmation's fine.

THE COMMISSIONER: Affirmation.

MR RIFAI: Yeah.

THE COMMISSIONER: There's a Koran there.

MR RIFAI: Yep.

THE COMMISSIONER: Just take the Koran.

MR RIFAI: Yep.

THE COMMISSIONER: And I'll have my associate administer the affirmation to you.

10

MR RIFAI: Yep.

THE COMMISSIONER: Yes.

THE COMMISSIONER: Thank you. Just take a seat. Mr Rifai, would you try and speak into the microphone.---Yep.

And keep your voice up so that the person right at the very back of the room can hear you.---Sure.

10 All right. Now, I understand from your legal representative, Mr Pickin, that you wish to give evidence on objection. On objection, is that right?
---Correct.

And you understand the reason for that, that it does offer you some protection - - -?---Correct.

- - - against your evidence being used in other proceedings. But you do also understand, I trust, that the evidence you give could be used against you in relation to any offence under the Independent Commission Against
20 Corruption Act, which includes an offence of perjury, such as wilfully giving false evidence. The evidence can be used in a prosecution of that kind, but otherwise it affords you the protection I've referred to. You understand?---Yes.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness, Mr Rifai, and all documents and things produced by him during the course of this public inquiry are to be regarded as having been given or produced on objection. Accordingly, there is no need for the witness to make objection to any
30 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 RIFAI, AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. ACCORDINGLY,
40 **THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION TO ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Mr Rifai, you understand that that declaration having been made, you are still under a legal obligation to answer all questions truthfully?---Yes.

Thank you. Thank you, Mr Downing.

MR DOWNING: Commissioner. Mr Rifai, can I ask that you state your full name.---Talal Rifai.

And that was the name you were given at birth?---Yes.

And do you sometimes go by the name Alan Rifai as well?---Yes.

10 And has that been the case since you've been an adult?---Yes.

Could you confirm your date of birth, please?---[REDACTED], '83.

Thank you. Now, it's correct, isn't it, you attended [REDACTED] High School?

---Yes. Yes.

Thank you. If you could just try and speak into the microphone, because it is recording, thank you. And you completed year 12 in the year 2000?

20 ---Correct.

And then after school is it correct you got an OH&S Construction Green Card?---Correct.

Which permits you to do construction work?---Correct.

And you also completed a TAFE course in demolition supervision?

---Correct.

30 In terms of work, it's the case, isn't it, that you've mainly worked for yourself?---Yes.

And is it correct that not long after finishing school, you bought yourself a Bobcat and started hiring yourself out as a Bobcat operator?---Yes.

And did that mean initially doing what I can describe as general building-type work?---Yes.

40 But over time is it correct that you moved more into the fields of demolition and excavation?---Yes.

And it's correct, isn't it, that for a number of years you operated as a sole trader?---Yes.

But under the name or the business name Ultimate Demolition & Excavation?---Yes.

And thinking about the work that you obtained, was that work in that early period of your work after school mainly through ads in the Yellow Pages?
---Yes.

And to some extent word of mouth.---Yes.

Now, it's correct, isn't it, that at some point you incorporated, and instead of just trading as a sole trader under the name Ultimate Demolition & Excavation, you began using the company name UDE Group Pty Ltd?
10 ---Yes.

And just to orientate you to time, if I could – a document will come onscreen in front of you in a moment. If we could bring up volume 18.2, page 203, you'll see that according to the ASIC record, UDE Group is registered as a company on 31 March, 2011. So - - -?---Okay - - -

It indicates just over a decade ago.---Yes.

Now, can you recall if there was any particular reason to incorporate at that
20 time?---No particular, no particular reason.

THE COMMISSIONER: Well, you had been operating in excavation work without a corporate entity.---It was mainly for tax purposes, Your Honour.

But before March 2011, you had been in business.---Yep.

Operating in your own name.---Yes.

Not in a corporate name.---Yes.
30

As you've been shown, on 31 March, 2011, UDE Group was incorporated, and that was the corporate entity to conduct your business through from that date forward, is that right?---Correct. Correct.

What was it or who suggested that you incorporate an entity to continue to operate?---My accountant.

Your accountant.---Yep.

40 And had anybody, before you spoke to your accountant about it, suggested that you were either required to incorporate an entity or had requested you to incorporate an entity?---No. Not that I can remember, Your Honour.

MR DOWNING: I'm going to come to your dealings with Mr Dubois at the RTA in a moment, but do you recall whether he had suggested that you might incorporate in order to do RTA work?---He may have, but I don't remember.

Now, it's the case, isn't it, that having set up the UDE, I'm going to refer to the company as just UDE Group if that's okay, just so it's a convenient way of referring to it.---That's fine.

The company still did generally demolition and excavation-type work.

---Correct.

And is it the case that as well as doing that type of work yourself, you had a number of other arms to your business?---Sorry, in what, what - - -

10

Well, did you also hire out demolition and excavation equipment at times?

---No.

Did you become a dealer in truck and earth-moving equipment?---No. Hire and sales came into effect about five years ago.

So was there a shift in the business from actually doing the work to getting into hire and sales?---Yeah, my competitor left the industry, the earth-moving industry, about six years ago.

20

So about 2015 or so?---Correct.

Now, can you recall the circumstances under which you first met Mr Dubois?---It was through a job at Mount White.

Had you ever met him at a gym?---Yes.

Did you attend the – is it the [REDACTED] Train Station Gym?---It wasn't Train Station, it was the [REDACTED] Bfit Gym.

30

Bfit, was it?---Yes.

And was he someone that you had met from time to time there?---What do you mean by "met form time to time", sorry?

Well, you told us that you met him on a job.---Yep.

But did you also, separate to meeting him on a job at Mount White, did you see him at a gym that you attended?---I, I did see him at, he did train at a gym that I attended, correct, yes.

40

And which came first? Was it meeting at the gym or seeing him on the job at Mount White?---Formally on the job at Mount White, but I knew him from, I knew his face from the gym that I attended.

And when you say you knew his face, I take it you knew his name as well. ---I didn't know his full name, no. I didn't know him as Alex Dubois. It was just like "hello, goodbye" sort of thing, that's it. As, as you walk into

the gym, sometimes the guys are training, people say hello, say hello back, that's it.

So is it the case that you literally knew him just as a face to say hello to?
---Correct.

So you didn't know his full name.---No.

10 Did you have his contact details, have his phone number or email or anything like that?---No. No, no.

Did you know at any point that while Alex Dubois was the name that he was using at the time you met him at the RTA that he'd been born and given a different name?---That he changed, you're saying, sorry, he changed his name?

That he was born and given a different name by his parents, then he'd changed it to Alex Dubois.---No, I did not, no, I did not know that, no.

20 So had you ever known him as Hassan Habbouche?---No.

So you're familiar with the face from the gym.---Yes.

And then you say that you first encounter him on a job at Mount White.
---Correct.

And I take it you recognised that as the face of the person you'd been to the gym - - -?---Correct.

30 - - - same gym with?---Correct.

Now, thinking about the job at Mount White, now, was that a job that involved work not for the RTA but for someone else?---It was a contract that was the RMS, RTA. That was for another, yeah, for a contractor.

And do you recall who the contractor was?---It was Chahine. I don't remember the company name.

40 All right. Mr Chahid Chahine?---Correct.

And do you know him sometimes by the nickname Hoody?---Correct.

Now, is it correct that there is a family connection between you and Mr Chahine?---Yes.

And could you just quickly explain what that is, is it through his brother, Chahine Chahine?---He's my ex-brother-in-law's brother.

So with that connection, how long, going back how many years have you known Chahid Chahine?---Would be from the time my, my sister and his brother met.

Which would be going back how many years are we talking?---I honestly wouldn't be able to tell you. It's a fair while ago though, over 10 years.

And did you know that Chahid Chahine did work in the fitout and building field?---Yes.

10

Through him, had you met another man, Barrak Hadid?---Yes.

Nickname Baz.---Yes.

And did you understand that they were in business together?---Yes.

And when it came to the job that you were doing at Mount White, was it the two of them that had got you in to do the work?---Correct.

20

And you say you don't remember the name of the company, but do you recall that they were operating through a company?---Yes.

And it was their company that was doing the contract for the RTA?---Yes.

And they subcontracted some of the work to you.---Most of the work, yes.

And this name may not assist, but does the name Complete Building Fitout Pty Ltd assist at all?---It rings a bell.

30

In any event, do you recall what it was that you were doing at Mount White?---My works?

Well, first of all what the job was and what your work was.---Sure. So I was, I was brought into the job, there's an issue with BWs taking out the building and - - -

Just pausing there, with the building did you understand at Mount White that there is a heavy vehicle checking station?---Correct.

40

And is the building you're referring to the building at that location?---Yeah, that's correct.

Sorry, there was a problem with the trucks, was it causing some damage to the building?---Yeah, that was causing damage to the building as they were coming through because it was too tight, so they needed some expert advice on how to fix the problem and they needed it fixed.

And so when you say they, is it the RTA needed - - -?---Sorry, so it was through Chahine and his partner.

Mr Hadid.---Yes, Hadid, yes.

So did they bring you in to do a particular task?---Yes.

10 And what was it?---Fix the problem. So they wanted, we had to design a fix so the trucks had more room to, to turn around the building and drive away rather than sort of come too close to the building and hit the building.

So they're contracted to the RTA, they bring you in as a subcontractor to do that.---Yes.

For how long roughly were you working on the Mount White site.---It was approximately a month.

And while you were doing that work did you encounter Mr Dubois?---Yes.

20 And was it Mr Chahine that introduced Mr Dubois to you?---Yes.

Now, in the course of that did you and Mr Dubois speak a bit about your work?---Yes.

And did he say something about the possibility of you doing other work? ---Yes.

30 Now, it's correct, isn't it, that at that point when you were doing the work for Mr Chahine and Mr Hadid at Mount White, you were still operating as a sole trader?---I don't remember if I'd flipped over or not, I don't remember.

I'll take you to records in a moment, but I would suggest - - -?---It is what it is. If the records say that then we'll go with the record, but I don't remember.

But in any event, it was Mr Chahine and Mr Hadid who were paying you for that job, not the RTA.---Correct.

40 But you speak to Mr Dubois.---Yes.

And does he say something to you about the work you're doing at Mount White?---He just complimented it was a good job.

And did he say something to you about another job that you might possibly perform?---Yeah, he mentioned that there would be more work coming up if we were interested to tender for it.

And did he say anything about where the work was or the nature of the work?---I don't remember.

Did you perhaps give him some contact details so that if there was this opportunity of further work that he would have some way of contacting you?---I don't remember.

10 When he indicated that there might be some further work coming up, did you express an interest in doing it?---Absolutely.

Now, do you recall that you were subsequently contacted by him and told something more specific about the type of work and where it was?---There may have been contact but I don't remember.

Well, you know you ultimately did one job for the RTA. Correct?---Yes.

20 And as best you can recall, did you learn about that through Mr Dubois telephoning you or sending you some documents, through perhaps Mr Chahine telling you about it?---I believe that would have been the case, yes.

Which one, which of those alternatives?---Could have been any one of those, sorry.

You don't remember?---I don't remember.

Do you believe you had his phone number, that is Mr Dubois's phone number, as at from the point of that discussion at Mount White?---I may have but I don't remember.

30 Now, separate to this work that you were doing at Mount White that was on an RTA job that you were a subcontractor, is it the case that you had done work for other head contractors on a number of other RTA sites?---Correct.

And on that front, is it the case that you had done some subcontract work over the years for a company known as J G Electrical?---Correct.

And did you understand that J G Electrical had a contract for the RTA to put in the Safe-T-Cam camera systems?---Yep.

40 And did they then subcontract with you to do particular works?---Yep.

And what sort of works were they?---Site preparation.

So would that mean doing excavation work in order for them to put in the relevant structures for the camera system?---Yes.

And is that something that you had done over some years?---Yes.

And at multiple sites?---Yes.

So you had some familiarity with the RTA infrastructure around the state?
---I had a lot of familiarity, yeah.

How many jobs do you estimate you had done for J G Electrical over the - -
-?---Over, over 50.

10 In that time, had you ever met any of the relevant RTA staff that were in
charge of the work?---There was just one guy we mainly dealt with. I forgot
his name. One guy we mainly dealt with. He, he'd induct us over the site
services and dangers of the site and OH&S awareness and stuff like that.

But you can't recall the name at all?---What was his name? If you could run
a couple of names, I could say yes or no.

I take it it wasn't Alex Dubois - - -?---No. No, no, no, no.

20 - - - because you knew him separately.---No, he had nothing to do with that
work at all.

Craig Steyn?---No.

All right. But you don't remember the name otherwise?---No, no, no.

Now, moving to Galston Gorge, you've already confirmed that you recall
that that was the job that you ultimately did.---Yep.

30 And I want to show you a document, please, if we go to volume 18.4, page
71. Do you see that on 21 March, 2011, Mr Dubois sends an email to
ultimatedemo@unwired.com.au?---Yes.

Now, was that the email that you operated your business through?---Yes.

40 And you'll see that what he sends is a request for quote for pavement works
at Galston Gorge. Now, seeing that, does that assist at all in terms of
triggering your recollection as to whether the first contact you got was an
email or whether there was some discussion with Mr Dubois before?---I
honestly don't remember.

Do you remember receiving the email, looking at it now?---I don't
remember, I don't remember receiving this email. I received a few of those
from them, yes.

If you go to the next page, please, page 72, you'll see that there is a request
for quote in respect of the Galston Gorge vehicle length inspection bay.
You see that?---Yeah, sorry.

