

PARAGONPUB02971  
29/03/2022

PARAGON  
pp 02971-03014

PUBLIC  
HEARING

COPYRIGHT

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 TUESDAY 29 MARCH, 2022

AT 10.00AM

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

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

THE COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Commissioner, the first witness today will be Mr Dubois for the resumption of his evidence. I understand he's available on a screen and I hope he can see and hear.

THE COMMISSIONER: Good morning, Mr Dubois. Can you hear me?

MR DUBOIS: Yes, I can hear you.

10

THE COMMISSIONER: Good. Yes, very well. Now, Mr Dubois, we're going to take further evidence from you in the public inquiry this morning. For the purpose of giving evidence, do you wish to take an oath or an affirmation?

MR DUBOIS: (not transcribable)

20 THE COMMISSIONER: Sorry, that didn't come through. Seems to be a problem with the transmission. Sorry, Mr Dubois, not your fault but there seems to be some fault in the system. I can't hear you. I'll try again. Will you take an oath or an affirmation?

MR DUBOIS: I'll take an oath.

THE COMMISSIONER: An oath, all right. And do you have a Bible handy?

MR DUBOIS: No (not transcribable)

30 THE COMMISSIONER: All right. What do you suggest, Mr Downing? We have a Bible here - - -

MR DOWNING: Perhaps we can do it with the Koran, which can be the text I understand that Mr Dubois had used previously. The alternative would be to - - -

THE COMMISSIONER: Oh, I see.

40 MR DOWNING: - - - do it by way of an affirmation but perhaps if, could you explain to the witness that either way it requires him to give a confirmation of his - - -

THE COMMISSIONER: Yeah. Mr Dubois, just to inform you, as Counsel has suggested, a witness may, if it's satisfactory to them and they wish to take an affirmation, then an affirmation can be taken on the basis of the Koran in which I understand, correct me if I'm wrong, but which you would find consistent with your beliefs. Alternatively you can take an oath. Are you prepared to take an affirmation on the Koran, that is an affirmation?

10 MR DUBOIS: Yes. Whatever works, Commissioner.

THE COMMISSIONER: Sorry, say it again?

MR DUBOIS: Whatever's more convenient.

THE COMMISSIONER: Yeah, all right. It's not just convenience, but if you're satisfied that taking an affirmation is appropriate for you, on the Koran, then we will proceed in that way. All right?

20 MR DUBOIS: Okay.

MR DOWNING: I'm just concerned that, an affirmation would normally be on the basis of not swearing an oath on any religious text, as opposed to an oath on either the Bible, the Koran or whatever other religious text.

THE COMMISSIONER: Yes, yes.

30 MR DOWNING: So, perhaps, I don't want to make it difficult but I just wonder if the affirmation might be done without reference to the Koran or if Mr Dubois has a Koran handy, we could have that brought and he could give the oath on that. It's only a formal matter but I just don't want it to be thought there was some defect in the way in which he gave his confirmation to this Commission that he is swearing - - -

THE COMMISSIONER: Perhaps you might clarify that then with - - -

MR DOWNING: Mr Dubois, it's Mr Downing, Counsel Assisting, do you have the Koran with you at your location?

40 MR DUBOIS: No, I don't, sir.

MR DOWNING: All right. Well, on the bright side we seem to have better audio. But if perhaps you could just give an affirmation then, but using the standard wording without having to refer to any religious text.

THE COMMISSIONER: Yes, very well. Mr Dubois, in the light of what you've said we'll proceed by way of an affirmation.

MR DUBOIS: Yeah.

THE COMMISSIONER: Now, Mr Dubois, there may or may not, we hope not, be technical problems. When we first started this morning there seemed to be a technical problem, I wasn't able to hear you or receive your responses clearly. However, it now seems there may be a correction so we'll just, we might need a bit of patience on both sides to get it right but hopefully the technology now is working and we'll proceed on that basis and if we have to adjourn well, so be it, but let's see how we go. Thank  
10 you. All right. Mr Downing.

MR DOWNING: Thank you, Commissioner. Perhaps, I understand Mr Dubois isn't legally represented today but in his early evidence I'm fairly certain he did, initially through his legal representation and then when he appeared without representation, seek an order under section 38.

THE COMMISSIONER: Yes.

20 MR DOWNING: Perhaps if might just be raised with him again as to whether he seeks that protection.

THE COMMISSIONER: Yes. Thank you. Mr Dubois, you heard what Mr Downing has said. He just raised a matter in your interest that you previously did give evidence under the protection of an order that I made under section 38 of the Independent Commission Against Corruption Act, and just to remind you of what deals with, that provision entitles a witness to object to answering questions or object to producing documents or other items if they're required to produce documents or other items. You still  
30 must of course answer the questions or produce the documents or items but by objecting the evidence you give under objection can't be used on a future occasion in any proceedings against you with one exception and that is that the evidence can be used against a witness who objects on the basis that the evidence constitutes an offence under the Independent Commission Against Corruption Act such as an offence of wilfully giving false evidence. Apart from that exception, the witness does have the protection against the evidence being used in other proceedings. Do you understand what I'm referring to?---Yes.

40 And is it your wish to take objection for that reason?---Yes.

I'll make a declaration under the provisions of section 38 of the Independent Commission Against Corruption Act in that the evidence now to be given by the witness, Mr Dubois, is evidence to which he objects, and if he were required to produce any document or item, he's indicated that he would object to doing so. Provisions of section 38 have been explained to the witness and he has taken the benefit of that provision on a future occasion when he gave evidence. Accordingly I make a declaration under section 38 that the evidence now to be given by Mr Dubois is being taken subject to objection. That being the case, it won't be necessary for Mr Dubois to make  
10 objection to each individual answer or document or item he might be required to produce but the objection applies to all answers and any document or item that he may be required to produce in the course of his evidence.

**DIRECTION AS TO OBJECTIONS BY WITNESS: I MAKE A DECLARATION UNDER SECTION 38 THAT THE EVIDENCE NOW TO BE GIVEN BY MR DUBOIS IS BEING TAKEN SUBJECT TO OBJECTION. THAT BEING THE CASE, IT WON'T BE  
20 NECESSARY FOR MR DUBOIS TO MAKE OBJECTION TO EACH INDIVIDUAL ANSWER OR DOCUMENT OR ITEM HE MIGHT BE REQUIRED TO PRODUCE BUT THE OBJECTION APPLIES TO ALL ANSWERS AND ANY DOCUMENT OR ITEM THAT HE MAY BE REQUIRED TO PRODUCE IN THE COURSE OF HIS EVIDENCE.**

THE COMMISSIONER: Anything else?

30 MR DOWNING: No, Commissioner. Thank you.

THE COMMISSIONER: Okay. Very well, Mr Dubois, we will commence now the examination. Thank you.

MR DOWNING: Thank you, Commissioner. Mr Dubois, can I just first of all confirm that you can see and hear me okay? The connection doesn't seem perfect today although it seems to have improved, but can you just indicate whether you can see and hear?---I can hear, yes.

40 You can't see me?---I can hear you (not transcribable) see you (not transcribable) I can see.

Okay. All right. If at any time there's difficulty with you being able to understand what I'm saying, if there's a problem with the audio, please let me know.---Okay.

Also if you do feel the need for a break at any stage please let me know.  
---Yeah. I was just going to add that in. It's, I'm not sure if the Commission is aware but the recommendation from my doctors was I needed more time for recovery. That wasn't, isn't accepted so I may need  
10 to have breaks as I see that I feel. It just depends on my (not transcribable)

If you do feel unwell please let us know and the Commissioner will deal with any need for breaks during the course of the day.

THE COMMISSIONER: Mr Dubois, the Commission has received a report from your general practitioner dated 16 February, 2022 which I've read. The matter to which you refer there, that is to say the need for taking a break if you feel you need a break - - -?---Yes.

20 - - - it's not specifically dealt with in the report but I'm mindful of some of the issues, your health issues and if you do feel you need to take a break because you're either tired or not feeling well or something of that kind related to your health, then all you need do is indicate that to me and I will take a break in the evidence, so that you're not required to be there continuously when you're feeling unwell. You just indicate to me if you feel you need to have a break and I'll deal with the matter that you raise. All right. You understand?---Yes. Thank you. Thank you.

Yes, Mr Downing.

30

MR DOWNING: Thank you, Mr Dubois. In the course of your evidence today, I'm going to take you through a number of different topics and I will take you to documents to refresh your memory but it will be taking you to documents in respect of evidence I've asked you about before, but if at any stage you don't understand or you would like reference to a particular document, please let me know.---Okay.

I want to start with just a question about the proceedings after you gave your evidence previously. Have you watched any of the evidence given by the  
40 various contractors after you gave your evidence?---No.

So you haven't watched any of it?---No.

Right. So you're unaware of what oral evidence different contractors have given?---Correct.

And just so we're clear, when I talk about the contractors, I'm talking about the different contractor companies that you gave work to and it's alleged that you received kickbacks in one form or another from.---Yeah.

10 And I'm talking about the period from about 2010 right through to 2019. And you'll recall that I asked you a number of questions about different contractors in your earlier evidence?---Correct.