And dated 21 March, 2011.---Yes.

And if you go to the next page, page 73. You'll see that there's a description of the works there, but before I get you to read it, do you recall that the job involved, that on the Galston Gorge there was a need to create a long vehicle inspection bay at both ends of the gorge?---Yeah, there was a big problem with trucks getting stuck in the gorge so there was, yeah, a need to construct two bays, yes.

10 So that there were a number of hairpin bends through the gorge.---Yes, yes.

And for longer vehicles there was a problem with them getting around those bends.---Correct.

So that what the RTA was seeking, through the contract that you were being asked to quote on, was to create an area of asphalt so that there would be a space for long vehicles to pull over and be inspected.---Correct, yes.

And one at the eastern end and one at the western end.---Correct.

20

All right, just have a look at the wording there and just see if that improves your recollection at all as to having received this.---Yes.

All right. And you'll see that there's the paragraph that starts, "The works will involve," and indicates "primarily mild excavation, cleaning, asphaltting and line-marking".---Yes.

Now, just pausing there, you'd obviously done a lot of excavation work before.---(No Audible Reply)

30

Sorry, you just need to verbally respond rather than nodding.---Yes, yes, yes, yes.

It just won't get picked up.---Yep.

Had you ever done asphaltting yourself before?---Only through Jones & Gray.

40

Well - - -?---Sorry, sorry, yes, we did, we did Mount White. Mount White.

Right, but did that involve you asphaltting or subcontracting the - - -?---No, subcontractors, it's a total different, totally different thing.

So not your field?---No.

And line-marking, is that similarly something that - - -?---Subcontracted.

- - - that you'd done before, but had subcontracted?---Correct, yes.

Now, if I could take you, please, to page 77 - - -

THE COMMISSIONER: Sorry, just before you go there, can we move onto the next page, 74?

MR DOWNING: Sure.

10 THE COMMISSIONER: And the next page, 75. 76. Yes, thank you.

MR DOWNING: Thank you. Now, Mr Rifai, you'll see that under the table at the bottom, Further Information for Vendors, that there is a closing date and time there for the quote, being 28 March, 2011.---Yep, yes, yes.

Now, you'll recall from the ASIC search I showed you that this, the company incorporated, that is, UDE Group, on 31 March, so that this document, the email and the request for quote arrives 10 days before. Just looking at that time frame, do you think then it's likely that it was some communication with Mr Dubois that led to UDE Group being
20 incorporated?---There may have been a contribution maybe, or I don't remember.

THE COMMISSIONER: It does seem as though that within 10 days you were incorporating a company that there could well be a connection between requirements to do RMS work and you being told that you need to have incorporated entity.---There may have been, Your Honour, there may have been, Your Honour, yes.

30 May have been.---There may have been, yes.

And is it likely if it was a requirement specified by RMS or RTA that he, that requirement was expressed to you through Mr Dubois?---That, that may have been.

Because he was the only one you were dealing with at that time, I trust. ---Yeah, oh, that sounds, that sounds about right. Yep.

All right, thank you.

40 MR DOWNING: Just on that, do you recall any discussion where he suggested something like that it would help to look more professional if you were incorporated, rather than being a sole trader?---I don't remember that conversation, no.

All right. Now, when you got the request for quote, do you recall having any discussion with Mr Dubois about the quoting process?---I don't, I don't remember.

Well, having received it, did you make any assumption that there would be others that would also be asked to put in quotes?---Yes.

I take it that you'd been in business for long enough that you knew that where you put in a quote, often there'd be others that you were competing against, and someone would ultimately get the job awarded.---Yes.

10 Did Mr Dubois say anything to you to indicate that that would be the case in this job, that there would be other people who would be putting in quotes?
---I don't remember that, no.

Do you recall if he said anything to you about a requirement of the RTA that for jobs between 50 and \$250,000 that he needed to get more than one quote?---No, I don't remember that one, sorry.

All right. Do you recall if he gave you any information about the others that – any other companies that had been invited to quote on this job?---I can't recall that, no.

20 Now, can I take you in volume 18.4, please, to page 45.---Yep.

And you'll just recall that it was 21 March, 2011 that Mr Dubois sent you the request for quote and the attached documents.---Yes.

You'll see that on the same day, Mr Dubois also sends a request for quote to the TTS Group in respect of the Galston Gorge vehicle length inspection bays. Do you see that?---Yes.

30 Now, just pausing there, do you recall him ever mentioning the TTS Group to you?---No.

Or forwarding this email to you?---I, I never, I don't remember seeing this email, no. I don't remember.

Do you recall him mentioning a person that was the person that ran the TTS Group?---No, no. No.

40 Does the name Towfik Taha ring a bell for you?---It doesn't ring a bell, sorry, no.

So you don't believe you know Towfik Taha?---I don't remember the name.

But, well, you don't remember the name, but he's, I take it from what you've said, is not someone you know.---He's not someone I've met, no I don't know.

Towfik Taha sometimes also uses the name Zac Malas. Do you remember ever meeting a person of that name?---Sorry, it was a long time ago. I honestly don't remember. I don't, I don't remember that name, no.

And is it the case you don't remember Mr Dubois mentioning a Zac Malas?
---I don't remember, no.

10 Can I take you in the same volume, please, to page 58. And you'll see that also on the same day that you and the TTS Group got the request for quote for Galston Gorge. Mr Dubois sends it to Chahid Chahine using a particular email address, giving the request for quote to, you'll see it's Complete Building Fitout.---Yep. Yep.

Now, just pausing there. You knew Mr Chahine.---Yes.

Indeed, he was related to you and he was also the person that you'd been working at Mount White through.---Yes.

20 And you'll see Complete Building Fitout has also asked to quote on the Galston Gorge job. Do you recall Mr Dubois mentioning to you that Mr Chahine's company had been asked to quote?---I don't remember, no.

Do you remember if he sent you this email, that is an email showing that Mr Chahine had been asked to quote?---I don't remember, I'm sorry, no.

Do you recall if Mr Chahine at any point mentioned to you that he in fact, through his company, had been asked to quote on the Galston Gorge job?---I can't recall that, I'm sorry, no.

30 Now, can I just ask about a couple of other people to see whether you knew them.---Sure.

Either as people you knew yourself or had been introduced through Mr Dubois. Do you recall a Mr Hussein Taha?---I can't remember that name, no.

Also known as Adam Malas.---I don't remember that name, sorry.

40 Also known as John Goldberg.---I can't remember that name.

What about Hassan Alameddine?---I don't remember that name.

Or Simon Raha?---I don't remember that name either.

Also known as Samir Rifai.---I don't remember that name.

All right. Now, when it came to this job, you've received the request for quote. Do you recall Mr Dubois at any point telling you the price at which you should quote?---I don't recall that, no.

I take it that would be something that would be unusual, correct?---Yes, that's unusual, yes.

Because you've quoted on many jobs in your business before this time, correct?---Yes.

10

And typically when you're asked to quote, you don't get told the price by the person that's asking for the quote to be submitted.---Sometimes we're given a budget, the business may say, "Look, this is the, this is the budget, so if you guys are interested, this is what the package is worth."

But if Mr Dubois, this being the first job that you'd ever quoted on, had told you, "I want you to price at this figure," do you think that's something that you'd remember?---I probably would remember that but I don't remember him saying that.

20

Do you recall him saying anything at or around the time of you getting the request for quote about him expecting a cut or a margin in return for UDE getting the work?---I can't recall that, no.

Again, I take it that's something that would be memorable to you.---Yes.

So do you say that you just have no recollection of that ever being requested.---I have no recollection, no.

30

So in effect, him saying that in return for getting the work, he wanted something back. You don't recall that?---I can't recall that, no.

Do you recall if Mr Dubois said something to you at or around the time of you being requested to quote, to the effect that TTS would get the job?
---The job I got or - - -

I withdraw that that. I withdraw that. That this particular job, did he say anything to the effect that your company would get the job?---No.

40

So you don't recall him, in effect, assuring you that irrespective of whoever else was quoting, it would be you or your company that would get the job?
---No.

Do you recall him saying to you to the effect that there were other companies that he was arranging to put in dummy quotes for the purposes of this job?---No, I don't remember that.

Do you know what I mean by the term “dummy quotes”?---Yes, yes, I do. False quotes.

So in effect at higher prices, where there’s an outcome that’s already determined.---Yes.

So you don’t recall that?---I don’t recall that, no.

10 And do you recall any mention by him that CBF or TTS would be putting in other quotes?---I, I can’t recall that, no.

Now, can I take you, please, to volume 18.4, page 93. Do you see that on 4 April, 2011, there’s an email that Mr Dubois sends to ultimatedemo@unwired? It’s addressed to Ted but it says, “Please find the revised RFQ and scope for the work that’s being proposed at Galston Gorge for the vehicle and inspection bays.”---Yes.

20 Do you recall receiving that?---I don’t recall it, but it’s to my email so I would have received it.

And has Mr Dubois ever known you by name or nickname Ted?---I don’t know where he got Ted from.

You’ll see that also that from the document that there’s an email but there doesn’t seem to be any attachment which is listed at the top of the document. Do you have any recollection of perhaps having to go back to Mr Dubois and chasing him for the revised RFQ?---I may have but I don’t remember.

30 Now, in any event, you know you put in a quote for the job.---Yeah.

And if I could take you, please, to volume 18.4, page 295. It’s a two-page document, so pages 295 and 296, but first of all do you see it’s dated 31 March, 2011?---Yeah.

And you’ll recognise again that that’s exactly the same date upon which UDE Group was incorporated. Remember I took you to the search earlier on?---Yeah.

40 Seeing now that literally the day that the quote’s submitted, the company was incorporated, it makes it very likely, doesn’t it, that it was something that Mr Dubois had told you was necessary in order for UDE Group to put itself forward for work?---It may very well have been the case but I don’t remember.

THE COMMISSIONER: It looks like the very first job that UDE did - - -? ---Yes, yes, Your Honour, it does.

- - - was this job, the project at Galston Gorge.---Under proprietary limited, yes.

MR DOWNING: All right. Can I just ask you to read through the quote document yourself to the bottom of this page and then when you've done that, let me know, and I'll go to the next page.---Yeah, I've read this before in the last hearing.

Just bear in mind it refers to locations 1 and 2.---Yeah.

10

And were those two locations the two different inspection bays, east end and west end?---Yes.

Can we go to the next page, please, and you'll see there's further bullet points there setting out a description of the works.---Yeah.

20

But you'll see in the second bullet point it actually says, "Landscape and make good surrounding areas of three inspection bays." Do you know what the reference to three inspection bays was?---Look, to the best of my memory initially, I'm not too sure if it was two and it became three or there was three and it became two, I'm not too sure.

I can take you back to the request for quote if you want, but it did refer to there being inspection bays at the east end and west end.---Yeah, well, we did, I remember doing the two bays but I, I, there was, there was a bit of, yeah, there was something about the three bays but it got changed back to two I think.

30

In any event, you'll see that the price ultimately is 194,000 plus GST. ---Yeah.

Looking at the description of the works, do you believe that that is a description that you came up with?---Yes, I did.

Did Mr Dubois either draft this or - - -?---No, no.

- - - assist you in editing it?---No.

40

So no assistance or input at all?---No, not at all.

Did Mr Dubois suggest to you the price at which you should bid, being \$194,000?---No.

Are you sure about that?---To my memory, no. I can't remember him requesting that, no.

Do you remember any discussion where he in effect said that that was the price and that that would include a margin that was ultimately to be paid to him?---I honestly can't remember.

THE COMMISSIONER: This was a fairly significant price, wasn't it, \$194,000?---Yeah.

10 The dot point, perhaps if we look at the previous page, 295, if you go to 295. We're having problems, are we, in getting to 295? All right. There it is. Thank you.---So everything here is basically based upon the scope of works which is in the RFQ.

Yes. Now, go back to 296, please. So, the quote provides a narrative explanation as to the aspects of work covered by the quote, is that right?--- Yes, Your Honour.

But it just comes in with a lump sum of \$194,000 without any breakdown.-- -I'm sorry, Your Honour?

20 The quote is for \$194,000 plus GST.---Yes.

But there's no breakdown as to how that figure is constituted.---Yeah, the breakdown, Your Honour, is usually upon three or four pages of, you know, just quotes we've, we've been, you know, we have gone through for the job, to complete the job. Like, there was some pipe works, there's a lot of road base there, there's asphaltting, there's landscaping, there was removing trees. There's a lot of work there.

30 But the other document doesn't give you the basis for what individually makes up the \$194,000.---Yeah, yeah, I've never submitted a quote, Your Honour, with breakdown prices.

No?---Never.

I see. Well, you assumed, did you, that the RTA would just deal with it on the basis of a lump sum without any breakdown?---Unless they've specified, Your Honour, that's how we, this is a regular pricing structure.

40 And did Mr Dubois come back to you and say, "Look, it's not good enough, we want to have some further detail around the costings price"?---I, well, I never did anything else after that, so I - - -

Assume not.---I assume not.

Thank you.

MR DOWNING: Did Mr Dubois himself ask that it be on a lump sum basis? That is, without line breakdowns?---No, that's usually how I do my quotes.

In any event, it's the case, isn't it, that in quoting for this job, you were working on the basis that there would need to be bits of it subcontracted?
---Yes, that's correct.

10 And in terms of what would be subcontracted, are you able to break that down for us?---Can you go back to the front page, please? Okay, so – so the work (not transcribable) was contracted, subbied, roads (not transcribable)

Going back right to the beginning, is it the case that there needed to be plans and drawings created for this, because it's work on roads?---Yes, yes.

And was that subcontracted as well?---Yes.

20 So you needed to engage someone and pay them to do that sort of as the first step?---Yes, yes, yes.

Then road sawing?---Yes.

Okay. Please then go through what else was going to have to be subcontracted?---The, the materials (not transcribable) So, the DGB.

Sorry, you're going to need to tell us what that - - -?---Sorry, the DGB is a road base.

30 Okay, sure.---Yeah, because, because a, a lot of that was required underneath, because we had to excavate all the wet stuff underneath it and we had to break into the sandstone and get rid of all that hard stuff so we can get the level, level platform. Sand supplier and set up from work (not transcribable) concrete works. So the concrete works. Supply and set up F82. The F82 steel mesh. Supply and provide, the kerbing. Sandstone retaining wall. The next page, please? The, the, the 50-mil poles. The landscape. And the rest pretty much we did. So all the paving equipment, all the excavation we did.

40 So looking at the elements that make up the job really from plans right through to landscaping at the end, quite a lot of it is subcontracted.---Yes.

So I take it then that when it came to you working out your price, the \$194,000, you would have gone and got quotes from various subcontractors?---Um - - -

Or would you just have enough knowledge that you could estimate them?
---Yes, we'd have enough knowledge to estimate what they're going to be worth, yes, because - - -

Can you recall now any of the subcontractors that did the work?---I don't recall their names, no.

Well, for instance, is one of the bigger ones there the asphaltting, given that you've created two large areas of asphalt for vehicle length inspection bays?---There's, see, with this quote, I can't see no pipe laying. We laid a fair bit of pipe down the bottom there and, and installed two pits. I can't see it here.

10

Well, I'll take you to the invoice later, and it may be that there's some additional detail there.---Yeah, yeah.

But just thinking about the asphaltting, was the asphaltting, given the areas involved, one of the biggest expenses to subcontract out?---It may have, may have been, may have been.

Well, do you remember who did the asphaltting work?---I don't remember, I don't remember, no.

20

Well, thinking back to 2011, you'd been in this line of work for a while, and you told us that you had done asphaltting before, but always subcontracted. ---Yeah.

You must have had asphaltting providers that you'd used before.---I honestly don't remember their name.

You can't tell us anything about existing relationships with asphalters?---I don't remember their name. After that job, I pretty much moved away from that sort of work.

30

After this job?---Yep.

Was there something about this job that made you move away from it? ---Yeah, it was just the way it was structured, the way it was put out. It wasn't, wasn't, I didn't, I didn't like it.

But what made it something that you didn't like?---Well, the job involved a lot more work and there was a lot more work involved, and back in the time we weren't allowed to claim for any extra variation work and, yeah.

40

Was the end result that it involved a lot of work, and in the end, despite it being a fairly substantial sum, that you didn't really make any money on it? ---Look, we probably did make money, but it took a long time. Took a lot longer than two weeks.

To do the work?---Yes.

Just on that point of whether you made money, I take it when you came up with your price, you would add up all of the costs involved – that is your own costs and subcontract costs – correct?---Yep.

But you would also try and allow enough on top of that so that you would make some money on the job.---We, we discussed that last time. See, when I was very fresh doing this sort of work, this, this calibre, so - - -

10 Do you mean this sort of project that involved not just excavation but also asphaltting, et cetera?---Civil, civil works, yeah, civil works. So, yeah. Yep.

Well, allowing for the fact that you're fresh and allowing for the fact you may not have done many jobs of a similar nature before - - -?---Yep.

- - - would you not still have tried to price it so that you were actually going to make money rather than lose money on the job?---Of course we would.

20 So I'm not suggesting there's anything wrong with trying to work in a profit margin, but didn't you have some idea of what you hoped to make on the job?---Pretty much whatever, whatever the cost was. So I'd calculate my machinery being onsite for a couple of weeks, my men, what I'd have to supply and, yeah.

So that's your costs.---Yep.

Then all the subcontract costs, you'd estimate those.---Yep.

30 So did you then work on a basis of perhaps making a dollar sum or a percentage - - -?---We discussed that before, so that's not the way I, I, I structured the business back then.

Well, tell me - - -?---These, these days I do.

Tell me back then how it was you arrived at \$194,000. So add up all the costs, the costs to you and subcontract costs. You'll get a dollar figure. ---Yep.

You would have done that calculation on a bit of paper, correct?---Yep.

40 There would then be a step between that figure and the \$194,000 plus GST figure, correct?---I can't say it is correct because I don't remember exactly how I formatted that quote. Like I said to you, we'd, we'd basically, for example, there was a 25-tonne excavator and a five-tonne excavator, a Bobcat, a 10-cubic-litre tipper, like, it's thousands of dollars' worth of equipment a day, you know.

I don't dispute that for a moment, Mr Rifai, but there must be a process where you can cost those things and, at the end, try and work out, even on

an estimate basis, because you haven't done the work yet, what the likely total cost will be, correct?---If you say so.

Well, you don't have to agree with me. Do you say you would not have gone through that process to come up with a figure of \$194,000?---Like I, like I said, I, I would have got, put all those figures together, what it was going to cost to do the job, then allowed for our machinery to be onsite. And, yeah, that's how I come up with the figure.

10 But that's all just, what you've described, though, is covering costs, isn't it?---No, no, no, no.

So you're talking all the subcontract costs.---No, so, okay, so let me explain to you a little bit better. So if you just go to the second-last point 4, where it says, "Plant and equipment to be used onsite consists of a 25-tonne excavator, a five-tonne excavator, a Bobcat and a 10-cubic-litre tipper," that's pretty much all my gear back then. And like you said in the beginning, we used to do machinery, machinery hire, that was the hire of the machinery being onsite, so that as covered.

20

I understand. So you would make money through the machinery being used as part of a job?---Correct.

All right. And do you say that there was no margin calculated, you were simply making your money on the job through the equipment being used? ---It was, it was pretty much all the equipment being used, you know, so, so we - - -

30

You must have had the capacity to try and establish, on a calculation basis, what you would make through that part of the quote. That is the plant and the equipment to be used onsite.---Absolutely. So the hire of the machinery would, would fall into that quote, yeah.

So looking at the overall price of \$194,000 and accepting that there would have been subcontract costs otherwise added up and estimated, what do you estimate you were likely to make through the plant and equipment that was to be used?---I don't remember. It was a long time ago. I don't remember the rates that were back then. I don't remember what I put forward back then. The rates have changed a lot since 11 years ago.

40

They may well have, but I have difficulty accepting that you can't even - - - ?---I'm sorry.

- - - on an estimate basis - - -?---Yeah, I'm sorry, I can't, I can't give you that answer because due to the, you know, the long period of time and the substantial amount of change of, of income from 11 years ago, no.

But you understand I'm not asking for a precise dollar figure.---Yeah, I understand, I understand.

I'm asking for an estimate.---Yeah, I couldn't, I wouldn't be able to estimate it, honestly.

So you can't now look at that figure of \$194,000 and - - -?---I'd have to rip this whole thing apart.

10 Please just wait for the question.---Yeah, sorry.

You can't look at the detail of what's in the quote and the ultimate price, you can't look at that and even give an estimate as to what figure would have been allowed beyond the actual hard costs.---Unless I tore it apart and, and re-writ it all back out and take quotes and – no, it's very hard, because like I said, it would have been put over, over two A4 pages plus - - -

THE COMMISSIONER: You say you had done the underlying - - -?
---Sorry?

20

You had done the underlying work - - -?---Yes.

- - - that led to the \$194,000.---Yes, yes.

So that if at the time somebody said, "How do you arrive at that?" you would have been able to give chapter and verse on how you got there?
---Yes, because I would have had everything broken down.

30

So you appreciate that the RTA in receiving this looked through the pages and there would be no way they could assess whether that was a correct number or not.---That may, may have been the case, Your Honour.

So and then practically speaking, talking about the world, practical world now, this quote comes in. Mr Dubois gets it and looks at it and sees the bottom line, \$194,000. There's nothing in the quote which would even enable him to begin to assess whether 194 was the right number or not.
---Now, sorry, Your Honour, may I ask, the other quotes that come in, were they like that or were they broken into point form?

40

Just, just stay with me at the moment if you would, please.---Sorry, okay.

I'm just dealing with this one particular quote and trying to work out how as a matter of practice it could be operated or used from the RTA end.---Okay.

So they get this quote. They see the various items that you've dot-pointed there.---Yeah.

Then they come to the bottom, what in effect is the bottom line, a total of \$194,000 plus GST.---Yes.

There's nothing in the document which would even enable Mr Dubois to start to assess whether 194 was the right number so he could send a report to his superiors and say, I've checked it, it's right, go for it. He just couldn't do it, could he, on the basis of this, without all your underlying - - -?---With all, with all honesty, Your Honour - - -

10 Without all your underlying analysis.---Yep. With all honesty, Your Honour, that's the way I did all my quotes.

I know, but - - -?---I always put a lump sum amount.

But that may be the way you operated, but when you're dealing with a government agency, you realised, didn't you, at the time that government agencies have stringent procedures that they have to follow to make sure the public money is being properly spent.---I didn't understand that back then, Your Honour.

20

But you would have had an idea that government is not, they're not slack in the way they do business, they have an obligation to do business properly. ---Unless he advises that, Your Honour, we, we would, we would just propose it as it was.

30

But you would have some idea that a government's not going to pay you just whatever you ask for, you've got to justify it.---Unless, like I said, Your Honour, once again, I'm not trying to beat around the bush, but unless I was asked to break it down I, I've never, I've never broken down a quote, Your Honour, ever.

And people accept your lump-sum quotes without any - - -?---That's how it's done, Your Honour, honestly.

Do they come back to you and say, look, we want to, we want to understand how this is arrived at?---I've never been questioned about a quote, Your Honour.

40 Nobody's ever come back and said, look, we need more particulars?
---Never.

You're very fortunate.

MR DOWNING: You did understand though, didn't you, that the RTA was a statutory authority, that is it's part of government?---I knew it was a, the RMS were a government contractor, yeah.

Now, separate to the quote itself which I've taken you to, if we could go, please, to page 297, so the next page after the last page of the quote. Do you recall that at the time you submitted it you also submitted the company of – sorry – certificate of company registration.---I don't recall that, but as per the records, yes.

And if we go to the next page, please, a certificate of currency of your insurance.---It's saying, it's saying here 20th of the 10th.

10 Right. But do you recall that you submitted that too, along with your quote?
---That would have been a requirement, yes.

And the finally if we go to page 299, that's your Green Card, isn't it?---That is, yes.

And do you recall submitting that as well?---I don't recall submitting it, but if it's submitted and it's been proposed there, yes.

20 And you confirm that is your Green Card.---I actually have it in my wallet.

Now if I could take you back, please, to volume 18.4, page 292. And bear in mind that that was a quote that's dated 31 March, 2011.---Ah hmm.

Sorry, 92. Sorry if I said the wrong number. Now, do you see on – this is a 3 April, 2011 email from Mr Dubois headed "Galston Gorge" but to ultimatedemo@unwired.com - - -?---Yep.

- - - but also CC'd to hoody1711@[REDACTED].---Yep. Yes, yes.

30 And asking that you "amend your quote to reflect only locations 2 and 3 as discussed".---Yes.

Now, first of all, you'll note the date, that it's some three days after the quote seemed to have been prepared.---Yes.

Do you recall receiving this?---I don't recall, sir. But as per the email dates on that it looks like we received it.

40 And you'll recall from the quote, when I took you to it, it describes locations 1 and 2 but also refers to there being three bays. Do you recall whether you in fact ever did amend a quote to reflect it only having - - -?---I can sort of barely remember. As I said earlier on, there was something to do with two to three or three to two. I honestly don't remember. There was, there was something to do with two to three or three to two.

Do you recall whether at the time you received this you noticed that it was copied to Mr Chahine?---I don't recall that, sir.

Did Mr Chahine have anything to do with this job, to your knowledge?
---This, this job, to my knowledge, no.

You'd never discussed it with him?---I discussed that we were tendering for the job, I remember, but he didn't do anything on the job, to my recollection.

When you discussed that you were tendering for it, did he mention that he was as well or he'd been asked to?---I don't remember that, no.

10

Do you recall if, in respect of this Galston Gorge job, before it was awarded, you attended a meeting at the RTA offices?---I didn't attend that meeting, so, as I explained to you last, last time I was on the stand.

20

If we could go, please, to volume 18.4, page 283. And you'll see that this is what's, I'm not suggesting this is your document, but it's described as a Galston Gorge Vehicle Length Inspection Bay Civil Works Tender Evaluation Report. And you'll see that it refers to, first of all, you can tell from the background that it's a description relating to this job that UDE ultimately did.---Yep.

And you'll see it records a cost estimate, from the RTA's point of view, of \$200,000.---Yes.

But just pausing there, did Mr Dubois ever speak to you and say that the RTA's estimate on the job was about \$200,000?---I can't recall that.

30

Would that be something that would be unusual for someone to tell you that that's the estimate they put on?---Like I said, sir, many occasions there's, there's, we, we, we get told that this is the budget of the work, so people interested to, to tender for it, they can. People that are not interested, they don't, they don't, that's it.

Now, you'll see below that it indicates that there were three contractors who'd responded to the advertisement sent by the RTA on 31 March, 2011.
---Yep.

40

If you go to the bottom, it says that there are tenders from UDE Group.
---Yep.