Okay. Can I start with A&A Structural Solutions and Senai Steel. Do you remember those companies?---Yes.

And they were companies controlled by the brothers Abdula Nachabe and Gamele Nachabe?---Yeah.

20 There was some evidence given by Gamele Nachabe that he believed that after quotes were submitted by Senai Steel that they were manipulated in some way so that they were increased. And can I take you, please, just to some documents to make sense of that. Do you recall any of the jobs that Senai Steel did?---Talking a long time ago, yeah.

We are. Just in order, though, you do recall, don't you, that A&A Structural initially did reports on gantry structures around various locations in the state?---Yes.

30 And identified works that needed doing on different gantry structures?---Yeah.

And then it's the case, do you recall, that Senai Steel then did some of that work, that is, went out and did the repair work or remediation work on different gantry structures?---Yeah.

And the particular example I want to take you to is Dundee. Do you remember work at Dundee where there was a gantry structure?---I recall the, the location. I just don't remember the work. It was a long time ago.

40

That's all right. I'll take you to a document. If we could please go to volume 8, page 2472. And the document should come up on the screen in front of you in a moment and tell me if they have.---Yeah.

Okay. So do you see that this is a preliminary quote from Senai Steel dated 23 September, 2011, in respect of the Dundee Safe-T-Cam site?---Yeah.

And you'll see it refers to a request for quote of 2 August, 2011. The cursor's just moving around there. Do you see that?---Yeah.

10

And if we go ahead, please, to the next page, you'll see there's a breakdown here of the scope of works including the disassembly of the gantry structure, if we then move ahead. I won't read it all out but you'll see there's the various elements of the works there in terms of the rectification works, the installation of new steel parts, some road-based work and then work as per the executed drawings and survey certificate. Do you see that?---Mmm.

If we go ahead, if we scan down the page please, and if we keep going, we're now at 2475, now at 2476, you'll see that the price was \$118,566.75.

20

---Ah hmm.

And that's exclusive of GST, you'll see from below.---Yep.

Can I then, please, take you in the same volume to the relevant purchase order, and it's at page 2493. Bearing in mind this is Dundee, and bear that price in mind, 118,566.75. You'll see, this is an email now, 11 October 2011, in respect of Senai Steel, and you'll see that it's attaching a purchase order.---Ah hmm.

30

Do you see that?---Yeah, I see a document, yeah.

Well, do you see that it's an email, as it says, on 11 October from the Contracts or Finance section of the RTA to you attaching a purchase order in respect of Senai Steel?---Okay.

And if we go to the next page. And do you see now that this is a Senai Steel purchase order and you'll see it relates to Dundee?---(NO AUDIBLE REPLY)

40

Do you see that?---Mmm, Dundee, yeah.

So a Safe-T-Cam works contract and you'll see from the description there it's the same works in respect of which the quote was provided.---Can I see the amount?

Sure. So the amount is 161 thousand – sorry, if we go back up – 611.77, plus GST. So if we go down again, please, that the total inclusive of GST is \$177,772.95.---How much was the quote again previously, sorry?

Sure. It was 116,000 - - -?---That doesn't make (not transcribable)

10

Well, we can go back if you like. So back to 2472, but it's, sorry – can we go back, please, to the quotes, so page 2472? So that's the beginning of the quote and if you skip ahead, please, to 2476 you'll see \$118,566.75.---Yeah.

So, there's a difference between the preliminary quote sum and the amount that was the subject of the purchase order. Gamele Nachabe's evidence was that when he found that out he spoke to his brother and organised a meeting with you, which occurred at Boggabilla where he asked you why it had been changed in that way. So first of all, do you have any recollection of that, a meeting at Boggabilla to discuss the change in the quoted amount and ultimately the invoiced amount?---No.

20

His evidence was that at that meeting where he asked for you to explain why the purchase order was for a greater sum, you indicated that included your management fee.---That's, no, I don't recall that.

So his account, by inference, was that he didn't include an increase in the invoice but it in some way had been changed or manipulated by the time of the purchase order being issued. Do you recall that?---I don't recall that meeting.

30

You don't recall a meeting at all?---Oh, well, we spoke to the guys multiple times but I don't recall that, what you're saying.

Do you ever recall you personally changing the price in a quote or an invoice from Senai Steel in order to increase it?---I don't remember. Again, like, we've, there's been numerous, numerous contracts. This is, I'm not trying to avoid the question, but this is back in 2011. You asked me if I remember the detail. I don't recall that, I'm sorry.