ADN Pty Ltd and BFW Group Pty Ltd.---Yep.

Now, just pausing there, putting aside the fact that it refers to tenders rather than quotes, which is what you'd put in, did you have any knowledge of any of those other companies putting in either a tender or a quote for the job?
---No, I had no knowledge of them putting - - -

Mr Dubois never spoke to you about other competitors that had put in quotes?---He said that there were going to be other people quoting, but he didn't tell me who they were. I don't remember him telling me that, sorry.

If we go to the next page, please. Do you see that it refers to a pre-tender meeting said to have been held at 10.30 on 1 April, 2011, at Argyle Street, Parramatta.---That never happened, sir.

10 So looking at the detail below, it suggests that the meeting had Mr Dubois present for the RTA, you present for UDE Group, Mr Andrew Francis from BFW Group, and an Allan Yas from the ADN Group. Sorry, ADN Pty Ltd. So I know you say that no such meeting ever occurred. I take it you say that you've never attended a meeting with Mr Dubois with any of those people. ---No.

Do you know any of those other people?---Well, I recognise one of the company names, but I don't know, I don't, it doesn't - - -

20 Which company name?---ADN.

And do you know Allan Yas?---No.

Do you know a man that works for ADN that has a name, perhaps an Arabic name?---I've never heard that name before. I know ADN quite well.

Do you know a Mr Adnan Yassine?---Yeah, I do.

And what company does he have an association with?---ADN.

30 To your knowledge, was he someone that did any work for the RTA and Mr Dubois?---Oh, they're a pretty big company. They, they, they do work for everybody.

In any event, if you go down through the page, you'll see there's a reference to your quote, and that's the correct sum?---Yep.

40 But you say, do you say you had no knowledge of any quotes put in at those sums from other companies? That is, 212,000 from BFW.---Yeah, I - yeah, no, no, I can't remember that.

Or 227,000 from ABN.---Yep, I can't remember any of that, nah.

Did Mr Dubois ever tell you that those companies were in effect putting in dummy quotes for this job?---Not, not that I can remember, no.

Now, it's correct, isn't it, that UDE Group ultimately got the contract?---Oh, Your Honour, I've got a really bad back - I've got three discs in my back, can I just have a stand up just to stretch? Sorry, sorry.

THE COMMISSIONER: Yes, certainly, yes. Sit or stand as you please.
---Yeah, my back just gets (not transcribable)

MR DOWNING: No, that's all right.---Thank you.

Now, you've confirmed already that you are aware that UDE Group got the job? That is, the Galston Gorge job?---Well, I haven't seen anything here yet to say it's started, we've received the job yet.

10

No, nothing to do with this report.---Yep.

But you've confirmed that you know you got it - - -?---We did, we did get it, yeah, we, we - - -

- - - because you performed it.---Yes, yes, yes.

And can I take you, please, same volume but to page 113? You'll see on 13 April, 2011 an email from Mr Dubois to you, attaching a letter of
20 acceptance for the job, and also confirming that the start date was supposed to be 18 April, 2011.---Yes.

You'll see that there are a number of attachment documents there.---Yes.

I'm going to suggest there are – well, first of all, do you recall receiving the email confirming that you'd got the job and sending you the letter of acceptance?---I recall, I recall receiving a email, but I don't, I don't recall receiving this email

30 In any event, this email is roughly two weeks after you'd submitted the 31 March, 2011 quote.---Yeah, well - - -

And do you recall that you had to sign – there were contractual documents you had to sign in order to do the job?---I honestly can't remember, but I, oh, there, there would have had to be a signature, yes.

All right, but as far as the letter of acceptance, can I take you, please, to page 235? And you'll see it's a letter of acceptance confirming the acceptance of the tender at \$194,000.---Yep.

40

And noting that documents, that is, the executed contract had to be signed and returned.---Yep.

And if you go to the next page, you'll see, under Mr Dubois' name and dated 13 April, 2011.---Yep.

Now, do you recall that – I withdraw that. I’ve already asked you about the works that you subcontracted, and you confirmed that one of the tasks that you had to subcontract was the creation of plants.---Yes.

Do you recall who it was that you got to do that job?---I don’t remember if I did it or if it was part of, part of – I don’t remember. But in the beginning, I, right in the very beginning, I had to draft, had to draft something up, it was through, through the – oh, I don’t remember the name, I don’t remember.

10 Well, I’ll take you to some documents.---Yep, yep.

I’m going to suggest that the person, the organisation you subcontracted it to was Home Zone Constructions in Winston Hills.---Okay.

And that you had them draw up the design drawings or plans for the purpose of - - -?---Just the preliminary, yeah.

In that regard, can I ask you to go, please, to volume 18.4, page 94?---Yep.

20 And you’ll see on that day, 5 April, 2011, you send an email to Mr Dubois with the proposed design layout for the project.---Yep.

And if you go ahead, please, to the next page – and if we could just spin that around – you’ll see that it’s a particular design created by Home Zone Construction.---Yep.

And you’ll see that it’s for UDE Group Pty Ltd.---Yep.

30 And that’s location 1.---Yep.

If you go to the next page, please, you’ll see that there was also one prepared by the same organisation for location 2.---Yep.

Now, Home Zone Constructions, is that someone that you had used before in order to come up with plans or designs?---That was the first time I was actually seeing his daughter at the time and I found out, yeah, so that’s the first time.

40 Now, you’ll notice from the date that’s eight days prior to the letter of acceptance. That is, you send these on 5 April, and the letter of acceptance comes on 13 April, correct?---Yep.

Now, can you think why it was that you were getting the drawings prepared at a time when you didn’t even know if you had the job?---So – sorry, can you say again?

Sure. You’d submitted a quote on 31 March.---31 March, yeah.

And I've taken you to the letter of acceptance.---Yep, yep, I see that, yeah.

The email which was sent on 13 April. Correct?---Okay, so two weeks.

Now, presumably you wouldn't have started subcontracting the various tasks until you knew you had the job.---Like, like Mount White. Like Mount White. We had to provide a fix for this problem, so that would have been probably – we spent money on jobs all the time quoting, so that would have been a proposal to say, look, this is how we can fix this job. This is why we should win it.

Well, are you sure - - -?---Like we did for Mount White. Possibly, possibly, not too sure, but possibly,

Are you sure Mr Dubois hadn't told you that this was a job you were going to get by this point?---I don't remember that, no.

Well, wouldn't it be somewhat unusual to be - - -?---If he had told me, sorry, if he told me we were going to get it, then we wouldn't, wouldn't waste that time going through all this stuff to try to prove that we can do the job and this is how we're going to fix the job. That's the only thing I can, I can imagine. Sorry, Your Honour?

THE COMMISSIONER: There's a need to have a design plan such as we see on the screen.---Yep.

In order to be able to understand, firstly, the nature of the work that would be required, and secondly, how it was to be done.---Like Mount White, Your Honour, I did pretty much the same thing, so I submitted the plan, how we're going to fix the problem. And we did it that a lot, it's covered, Your Honour, so, if, but the client may come in and say, look, this is the problem we have. We've already proposed how you're going to fix it. So people want to know that you can do the works subject to doing the works. They don't want to just throw something at somebody especially a job like this.

No, but you had been requested to lodge a quotation - - -?---This would have been done with a quotation.

- - - closing date was 28 March, 2014.---Yep. Yep.

MR DOWNING: 2011, sorry, Commissioner.

THE COMMISSIONER: Sorry, yes, thank you, 2011.---So what was the date of this one?

And this document post-dates that. This is 5 April, so it's after closing time for quotations.---Yeah, so, Your Honour, because there's a few people quoting.

No, but just stay with me a moment.---Sorry.

I understand that you said you often would do the design work upfront, as it were, in order to try and win the job so you could show them that you can do the job, but in this case - - -?---It was after the fact.

Yes, it doesn't work in this case, though, does it, because - - -?---It's after the fact.

10

- - - it was after the quotation period had closed. So, I'm sorry, you're agreeing with me?---I, I, I agree with what you're saying, Your Honour, but I don't - - -

So the practice that you had followed on some occasions of pre-designing it before you had been awarded the contract doesn't run in this case, does it? ---Your Honour, it's not really design, it's just a - - -

20

No, please, well, stay with me, the central point, so I don't have to keep repeating the question.---Yes, Your Honour.

Whatever it is, don't worry about what it's called - - -?---Okay.

- - - a clear examination of the chronology, the dates - - -?---Sure.

- - - indicates that this particular work done by Home Zone Construction - - -?---Yep.

30

- - - was not done - - -?---At the time of the quote, yep.

- - - before the close of the period for quotations.---Yeah, sorry, so, Your Honour - - -

No, no, no. Do you agree with me?---About the dates?

You were referring to a practice you sometimes follow of free-drawing up design work before you get the contract.---Yep.

40

But that scenario doesn't apply in this particular project, does it, because we know what the dates are.---If the dates are wrong, Your Honour, something's not right.

No, but if the dates are as you have been shown on the screen, then the practice you sometimes followed about drawing up designs before you got the job, that doesn't run for this project, does it?---Your Honour, I honestly don't remember. I wouldn't be able to tell you why, why this is the case.

Are you refusing to answer my question?---No, Your Honour, no. What would you - - -

I'll put it to you a third time. You said sometimes you would do a design like this even before you got the job. That's what you said, didn't you?

---There, there are times, yes, Your Honour.

Right.---And as per the Mount White job, yes.

10 Yes, but that practice of doing it before you got the job doesn't apply in this case, does it, because the plan didn't come into existence - - -?---It doesn't seem so, Your Honour, no.

- - - till after the quotation period.---Correct, Your Honour, it doesn't seem so, yes.

Right.---Is that better?

So it does suggest, doesn't it, then, is it not the case that you - - -?

20 ---This was after the fact, it appears so, Your Honour.

Yes, that's right. Well - - -?---And I'm not sure why that was the case, Your Honour.

- - - the acceptance didn't come through until 13 April, that's the formal acceptance from Mr Dubois you saw on the screen a moment ago. That was 13 April.---Correct. And when was this, Your Honour?

30 And this design here by Home Zone Construction, as I understand it, bears the date 5 April.---So two weeks prior to that roughly.

So you obviously by 5 April, had inside word that you were going to get the job. Is that right?---Your Honour, I wouldn't call it inside word. Sometimes - - -

Don't call it inside word, you had an indication that you were going to get the job. That's what appears to be the case, doesn't it?---Your Honour, I know it may appear to be the case but sometimes - - -

40 Well, do you agree that it does appear to be the case?---It, it looks like it appears to be the case, Your Honour, but I don't, I don't remember if that was the case.

No.---Okay. Sorry, Your Honour.

No, that's fine. I understand.

MR DOWNING: And do you recall that after you submitted those drawings on 15 April, so just with the chronology, 31 March you submit the quote, then on 5 April you submit those drawings to Mr Dubois. Do you recall him coming back and saying there was a need to amend them in some way?---I don't recall that, sorry, no.

That's all right. If you could go, please, to same volume, page 104. Do you see that on the next day, 6 April, you send an email to Mr Dubois with the amended design and layout for the Galston Road inspection bays, and Mr Dubois same day thanks you?---Yes.

And do you recall that you had to go back to Home Zone to get them to re-jig them in some way?---I can't, I can't recall that.

In any event, if we move on, please, to page 105, you'll see the documents that seem to be attached. And if we flip it around, I'm no architect and I can't say that I can obviously see what the difference is, but you'll see that there's another, it seems attaching a further version of location 1, and then if we go to the next page, please, 106, a further version of location 2. Now, do you recall Mr Dubois speaking to you at some point and telling you that because this involved works on the roads, that council had to be involved so that the plans and drawings had to go to council?---I can't, I can't recall that, I'm sorry.

In any event, can I ask you to please go to page 107, and you'll see that on 6 April, that is the same day as you send the amended drawings from Home Zone, that Mr Dubois sends to a Mr Max Woodward at Hornsby, so at the Hornsby Council, drawings as requested for proposed vehicle length inspection bays. And read the email to yourself, but he provides some detail about what was proposed.---Yes.

And he notes the drawings have been assessed by Road Safety and the RTA and have met their requirements.---Yes.

And if you go to the bottom of the page you'll see that leading to that email that Mr Woodward had sent an email to Mr Dubois and noted that (not transcribable) for the proposal that is relating to the Galston Gorge vehicle length inspection bays to be considered, there needed to be design plans showing a plan view and cross-section of detail at each location.---Yep.

And if we go ahead, please, to page 110, you'll see that what Mr Dubois annexed at the time was again a drawing from Home Zone Construction to UDE Group, but you'll see from that it's different to what we saw before, and that's location 1.---Yep.

And if we go over to the next page, please, you'll see location 2, again by Home Zone Construction, again to UDE Group, but again different to what we've seen previously. So just looking at that, do you have a recollection of

having to go back to Home Zone Construction a number of times to get the plans the way that Mr Dubois wanted them?---That may have been the case, I honestly don't remember.

Was there a cost to you? I take it that you were having to pay Home Zone Construction in order to do the plans?---Yeah, there would have been a cost, yeah.

10 All right. Now, ultimately - - -?---Actually, actually, sorry, I think he gave us that one as a gift because I was supposed to marry his daughter, to be honest.

So you don't know that you did pay anything?---But I don't remember, I don't, I'm not too sure, but I remember him, I remember him giving me a gift to help me out, and I'm pretty sure he did it for us free of charge.

20 In any event, you've seen this correspondence suggesting that there must have been a process of you going back and getting it – plans and then plans revised.---It looks like, it looks like it, yeah, so, yeah.

Looking at that now, and noting that you'd put your quote in, but this was literally in the period when the quotes were still under consideration, before you got the letter of acceptance, would you accept that it appears, looking at that, that you seem to have some idea that this was a job that you were ultimately going to do?---It, it seems so, yes.

All right. Now, when you did do the job, you then got companies in to do the various subcontracted elements of it, correct?---Correct.

30 And you also performed some of the work yourself, as you've described when we were going through the quote before.---That's correct.

Now, did you understand that ultimately in order for UDE Group to be paid, there needed to be what's known as a purchase order created?---Yes, that's the, that's the process.

40 And if I could take you, please, to volume 18.4, page 281, you'll see that there was a purchase order request in this matter. You'll see it's signed by relevant RTA staff on 18 April.---Yep.

You'll see that the vendor name towards the top is UDE Group.---Yep.

And it's for this job, that is, the Galston Gorge vehicle length inspection bays, and 194,000 plus GST.---Yep.

And do you recall that you got that number and you ultimately had to use that number in order to submit your invoice and be paid?---I'm sorry?

Did you learn from Mr Dubois that ultimately there a number, a purchase order number that was generated, and you needed to then use that number on your invoice in order to be paid?---On the invoicing, yes, yep.

All right, thank you. Now, do you recall Mr Dubois ever telling you that the council, in this case Hornsby Council, had raised some issues with the Home Zone Construction drawings that you'd submitted, and they wanted more detail?---I can't remember that.

- 10 Can I ask that you go, please, to volume 18.4, page 241? And you'll see that there's an email sent on 14 April from Mr Dubois, and you'll bear in mind that it was 6 April that the Home Zone plans were submitted to Mr Woodward at the council. So an email is sent back in reference to that email on 14 April from someone on behalf of Mr Woodward, and if you go to the next page, please, you'll see that it's a letter of 14 April, 2011 from the council to Mr Dubois referring to the 6 April email, and noting that, "The plans provided for comment don't appear to have been prepared by a suitably qualified engineer or engineering designer, are diagrammatic and provide minimal consideration for the various site constraints which would normally be addressed in either a concept or detailed design plan," and further provides, "The sketches provided do not appear to follow accepted road design practice or comply with the current road design standards." Now, just pausing there, do you recall ever having the email and the attached letter sent to you?---No.

Do you recall Mr Dubois every saying to you that what you'd obtained from Home Zone Constructions wasn't good enough and he then had to get proper plans?---Mmm, I can't remember that, no.

- 30 Do you recall him ever telling you that he had to then engage another company of engineers in order to provide revised, more detailed drawings? ---I remember there was another company that, that come in and, to fix – yeah, did something like that, yeah.

And do you remember that that was GEC Consulting?---I don't remember the name, but yeah, there was another company.

- 40 Do you remember a Mr Ghazi Sangari was an engineer who ultimately did the plans and drawings which you had to do the work on the basis of?---The name rings a bell, yeah. The name rings a bell.

All right. Did you know him at all?---Prior to that, no.

Hadn't ever dealt with GEC Consulting?---No.

All right. Can I take you, please, to the same volume at page 304?---Yep.

Now, I need you to look at a string of emails here from 304 going to 307, and you'll appreciate that they work backwards in time.---Yep.

But if we start at 307, you'll see – sorry, 306.---Yep.

You'll see that it starts with Mr Sangari at GEC on 17 May providing attached Galston West design drawings for his comment.---Yep.

And if you then go back a page - - -?---Yep.

10

- - - you'll see that Mr Dubois sends it to other people, you'll see there's a Neil Forrest and a Brian Bestwick - - -?---Yes.

- - - for their comment. I'm going to ask you to assume that they are people within the RTA.---Yep.

But if we go back a page again, you'll see that ultimately Mr Dubois sends it on to Mr Woodward at the council.---Yep.

20

Ultimately, Mr Woodward responds. Now do you recall that – I withdraw that. Can I take you then, please, to page 308.---Yep.

You'll see that this is one of the attachments, being a site setout layout plan from GEC for the Galston Gorge length measuring bay and it's the west end.---Yep.

You'll see from it straightaway that it's a far more detailed drawing than the one that Home Zone Constructions had prepared.---Yep.

30

Do you recall receiving these – I'll take you to others in the – but do you recall receiving the GEC plans and drawings?---I don't recall but we would have had to have received this.

In order to do the work?---Correct.

Right. If you go to the next page please, and the next.---Yep.

I'm not sure if these are familiar but in any event, you accept that you received them?---Yes. We would have had to have received them, yes.

40

All right. Can I take you then please to the same volume, page 320.---Yep.

You'll see that on 30 May, 2011, Mr Dubois forward to you an email from Mr Sangari with a surface area calculation for each of the inspection bays.---Yep.

East end 138 sqm, West end 115 sqm.---Yep.

And again, they were calculations you needed in order to do the work, correct?---Yep.

Can I take you then please to page 321 and you'll see on 30 May, 2011 Mr Dubois sends you the drawings, and you'll see from the descriptions of the Galston West drawings I'm going to suggest they were the GEC drawings and designs for the western inspection bay?---Yeah.

10 And he asked you to submit an amended bill of quantities and breakdown of works and costs to the amended scope and drawings?---Yep.

There's also a reference there to doing as per the attached from GEC and recent meetings held last week.---Yep.

Now do you recall attending a meeting on the site?---I can't recall.

Do you remember if Mr Dubois was present at any meeting that you attended?---Yeah, he did, he did attend the site a couple of times, yeah.

20 And what about Mr Sangari from GEC?---I don't remember if him but I'm pretty sure.

In any event, if you go to the documents that are attached behind, if we go to the next page so that it's 322, you'll see that it's the GEC plans and drawings in respect of the Galston Gorge western end inspection bay. ---Yeah.

30 If we just quickly go through 323, 324, 325, 326, 327, 328, 329, 330 and 331. Do you recall that these were the design drawings that you ultimately worked off?---It looks like it yes.

Can I take you next please to page 337. You'll see that on that page starting at the bottom, there's an exchange of emails between you and Mr Dubois. So starting from an email that you send to Mr Dubois on 1 June, just read that to yourself for a moment please. Have you had a chance to read that?--- Just give me a minute, sorry.

I'm sorry.---Yep.

40 THE COMMISSIONER: Mr Downing, before we embark on that, I think we'll take a morning tea adjournment, if that's in order.

MR DOWNING: Thank you, Commissioner.

THE COMMISSIONER: And I'll resume at about 10 to 12.00 today.

MR DOWNING: Thank you, Commissioner.

SHORT ADJOURNMENT

[11.30am]

THE COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. If we could please bring up again volume 18.4, page 337. And you recall just before the break, Mr Rifai, I took you to this and I asked you read the email at the bottom, which
10 was from you to Mr Dubois of 1 June, 2011.---Yes.

And having done that, it's the case, isn't it, you were just giving him an update about what was going on with Galston Gorge.---It seems so, yes.

Confirming that you'd been in contact with Mr Sangari with a view to having the site surveyed.---It seems so, yes.

And when you read through it, you note that heavy vehicle – sorry, I withdraw that. Heavy machinery work was going to commence on the 6th,
20 Monday, 6 June, and that you were still waiting on certain prices in order that you could give him the amended schedule of works and prices.
---Variation. It looks like variation works, yeah.

And then Mr Dubois thanks you, and then you'll see from the email at the top, on 2 June, you actually then send through a revised work agreement based on the amended plans. Correct?---Yes.

Now, if we go over, please, to page 340, you'll see that this is now the work agreement. So that whereas it was a quote before, it's now described as a
30 work agreement, correct?---Yep.

Dated 1 June, 2011.---Yep.

And you'll see, for instance, if you look at the bullet point that starts "supply and pave" - - -?---Yep.

- - - that it does now include the measurements, that is the surface area measurements, that Mr Sangari provided.---Yep.

40 And do you see the bullet point "remove one designated tree and trim down other trees in bay area"?---Yeah.

That was new as well, wasn't it, compared to the original quote?---Yep.

And in fairness to you, you did say something before about piping and a pit, and the third bullet point from the bottom describes excavating and installing a particular area of concrete piping and installing a pit.---Yep.

So that was new as well.---Yep.

Now, the other thing I suggest to you is that whereas the original quote, when I took you to it, referred to locations 1 and 2 but also referred to there being three bays where work was to be done - - -?---Yep.

- - - you'll see that this still refers to, in the first bullet point, work at locations 1 and 2.---Yep.

10 But if you look through all of those bullet points on that page and then go over the page - - -?---Yep.

- - - you'll see that there's now no reference to three bays at all.---Yep.

And indeed, whereas the original quote referred to landscaping and making good the three bays, there's now no reference to landscaping and making good at all. Read through and make sure that I've not missed something, but – and tell us if you need to go back to the page before.---Can you go back to the page before, please?

20

And if you need us to take you back to the original quote in order to make a comparison, please let me know.---Next page, please. Okay.

And just in fairness, if we go back, please, to page 296, which was the second page of your original quote, you'll see that the third, sorry, the second bullet point in that original quote was “landscape and make good surrounding areas of three inspection bays”.---Yep.

30

And that seems to disappear entirely from the work agreement that you send after the revised drawings.---Yeah, okay. It seems to have disappeared but I'm pretty sure we did do it.

Can you think of why you would have taken it out, given that you now had up-to-date - - -?---Must have left it out.

All right.---Unintentionally.

Do you say that it was still done as part of the work?---We did do it, yeah.

40

In any event, if we go back, please, to page 341, which is the second page of the revised work agreement, the price ended up not changing.---Yeah. Like, trying to understand that. Is that because it went from two to three or three to two or - - -

Well, there's obviously been some variations in the sense that there's now some things that have been added, but it's also gone from three to two. But I want you to think carefully about this. Do you have any recollection that Mr Dubois in fact was the one who was setting this price, not you, based on

an estimate of the works?---It could have been, but I don't remember. I don't remember.

All right, now you'll recall that having sent this in you completed the work, correct?---Yep.

And you then submitted your invoice.---Yep.

10 And if we go, please, to page 342, you'll see that on 13 June you send an email to Mr Dubois with the invoice.---Yep.

And if we go ahead, please, to page 345.---Yep.

You'll see it's the invoice date 13 June, 2011.---Yep.

And you'll see there's, it lists the process reflective of what was in your revised work agreement.---Yep.

20 And if you go over the page, that the price as per the revised work agreement is the 194,000 plus GST, or \$213,400.---Yep.

Inclusive of GST.---Yep.

And do you recall that you got -- there was a problem with this in that the original invoice set out an ACN rather than ABN and you had to resubmit it?---I remember you saying something about that, yeah.

30 If you go to page 347, you'll see that on 16 June you sent an email with an amended invoice - - -?---It's our paperwork no doubt.

All right. If you then go to page 349, the document now includes an ABN at the top and not an ACN.---It's our paperwork.

But if you go over to the next page, the sum is still the same. There's no change in that or the description?---Yeah.

Now, you recall, don't you, that that \$213,400 was paid to you?---Yes.

40 And bearing in mind that this is an invoice submitted, well, originally on 13 June but then in a revised version on 16 June, I'm going to suggest to you that it was paid into the UDE bank account on 7 July, 2011.---I don't remember.

Now, it's the case, isn't it, that UDE had a Westpac bank account?---We still do.

Still do.---We still have that same account.

It's an account that ends with the numbers 2-0-2-4, correct?---Correct, yes.

Right.---3-5-2-0-2-0-4.

Thank you. I'm going to suggest that five days after that cheque – I'll withdraw that. That transfer of \$213,400 - - -?---Yep.

- - - was paid into that Westpac account.---Yep.

10 A cheque was drawn against that account in favour of a company known as MWK Developments in the sum of \$63,800?---I don't remember but if that's what you're saying, then yes.

Let me take you to the record. Can I take you please to - - -?---That's okay, if what you say, it is it is.

Just to be fair, I want to show you the record.

20 THE COMMISSIONER: Nonetheless, we must take you through the documents.

THE WITNESS: Okay.

MR DOWNING: If we can go please to volume 5.1, page 4. You'll see that this an account, an ANZ Statement for MWK Developments and the account number ends in 4-5-6-9.---Would you happen to have my account, what went out?

30 Well, I'll take you to a record of that of that in a moment.---Okay.

If you can just bear with me. Do you see a deposit on 12 July that it shows \$63,800 goes into the account on that day?---Yep.

So there are other highlighted entries but you'll see there's a deposit that day?---Yep.

40 If I could take you then next to page 18, the same volume. You'll see that the record again, this is an internal ANZ record, but you'll see 12 July it shows a deposit of a cheque of that sum - - -?---Yep, yep.

- - - in the name of MWK Developments?---Sure.

If we go then, please, to page 19. You'll see the record from, sorry letter from Westpac to the Commission indicating that there was a transaction on 11 July, 2011 for \$63,800.---Yep.

It came from your account in the name of UDE Group?---Yep.

Now, pausing there, noting that that's a payment that's made five days after the payment is made into the UDE Group account from the RTA, do you know what that payment was?---I don't know what that payment was but it appears to be a payment to, you know, to a contractor.

Well, \$63,800 is close enough to a third of the total price of that job, correct?---Yep.

10 You know that that wasn't a payment to a contractor, don't you?---Well, who was it paid to then?

Well, what I'm going to suggest to you is that Mr Dubois asked you for a payment – whether he described as a cut, kickback, a project management fee – and that you understood from him that that was in return for UDE obtaining the work. Do you accept that or do you deny?---Can you say again please.

20 Sure. I'm going to suggest to you that Mr Dubois, first of all, asked you for the cheque, that is, that he was the one that said you are going to make out a cheque for MWK Developments and that he specified the sum?---That wasn't the case, no.

THE COMMISSIONER: Sorry, hard to hear you?---That wasn't the case, no.

30 MR DOWNING: I'm going to suggest to you that he used language, whether it was the words project management fee or cut or margin, to indicate that that was what he was entitled to on this job?---He may have used that language but I don't remember him saying that.

THE COMMISSIONER: The amount of \$63,800 is a fair slice of money, isn't it?---Your Honour, may I ask - - -

No, no, you just answer my questions.---Yes, okay.

\$63,800 is a large amount of money, isn't it?---Yeah, that is Your Honour.

40 All right. To draw a cheque in that amount on your company's account, it reflects an intention to pay at the direction of someone that amount of money, does it?---Absolutely, Your Honour.

And you wouldn't likely pay out that sort of amount of money unless you knew what you were doing.---It seems so, Your Honour.

So we may infer that when this cheque was drawn in that amount of money, \$63,800, firstly it was made at the request of someone, whether Mr Dubois or obviously by someone.---May I ask a question?

No. It's apparent, isn't it, that the drawing of that cheque was done at the request of someone?---Or an invoice.

Sorry?---Or an invoice.

An invoice.---Is there an invoice for that document, for that cheque payment?

10 And you would want to be satisfied before the cheque was drawn and sent to the recipient, that the money was appropriately due and owing to the payee, would you not?---Yes, Your Honour.

It's clear, is it not, that Mr Dubois at some point in time had made it clear to you that contracting with RTA involved him being paid an amount of money, call it a commission, call it what you will, but that there was some money to be paid at his direction, whether it be called a commission or a cut or whatever. That was the case, wasn't it?---I can't recall that, Your Honour.

20 Well, if somebody asked you to pay them a commission of \$63,800, you'd certainly start asking questions, wouldn't you, saying, "Well, what the hell am I paying you 63,00" - - -?---Your Honour.

Wait. Answer my questions.---Okay, okay, sir.

You would ask questions as to why that person's asking you to pay, as directed, \$63,800, wouldn't you?---Correct, correct, Your Honour.

30 We know that happened in this case, that the cheque was drawn - - -?
---Clearly, yeah.

- - - in that amount - - -?---There's no doubt that - - -

- - - on your company's account. We know that, don't we?---Yes, yes, sir, that did happen, yes.

So we all know that that was not an accident, it was done - - -?---No.

40 - - - knowingly - - -?---Yes.

- - - for a purpose.---Yes.

What was the purpose?---Can I have the invoice, please?

No. I'm asking you. Don't you ask me questions.---Sorry, Your Honour.

You answer questions.---Okay.

You are a witness.---Yes.

Your function is to listen to questions and answer them. Do you understand?
---I understand, Your Honour.

Not to make statements.---No, no, but, Your Honour - - -

Not to interrogate me.---I'm not interrogating you, Your Honour, you're asking me a question, Your Honour, what was it for, and I'm, I'm, I'm, I'm
10 just legally asking can I please have the invoice as to - - -

You're not asking questions, you're asking, you're going to provide answer to my questions. Do you understand your role as a witness? That's the role of a witness. Do you understand that clearly?---I don't understand clearly but I understand now.

You do now.---Yeah, I do.

Right. Listen to the questions, please.---Yeah.
20

For one reason it saves time if I don't have to put a question three times but only once, then we get through this work much more effectively.---Yeah.

We know that the \$63,800 was knowingly paid - - -?---Yes.

- - - intentionally paid - - -?---Yes.

- - - to the payee of the cheque.---Yes.

30 I'm asking you why that amount of \$63,800 was paid shortly after RTA paid you 194,000 plus GST.---I don't remember, Your Honour.

You don't remember. Have no memory at all?---11 years ago, Your Honour. And may I ask - - -

You have no memory of a cheque in that large amount of \$63,800 being drawn. Is that what you're saying?---Your Honour, I've made cheques for hundreds of thousands of dollars. 60,000 is not a lot of money, sorry.

40 But this was the first project you'd done for RTA.---I understand.

When I say you, I mean your company. Is that right?---Yeah.

And you have a clear memory of this particular job, don't you?
---Absolutely I do.

Well, I'm putting to you, you must have some recollection that after you got paid for the job you were then requested to draw a cheque for \$63,800. You

have some memory of that, don't you?---I think, yeah, there was a few payments made after the job to pay the contractors, Your Honour.

This amount, remember this amount?---I don't remember that amount, Your Honour, no.

Do you remember being required by Mr Dubois to make some payment, call it a commission or cut?---There was never anything about commission or cut, Your Honour.

10

Okay.---It was more - - -

But how can you explain, if there's no invoice for this amount of \$63,800, I want you to - - -?---You're right, Your Honour. It doesn't make sense.

I just want you to act on the assumption that there was no invoice for this amount, okay? That the facts are that \$194,000 plus GST was paid on your invoice of 13 June.---Yep.

20

Was paid on 7 July into the company's bank account.---Yes.

And that five days later, this cheque for \$63,800 was then paid.---It would have been a payment, Your Honour, for sort.

So it's related to the project (not transcribable)?---Yes, yes, it would have been related to the project, Your Honour, yes.

This being the very first project your company had done for RTA?---It must have been, yes. It must have been, Your Honour. But I don't remember.

30

And having had your memory jogged about the circumstances of this matter, I'm asking you for some explanation as to how and why that payment was made for \$63,800 five days after you received the cheque from RTA or the transfer of RTA of the moneys for the job. What's the explanation?---It would have been, it would have been payment for some sort of, obviously some sort of work or some sort of contract or something.

For what aspect, though? What part or - - -?---Don't know, Your Honour. I don't remember.

40

You don't? You have no recollection?---I have no - it's 11 years ago, Your Honour, with all respect. I've been in business, I've been in business all my life, Your Honour.

Have you heard discussion in the course of this investigation about kickbacks and cuts?---I know clearly what you're trying to say, Your Honour, yes.

Well, now you might answer my question.---Yeah.

Have you heard?---I know what you're trying to say, Your Honour, yes. Yes.

Yes. And how have you heard it?---Heard what?

Have you been following it on - - -?---This case, no, Your Honour.

10 No?---I've never googled it at all.

Are you aware that questions have been raised - - -?---As corruption, yes, corruption.

- - - about kickbacks to – yes, corrupt payments.---Yes, yes. Yep.

To contractors who dealt with RTA during the period in which Mr Dubois was a manager of RTA?---Yes, yes, Your Honour. Yep.

20 And have you ever, since hearing about this, made any check of the records of your company in relation to any payments that were paid at the direction of Mr Dubois?---No, Your Honour, because - - -

You haven't gone back and checked your records to try and work out whether your company received work from Mr Dubois which involved a kickback?---How would I check that, Your Honour?

Yes, Mr Downing.

30 MR DOWNING: Mr Rifai, you seemed to accept that it's possible that there was a discussion where Mr Dubois asked for some form of money irrespective of how he termed what the basis for the payment was, but you seem to accept that that was possible.---I never said – sorry. I didn't say it's possible. I said there may have been, there may have been. If there was, I don't remember. That's what I said.

Well, why do you think Mr Dubois might have been asking for money from you after you'd been paid in respect of an RTA job?---We're here for a reason. We're here because the, the, the claim is that they're corrupt, so
40 obviously they've done something wrong and we're trying to work out what, what, what part we played in that wrongdoing.

Well, in terms of the payment of that cheque for \$63,800, you seem to be leaving as possible that it was a payment that was made for a subcontractor related to the job.---That's correct, it's a possibility, yep.

But you also seem to be leaving it as a possibility that in fact it was being paid at the request of Mr Dubois.---It's possible, yes.

So you say you literally have so little recollection of that payment that it could be related to either of those things, is that the case?---How would I know?

All right. Do you say that any part of the subcontract work on that job at Galston Gorge was effectively a third of the price of the job?---Yeah.

Which one?---That 60,000.

10

Which one do you think? Which part of the subcontract works you think would amount to \$63,800?---Which part?

Which part?---It could have been, it could have been the, the sewer works, it could have been the asphalt works, it could have been, could have been, yeah, a number of things.

20

So, well, it would be a bit limited, wouldn't it, in that it's almost a third of the entire cost of the job, correct?---Not necessarily. I think I did state at the beginning of my, of my cross-examination today that a fair bit of this job was subcontracted out.

No, I understand that.---Yeah.

But given that that sum, 63,800, is almost a third of the whole price, wouldn't that mean that - - -?---All we did - - -

30

- - - you could narrow it down to only perhaps one or two subcontractors that might have been that big a proportion of the job?---Yeah, what you're saying is probably right, but all we did was the excavation parts of it, the remove, the removal of the excavation. Everything else was subcontracted, everything. Like I, like I mentioned.

But you're able, aren't you, to say of the different subcontractors that you worked with – for instance, you could write off straight away the people drawing up the plans, that wasn't going to cost 63,800.---Yeah.

40

And you could in the same manner narrow down a number of the other subcontractors, couldn't you, and say it couldn't have been that much for that part of it?---It's got to be something major, yeah, a 60,000 lot of money.

So which parts of it do you say possibly might have made up that payment? ---But see, that's the thing. The, the, the, these guys do one job, two jobs, what, what have they've complete, that's why I'm asking for the, their invoice. It's, I think it's fair that I see that invoice.

All right, I'm going to take you to an invoice that's not related to this job, but I'll take you to it in another moment, but you know, don't you, that this

was not the payment of a subcontractor's invoice? You know that.---How do I know that?

Because you know, don't you, that - -?---Can you show me that, I'm, that, can you please – I think I deserve 11 years of, of, of a job.

Mr Rifai, you know because you recall, don't you, that Mr Dubois in fact asked you for a payment?---I, I don't, I don't recall that, no, in fact he didn't ask for a payment.

10

So you have a positive recollection there was no such request?---It's not a positive recollection, and if, if – I'd remember some, I'd possibly remember something like that, if he said that, "You need to pay this," that's almost demanding payment.

All right, let me come at it a different way. You know MWK Developments was not a subcontractor that ever did work for you, don't you?---How would I know that?

20

Because you recall the subcontractors that did work for you.---No, I didn't. What contract did I recall? I said I don't remember any of them.

I know that's your evidence. What I'm suggesting is, if in fact MWK Developments had done work for you, you would recall that that was a company that over time you'd done some work with.---But, but how would I remember that? I explained that was the first time I dealt with the, that whole crew, and that was the last time I dealt with the whole crew, 11 years ago.

30

So you can recall that the company that, what, that you'd got to do subcontract work for the, what, some part of this job was someone that you only used once?---That, that whole crew, I never again – like I said, I never did any more work with them or anything to, got to do with that sort of work, ever again.

Sorry, what do you mean by 'that whole crew'?---Whoever we used from Dubois, to, you know, from the project managers for RMS, to any contractors we used, any, any suppliers we used, I never, I never did that sort of works again.

40

All right. But you've told us, haven't you, that prior to this work – just taking asphaltting as an example, because you've referred to asphaltting as one possibility for the explanation for this payment - -?---Yep.

- - - that you had done asphaltting work before.---It was just that one job of, you know, Mount White.

So you say it was only on one occasion?---Yep. That's it.

All right, and do you say that you just can't assist now as to who the asphalters were for either that job or this job?---I honestly don't remember.

But are you able to say that now you think, what, MWK might have been a subcontractor that did some work on this job?---Well, oh, he's played a major part of that or, or it's possible, yeah.

10 Now, you can agree or disagree with this, but I'm going to suggest to you that in fact you know that Mr Dubois approached you for a payment, perhaps at around the time that you were paid, and said that this was to be his cut of the job. Do you agree or disagree?---I don't remember that happening.

So you just have no recollection of any such discussion?---No.

20 I'm going to suggest also that you made the payment knowing that it was an improper payment that was being sought from you.---I don't remember that happening ever.

All right. I'm going to take you to a particular invoice in a moment, but in fairness to you, because you've indicated that you haven't heard evidence that's been given in this inquiry, I'm going to put certain propositions to you and see if it makes any difference to your version of events.---Sure.

Mr Dubois's evidence has been that in 2011 and 2012 he had a number of contractors make cheques out to MWK Developments in order to pay kickbacks to him.---Yep, okay.

30 But do you say that you don't recall that ever occurring with you?---No, obviously we did, from what you're, what you've pointed out and what you've put forward today, that we did make a payment to MWK. Yeah.

Well, his evidence is that, with a number of different contractors that he was giving RTA work to at the time, that he received kickbacks from them and the way he received them was that he directed them to make cheques in favour of MWK.---In what way, though? In - - -

40 By saying to them that he wanted them to draw a cheque into MWK and to give it to him.---Right. All right, I'll - - -

Do you have any recollection of that occurring?---I'll tell you how it was, okay? So, there was one circle of contractors, right, and we were told to deal with these contractors, through Dubois.

And who was that circle of contractors?---There was, there was a few contractors that did that, all that sort of work.

Who?---I don't remember the names. But MWK would have been probably one of them. Yep.

I'm going to suggest to you that the evidence you've just given is not true evidence, and that you were not told that MWK was an actual contractor.

---It, it is, yeah. That's, I put it to you that that evidence is, yeah.

10 So you say, that you now are able to recall that Mr Dubois told you that he wanted you to work with a certain circle of contractors, is that what you're saying?---That's what the case. He never asked me that question.

All right. So do you mean for the purpose of doing the Galston Gorge job?
---Yes.

Right. Do you say that MWK was identified by him as someone that was to do some of the subcontract work on this job?---Possibly yes.

20 What do you mean "possibly"? Is it your recollection or not?---I don't remember the names, sorry, I honestly don't remember their names. I don't remember none of their names, the company names, I don't remember, yeah, that's what the case was and that's why I never did work for them again because I don't like being told what to do on a job.

30 THE COMMISSIONER: See, Mr Rifai, MWK was not a subcontractor for the purpose of this job, it was not a subcontractor, you can be rest assured that was the case, and yet it's receiving from your company \$63,800. So it's not a contractor, you won't find any invoices, all you'll find is one of your company's cheques in the amount of \$63,800 going to a non-contracting entity, MWK. Now, can you explain how that could have come about?---I can't explain anything than what I've already explained, Your Honour.

You'd agree it is an extraordinary, that is a most unusual situation isn't it?
---No.

So far as your business experience is concerned?---No, Your Honour, no, because I did mention in the beginning that the majority of the job was contracted out.

40 To subcontractors?---Yes.

I'm trying to emphasis to you, you can assume that MWK was not a contractor, it was not a subcontractor, it did not do any work at all in relation to the project that your company did at Galston Gorge. You've got that fact now? You've got that clear?---Is that - - -

Right. No, not a contractor, not a subcontractor, not doing any work whatever, understand?---Yes, Your Honour.

Now, in those circumstances having regard to those facts, for that entity to receive \$63,800 from your company and nothing, not doing any work, is an extraordinary event, isn't it?---If that was the case, Your Honour, then it is, yes.

Right. It would be an extraordinary event requiring explanation. Why then would you be paying \$63,800 to an entity that's done no work? That would be extraordinary, wouldn't it?---Yes, Your Honour.

10 Because you just wouldn't do that?---Yes, Your Honour, that's correct.

Not in the ordinary course of business would you?---Yes.

You wouldn't be paying \$63,800 anything to a company that's done nothing to contribute to a project that your company's engaged for and perform, right?---Yeah.

20 Well, what possible explanation could you give then for that very extraordinary event having in fact occurred with your company, that is, drawing a cheque to a corporate entity that had nothing to do or nothing to contribute to the Galston Gorge project?---Your Honour, if had the documentation in front of me - - -

No, no, no. How can you explain - - -?---I can't explain, Your Honour.

You can't. But you agree that it is an extraordinary event?---It's not, if it was the case, then yes it would be extraordinary but because the majority of the job was subbed out, Your Honour - - -

30 At the time that the cheque was - - - ?---That's 30 per cent.

At the time the cheque was drawn, whoever drew that cheque knew that they were paying a large sum of money that had done nothing to contribute to the Galston Gorge Project?---But, Your Honour, that's, that's what - - -

That would be – no, it is evident, isn't it, that whoever drew that cheque in favour of MWK for \$63,800 must have been aware of the fact that it did no work - - - ?---Your Honour, where's the evidence in that - - -

40 No, don't interrupt my question.---Sorry, okay.

The person who drew that cheque would have been aware that MWK was not a contractor, not a subcontractor, did no work at all?---I can't answer that question, Your Honour.

Well, if there was no invoice, no contract with MWK, it would be obvious, wouldn't it, to the person drawing the cheque, this company's got nothing to

do with the project and therefore why are we going to pay it?---We didn't - -
-

That's logically what a person would ask, wouldn't it? Somebody in your accounts area say, what are we paying this money for? Normally you would say, well, it's a subcontractor or it's a contractor, get the invoices and then you'll be able to answer your own question, right?---Yeah.

10 But that couldn't happen in this case because MWK wasn't a contractor, it wasn't a subcontractor, it did no work. So whoever drew that cheque would be drawing \$63,800 for no good reason at all, isn't that right?---I can't answer your question, Your Honour.

Well, if there are no invoices, no contract, no work done - - -?---If that's what you're saying, Your Honour, there's no invoices, no work done, there's evidence of it, well, then I can't, I can't, I've got nothing to say, Your Honour.

20 But the person who drew the cheque then must have had some other reason for paying the money than paying for work. Correct?---It seems. I, I, I don't know what to say to you, Your Honour. I don't know what to say. If I can, if I don't know, I've been given a lot of material in front of me today to evaluate, look at - - -

30 See, I'm putting to you this is so obvious that a large sum of money is being paid to an entity who's got nothing to do with Galston Gorge project and yet it's getting it, means that somebody is paying it for a reason that has nothing to do with rendering services in terms of the project. So would you not agree that whoever drew that cheque knew they were paying it for a different reason, nothing to do with the project?---(No Audible Reply)

Yes? It follows logically, doesn't it?---Your Honour, what you're saying, like I said to you, Your Honour, there's - - -

But it follows logically, doesn't it? The answer is yes.---Look, today, today, yes, in front of, in front of the court today, yes, it follows logically, Your Honour, but 11 years ago and what happened 11 years ago based on documentation, I can't answer that, Your Honour.

40 You saw the cheque, did you not, on the screen?---No, there was no cheque, but I've seen it before the last time I was in court. It's right. We did make the cheque out, yes.

Perhaps you should be – just so you know how this all affects you, Mr Rifai, it could be said that you are deliberately withholding information from this Commission, that you do know why that \$63,800 was paid, and it might be put that you are deliberately suppressing the truth about the matter. How would you respond if those accusations were put?---No, no, Your Honour,

because it makes no difference to me, Your Honour, Alex Dubois or (not transcribable) I don't do any work for the RMS or RTA, I don't, I've never done another job for Alex Dubois nor spoken to him again after that, so it doesn't concern me. I'm happy, Your Honour, to, to give my evidence freely knowing that I've got no, nothing to lose. The last thing I want any, any repercussions against me, Your Honour. If, if, if there's something I can help the court with, Your Honour, I'm happy to help.

10 Well, I'm helping you, because I'm putting to you that - - -?---What would you like me to say, Your Honour?

I'm putting to you that accusations of this kind might be made against you that you full-well know why the \$63,800 cheque was paid to MWK and you are deliberately suppressing your knowledge about that matter. I think you've denied that.---Your Honour, like I said, based, based on - - -

20 You've denied that I think.---Because of the time factor and because I can't, I can't see any documentation or paperwork that's gone between any, any of the two companies, Your Honour. Only on that fact, Your Honour.

Yes, Mr Downing.

MR DOWNING: Mr Rifai, you do seem to refer to a discussion you say that you do recall where Mr Dubois tells you in effect you are to use certain contractors for this job. Correct?---That was the case, yes.

30 And you say that, do you say you can recall that MWK was one of them? ---I don't recall the name, MWK, but I do recall there were contractors handpicked by Mr Dubois to be used on this contract.

But you've told me already that Towfik Taha is not someone you have any knowledge of as a person.---Not before and not after, no.

But what I'm suggesting to you is that you know - - -?---You've got to expect, 11 years, you know.

40 I understand. But you know, don't you, that MWK was not a company that in fact did any work at Galston Gorge for you. You know that, don't you? ---I don't know that, no.

Now, you've referred on a number of occasions to wanting to see the invoices in the course of response to the Commissioner's questions. ---Yeah.

Now, I'm going to take you to a document, and I think this may be what you've been referring to. If we can go, please, to volume 18.4, page 302. ---Yeah.

The document I'm going to take you to is a document that was found on a hard drive located at Mr Dubois' house when the search warrant was executed on 18 June, 2019.---Yep.

And you'll see first of all it's not from MWK Developments, it's from MWK Pty Ltd.---Okay.

But it is a tax invoice date 1 May, 2011. Do you see that?---Yeah.

10 And it's not related to Galston Gorge, it says it's Blue Mountains civil works.---Yeah, I can see that, yeah.

And you'll see that it's addressed to you, "Hi, Talal." It's a breakdown of works completed based on your request for quote.---Yeah.

And if you then go down, or sorry, if we go back to the page before, you can see from the description under 1.1.1.1 it's a reference to roadworks.---Yep.

20 So there's installation subgrade, if we go over the page, then there's base course, prime coat, binder coat, tack coat, top course.---Yep, yep, yep, yep, yep.

And then clean up.---Yep.

And just by way of comparison, if I could take you back to the request for quote that was originally sent to you for the Galston Gorge job, which is on 21 March, 2011, so go, please, to page 71 of volume 18.4. You remember this is the document that was first sent to you asking Ultimate Demolition to put in a quote for Galston Gorge.---Yes.

30 And if we go then to page 72, you'll see it's the actual request for quote document from the RTA.---Yes.

Then if you go to page 73, you'll see a scope of works.---Yep.

And if you go to 74, you'll see on Asphaltic Concrete Paving it actually shows almost identical wording. So there's subgrade, base course, prime coat, binding coat - - -?---They're just generic words within that sort of field of work.

40 - - - tack coat, and then if you go over the page, top course cutting and patching.---I never use tack coat, just so you know.

And then if you go over the page again, you'll see there's a section with clean-up.---Yep.

So let's go back, if we could, to page 302, please. And you'll see that, going over the page, that it's using the same wording in terms of describing

the asphalt works that this is supposedly describing.---That's the jargon of, the nature of the works.

And you'll see on the next page that it's – oh, sorry, if we go back, please, sorry, second page. So the total is \$58,000.---Yep.

Ex-GST. So that would make it 63,800, inclusive of GST.---Can we flip back over to the first - - -

10 Just wait, please.---Sorry.

Just wait.---Sorry.

And it's signed off as "Terry Taha, Director".---Yep.

Now, first of all, you know, don't you, that MWK was not a company that did any asphalt works for you on any job. You know that, don't you?
---How would I know that?

20 Through your memory. Do you say that – well, pause, let me - - -?---So you're asking me, you're asking me to say yes to something that I don't remember? Is that correct?

No, I'm asking - - -?---Okay, Thank you. Well, then I don't remember.

- - - whether you genuinely remember it or not.---I do not genuinely remember. Honestly, and I swore it on the Koran. I'm not going to swear on the Koran as a lie. I don't, I do not remember 11 years ago.

30 All right.---I don't remember my children's birthdays.

All right, go back to the page before, please. You'll see that the email on this, despite it being MWK Pty Ltd, is info@ttsgroup and it's from Terry Taha.---Yep.

And if you go over the page, Terry Taha, as I said, is the director who signs off.---Okay.

40 Now, do you say now that Terry Taha might have been someone that was in charge of a company that was doing subcontract work?---As per the document I have in front of me, yes.

Well, can you explain why this would be found on Mr Dubois' hard drive at his home? Can you think what role Mr Dubois had in this document?
---Probably one of his buddies.

Right. I'm going to suggest to you that – well, first of all, I withdraw that. Do you recall ever receiving this from Mr Dubois?---I don't remember. Did he ever send it to my email or - - -

Well, I don't have any record to suggest that he did.---Okay, sorry.

10 But that sum 63,800, which is what you would get to if you added GST to this, corresponds with the payment that was made not to MWK Pty Ltd, but to MWK Developments. That's the account I took you to before.---Okay, so that payment was for this.

That's not what I'm suggesting.---Oh, sorry. Sorry.

What I'm asking you is, given that the sums seem to match, do you think that Mr Dubois may have said to you, "This is what you need to pay me," and this document would provide some explanation for what's been done? ---No, no, no, no. If that's, if this guy's given us an invoice, but it's saying this is a Blue Mountains job.

20 It's got nothing to do with Galston Gorge, does it?---Yeah.

And it's, and it's - - -?---That's what it's saying, yeah. But we did do a job at Bell, didn't we? Do you remember last time you said that we did a job at Bell?

No, I don't remember saying the last time you did a job at Bell. What I'm suggesting is that you told me that prior to the job you did for Mr Dubois at Galston Gorge, you had done a job at Mount White. Correct?---Yeah, yeah, Mount White, yeah, yep.

30 That was the job for Mr Chahine and Mr Hadid.---Yep, yep.

Looking at this, you know that this doesn't relate to any subcontract works that you paid MWK Developments to do, don't you?---Why not?

So you leave that open as a possibility?---Absolutely. Why wouldn't you?

40 Because I'm suggesting that you know, if you actually answer honestly, that Mr Dubois asked you for a payment at the conclusion of the Galston Gorge jobs and that's what you paid.---Okay, I've never had an asphalt account, I've never had an asphalt paver, I've never had an asphalt crew.

All right.---Never.

In fairness to you - - -?---Have a look at my records. I've never paid for asphalt in my life.

All right. In fairness, I've taken you to what Mr Dubois had said about MWK and companies that were making payments into it. But I want to also take you to some of the other evidence given by other persons.---Yep.

Towfik Taha has also given evidence to this Commission that he set up MWK.---Yep.

And that his company TTS then paid kickbacks into the MWK bank account at the ANZ.---Well, kickbacks to who? To Dubois?

10

That is, to Mr Dubois, because Mr Dubois - - -?---There you go, there's the answer sorted.

Wait for the question, please.---Sorry. Sorry.

THE COMMISSIONER: Please do not make comments, do not make statements. Sit there, listen to the question, and answer questions.---No problem, Your Honour.

20

Do I need to keep repeating it?---No, Your Honour.

You don't interrupt Counsel and make statements, ask questions. You answer questions.---No worries, Your Honour.

30

MR DOWNING: Mr Taha has given evidence that he did a number of things. The first is that he set up MWK Developments at Mr Dubois' request. The second thing he's given evidence is that his company TTS, which was an RMS contractor, paid kickbacks into that account. And the third thing we know – and I can take you to the record if you need to see it – is that on the MWK Developments account, which is the same account that you paid the UDE Group cheque into, that Mr Taha was a signatory but so was Mr Dubois. Now, having heard that, do you say, do you still say that Mr Dubois didn't ask you to draw the cheque and then you handed it to him in favour of MWK Developments? You maintain that that didn't happen with you? That's the question.---Can I, can I, can I talk?

40

That's the question, so please respond.---Okay. Okay. So like I said before, I don't remember that, any of that happening, no. I don't remember any of that happening. Like I said to you before, Dubois made us use his contractors. Obviously that's his contractor, and that's part of Dubois.

All right. I've put it to you already that you know that MWK Developments was not a contractor that ever actually did genuine subcontract works. But you don't accept that, do you? You say that that may have happened. Correct?---Oh, I'm not, I'm not affirming, not denying it, oh, how would I, how would I know if that is the case, if I've been given – back then, if I was given an invoice, I paid it. Just simple as that. You just, we pay invoices.

So is this the case, that if Mr Dubois had given you an invoice on, that is, an invoice to do with the Galston Gorge job, you would have just paid it?---Not Mr Dubois, why would Mr Dubois give me an invoice?

That's my point.---Yeah.

You know that the request for this payment came from Mr Dubois, not from someone else, don't you?---No, sir, I don't.

10 All right. Now, Mr Chahine, who you know from work and also you have a relationship with - - -?---Yeah.

- - - he also gave evidence that he and Mr Hadid had paid through their company Complete Building Fitout, and also their subsequent company CBF, cheques at Mr Dubois' direction into MWK Developments in the form of kickbacks. Now, do you say that you don't recall that there was a request of that nature made by Mr Dubois to you?---Not to me, no.

20 Now, Mr Chahine also gave this evidence, and this is at transcript – perhaps if we could have the transcript brought up for a moment, transcript 1606. This is the evidence Mr Chahine gave on 4 June, and I asked him some questions, starting at about line 8, about whether other contractors were making kickback payments into MWK. And if you see from about line 11, I'll read the questions and answers. I asked, "And I take it that over time you met other contractors on the job that were doing work for Mr Dubois?" ---Sorry, I think we're on the wrong page.

1606, no, line 11.---I see. Line 11.

30 "And I take it over time that you met other contractors on the job that were doing work for Mr Dubois?"---Oh, sorry, yep, yeah.

40 Answer, "Correct." "And for instance, you learned that Mr Rifai, after you'd used him at Mount White, had been retained by Mr Dubois for the RMS." "Yes, correct." "Did you ever know for a fact that anyone else was paying money into MWK?" "I just assumed they were, but yeah." And I asked, "No-one ever told you they were?", and his answer was, "I think, oh, I had this one conversation with Mr Rifai and he just basically said he'd done a job and he asked for an X certain amount of money, and he just said, 'F that.' He didn't want to continue." So I asked, "So Mr Rifai told you he'd done a job for the RMS?" Answer, "Correct, yeah." Question, "For Mr Dubois?" Answer, "Dubois, yeah." Question, "And that Mr Dubois had asked him for money." Answer, "Yeah, a certain amount. It's pretty high, like, I don't know the amount, and Mr Rifai just said, 'Stuff that', and yeah." Question, "So he did inform you that he'd been asked to make a payment?" His answer was, "Sorry." Question, "Mr Rifai told you that that's one contractor who did tell you. You didn't just suspect, he told you that he'd been asked." "Yeah, well he told me that he asked for this certain

amount of kickback and Mr Rifai didn't want to do work with him after that." So, and then question, "Right. So, all right." Answer, "I think that's why they had a fallout." So having seen those answers from Mr Chahine, first of all, do you agree that you told Mr Chahine those things?---I don't remember saying that but if that's what he said, if that's coming from him -
--

THE COMMISSIONER: Sorry, I can't hear you, what's your - - -?---I honestly don't remember having that conversation.

10

But you don't deny it?---I'm not going to deny it, no, I don't remember though.

Mr Chahine's somebody who's word you accept?---He's a good guy, yeah, yeah, he's a good guy.

Good guy?---Yeah.

20

So far as you know, honest, straightforward?---Yeah, I did have a fallout with him, Your Honour, I did.

Just answer my question.---Sorry.

Regarding he's honest and a straightforward person?---Yes.

And who you can rely on?---Yes.

30

And you don't, for a moment, dispute anything as to what he said you said to him as just read to you from the transcript?---I – yes, Your Honour?

You don't dispute anything that his account as to what you said to him?---I don't remember saying it in that form, but it's possible.

I know you said you don't remember now, but you don't dispute Mr Chahine's evidence, do you?---I did have a fall out with Dubois, yes.

40

Yes. What about the rest of it that Mr Chahine talks about, that you took a stand, you said stuff him or something, words to that effect, I'm not going to pay him money. Right?---Yes.

You were standing up to Dubois, you were not being pushed around in other words?---That's what happened, yep.

Do you remember doing that?---Yep.

You do remember doing that. You weren't going to be pushed around by Dubois and certainly you were not going to succumb to his demands, is that right?---Yes, sir. Yes, Your Honour.

What did you say to him? Did you say piss off, stuff it, get lost - - -?
---Yeah, I did.

- - - or what did you say?---Yeah, I did, Your Honour.

What did you say to him, Dubois, about what Mr Chahine is talking about here?---I told him to stick it, I told him to stick it up his arse.

10 What?---I told him to stick the contract up his arse.

Is that how you put it to him?---Yeah.

How did he take that?---He didn't like it.

He didn't like it?---He actually did, he took it off me. He took it off me and I said, "It's fine." He tried to then.

20 We know this much, then. Firstly, Dubois was putting the heat on you about payment, right?---What's that, sorry, Your Honour?

Dubois was putting the heat on you to make payment to him and you were taking a stand, no, I'm not going to do it, is that right?---Yeah, yeah.

You knew when he made that request or demand, what was it, a request or a demand by him?---Bit of both, Your Honour.

Bit of a demand, bit of a request?---Yeah.

30 It's about money?---Yeah.

And it was about your money or your company's money?---Yes, Your Honour.

And he wanted a slice of it, is that right?---Yes, Your Honour.

Right. How much did he ask you for?---I don't remember, Your Honour, I don't think it got to a stage where we got into a figure, I didn't allow it to happen.

40

Do we take it that he was asking for a substantial sum of money, not a trivial amount?---I honestly don't remember, Your Honour.

Well, you react strongly, you said?---Yes.

In effect, tell him to get lost, is that right?---Yes, Your Honour.

So, he must have been asking you for a significant sum of money to get that reaction from you?---Your Honour, I worked very hard on that job - - -

No, no, just answer my question.---Sorry.

For you to react in the way that you did, get stuffed, or words to that effect, he must have been asking for something significant from you?---I don't remember, Your Honour, but it was the case, yes.

10 What you realised he was up to was he was - - -?---It was like extortion.

- - - having given you the contract, your company the contract, he expected a cut?---It was more like extortion, Your Honour, you know like a - - -

More like a?---Extortion.

Yes, that's right.---Yeah.

20 All right. So here we have Mr Dubois using his position to extort money from you or from your company, is that right?---Yeah.

You didn't like that one little bit?---No.

No. But did you end up, did you end up, however, perhaps once things cooled down, making that payment to him?---What happened, Your Honour, the honest truth, he came back and said that if he cancelled my contract, he has to pay me 30 per cent.

30 Now, did you pay him money?---Pay him? At that stage, no.

Did you pay him money - - -?---No.

- - - or your company pay him money?---No. That - - -

Well, at some stage of the game you paid some money?---He said, Your Honour, for me, for me to do the work we have to use his contractors.

40 So was he in effect extorting money out of you on the basis that if you don't pay, you won't get any more work?---Well, we're never getting any more work after I didn't give him any money. I didn't give him any money and he never gave me any more work. I was, I was the only one that ever did one job and that was it.

Well, you say that, and yet we know 63,800 was paid through this company MWK.---Like I said, yeah, like I said, Your Honour, that would have been one of his contractors, and we were - - -

Well, it wasn't one of his contractors, I can tell you that.---Yeah. We were forced, we were forced to pay that into - - -

See, the reality is this, isn't it? That in respect of the contract at Galston Gorge, he wanted a share. He wanted a share for himself personally. That was part of the deal, wasn't it, that he wanted - - -?---I don't know how, how he put it, Your Honour, but from what you can see in front of you, and if that's what you're saying, then it is what it is.

10 But that must have struck you that way, that what he was saying is I'm in a position where I can award contracts to companies like you, but I expect to get a payment, a share of the action.---May I ask, may I, may I say - - -

No, no. Whatever words he used to express it, that's the idea he conveyed to you, I take it.---I don't remember exactly what happened, Your Honour, but based upon what Chahine has put forward - - -

Well, was it along the lines that I put to you?---It may be possibly, Your Honour.

20

So does all of that now jog your memory about this 63,800, that you did end up paying him money?---Honestly, Your Honour, I still, I still, can't jog my memory because we used – the majority of the work was subcontracted out. So we could have done the whole job ourself, Your Honour.

Did you take any action over this? Did you go to RTA and said, "I'm going to report you. I'm going to report this guy"?---Your Honour, I got a, may I just give you a quick - - -

30 No, no, did you consider reporting him to the RTA over his demand - - -? ---I never knew that was an option back then, Your Honour.

- - - over his demand/request for money?---I didn't want any trouble, Your Honour.

So you decided you wouldn't lodge a complaint or a - - -?---Yeah, I just didn't want no trouble, Your Honour. I just decided never to work for them again.

40 MR DOWNING: But do you say that after Alex in effect extorts the money, tells you he needs to be paid in return for this job, do you say that he did take the job away from you?---Yes, he did.

So in the sense that you didn't organise the subcontractors, he organised the work, is that the case?---No, no, no, what happened, he, he said that he's going to take the contract away from me. He threatened to take the contract away from me. And then almost instantaneously, I think it was the next day or the day after, he called and said, "I have to give you the job." And I said,

“Why is that?” He said, “Because if I take the job from you, I have to pay you and exit contract for 30 per cent for nothing.” I said, “That’s fine, I don’t want to do the job.”

But isn’t it the case that you know ultimately that the sum that was paid to MWK Developments represented his cut, it didn’t represent a genuine subcontractor’s bill on the job?---So it may, he may, whatever they had going with MKW [sic] Developments was between them. Not, it wouldn’t have been from me.

10

You had no connection with or - - -?---No.

You had not organised for MWK to do anything on the job, correct? You’d not organised for MWK Developments to do any subcontract work on this job?---They, I don’t remember if they did or they didn’t. Sorry, well, reword that. I don’t remember who did what, but whoever got paid on that job, it was for something. I wouldn’t have paid someone for no reason. Wherever that money, wherever that money went back to Dubois or, or whoever it went back to, that’s something you need to take up, right, with Dubois.

20

Isn’t it the case that you know, you, you handed a cheque for MWK Developments to Mr Dubois, not to someone else for subcontract work. It was something he asked for and he received.---That, that’s not true. I don’t remember that happening.

All right. So you maintain - - -?---I’ve been – sorry.

30

- - - you maintain that it was a payment for genuine subcontract works, is that the case?---That was ordered by Dubois, yes.

And you say you have knowledge that that work was done?---All the work was done onsite, everything.

So you can recall someone from MWK coming along and doing subcontract works?---I don’t remember the actual company and who did what, but there was a few companies onsite that did a lot of work there.

40

All right, Commissioner, they’re the questions I have for Mr Rifai.

THE COMMISSIONER: Is there any application to cross-examination Mr Rifai? I see there’s - - -

MR PICKIN: Not from me, Your Honour.

THE COMMISSIONER: No, very well, thank you. No application made. Very well, then any reason why Mr Rifai should not be released on the same basis as other witnesses?

MR DOWNING: No, I have no reason.

THE COMMISSIONER: Yes, very well. Mr Rifai, that completes your examination today.---Thank you very much.

You remain under summons in case you're required at a future date.---Yes, yes.

10 And if you are, you'll be given due notice.---Yes.

You remain under summons in case you're required at a future date, and if you are you'd be given due notice. That may not happen but it may. ---That's okay. I'm happy to come again.

And if it turns out that we don't have any further requirement for you to attend, then you'll be advised that the summons has been discharged. ---Thank you, Your Honour.

20 Thank you. You may step down, Mr Rifai.---Thank you very much, thank you.

THE WITNESS WITHDREW

[12.55pm]

THE COMMISSIONER: Mr Downing, is there anything you want to raise?

30 MR DOWNING: No, other than just to note that the next witness is Mr Sangari. He is here, but given the time I don't know whether it's more convenient to take lunch and then start perhaps a little earlier at 10 to 2.00 or just to start in an hour.

THE COMMISSIONER: I see, Mr Robertson, you're here for Mr Sangari.

MR ROBERTSON: If the Commissioner pleases, we're quite content to commence if that's convenient to the Commission, but either way we're in the Commission's hands.

40 THE COMMISSIONER: All right. How long do you think you might be with Mr Sangari or is it too hard to tell?

MR DOWNING: Ms Spruce is doing Mr Sangari, Commissioner, so - - -

THE COMMISSIONER: I'm sorry, Ms Spruce. If you can't say, don't - - -

MS SPRUCE: I'm not sure, Commissioner. Certainly the afternoon, but he may go over to a second day.

THE COMMISSIONER: I see. All right. Well, I'll adjourn at this point and we'll resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[12.56pm]