40

All right. Do you recall, though, using the term “management fee” to Mr Gamele Nachabe as a way of explaining why a certain payment needed to be made to you and that needed to be included into the contract?---No, I don’t recall using that term.

You’re not disputing, though, are you, that you received kickbacks from both Abdula Nachabe and Gamele Nachabe?---I’ve already stated this in my previous evidence.

10 All right, thank you. Do you recall that in effect there were two forms of kickbacks you received? When it came to A&A Structural, you sought and received a kickback at the point where draft reports were prepared, and you asked for the increase to be included in the price then. Do you recall that? ---Sorry, can you repeat that? The first part of the question, sorry.

Sorry, it did have a bit in it. So with A&A Structural, you recall that they did reports in respect of multiple gantry sites.---Correct.

20 And what I’m suggesting is that with them what would happen typically was that when a preliminary report was prepared, you would then suggest that you needed to be paid a project management fee, and it would then be included in the cost that was invoiced. So that’s with A&A Structural. ---No, the last, my last evidence, I didn’t even remember getting any kickbacks from that particular contract, but you’ve showed me that I had received something (not transcribable) via electronic transfer. So I didn’t dispute that. I don’t recall asking them for a management fee for every site.

30 Well, I didn’t say necessarily for every site, but typically I’m suggesting the way you sought them with A&A Structural was that when preliminary reports were submitted, you would then say in most instances that the price that was to be billed was to include a project management fee for you. ---Again, I don’t remember the, I don’t recall using that term (not transcribable) I don’t even remember getting kickbacks from A&A Structural, yeah.

40 Okay. But what I’m suggesting is that with Senai Steel, and this is the evidence of Gamele Nachabe, you can agree or disagree, he said that what would happen was that a quote was put in and it was then manipulated in some way so that by the time it came to invoicing and purchasing, sorry, purchase orders being issued, that the price had been increased.---I don’t recall that. I, I do recall something along the lines of first project they did,

they sort of, they somewhat under, under, what's the word, underestimated the amount of work needed. They believed that they actually couldn't, maybe the quote wasn't correct or accurate to cover all their costs and overheads. I recall conversation along those lines, but I don't recall this meeting that Gamele was talking about.

THE COMMISSIONER: Mr Dubois, so far as including an extra amount for you, call it a management fee or something of that kind, as the evidence referred to, do you dispute that it was part of your practice to manipulate,  
10 that means change a quote, for example, to include a kickback amount for you?---Yes, I do dispute that. It wasn't a regular practice of mine.

Sorry, say it again?---Yes, I do dispute that. It wasn't a regular practice of mine.

Was it a practice that, from time to time, you did employ?---It could have been, but I don't recall these (not transcribable) instances.

Okay. Yes, Mr Downing.

20

MR DOWNING: Thank you. All right, well, I'm going to come back to the alleged meeting at Boggabilla attended by Abdula Nachabe, Gamele Nachabe and you. I know you say you have no recollection. I'm going to provide a bit more detail as to what Mr Gamele Nachabe says, and please tell me if it assists your recollection at all or if it would still be the case that you can't recall. He says that when he challenged you about why the price had been increased, you said that it was your management fee and it included all of the work you had to do in terms of the documentation of the job. Do you recall ever saying that?---I just said to you, sir, I don't  
30 remember ever having a meeting.

What I'm doing, though, is I'm providing a bit more detail about what's alleged, and if it doesn't assist, or if it does, please let me know.---(not transcribable) if I don't remember, I don't remember, so - - -

I'm not challenging that your evidence is you don't remember, but what I'm doing is providing a bit more information and then asking whether it assists your recollection or not. You can tell me it doesn't, you can tell me it does, you can tell me you don't remember.---Yes, I don't remember.

40

All right. I'm suggesting that at the meeting you actually said to Gamele and Abdula Nachabe that if they didn't like the project management fee, then you could get someone else in to finish the job. You recall saying something to that effect?---I don't even remember saying that, no.

10 All right. And I'm going to suggest that at the meeting you've said words to the effect of you'd happily relieve Senai Steel of the job if they weren't happy with the arrangement. Do you recall that or not?---(not transcribable) think so. So I'm being painted as the bad guy here. I don't recall ever saying that.

All right. Do you, this is still dealing with A&A Structural and Senai Steel. Do you recall ever asking Abdula Nachabe to provide a dummy quote on behalf of A&A Structural for the purposes of a steelwork job?---Can you just repeat that?

20 Sure. I'll go back to perhaps provide some context. You're aware, aren't you, that A&A Structural was an engineering company. Correct?---Yes, correct.

And you used them for the purposes of going out and doing inspections of the gantries and then reporting on what works needed to be done to make a gantry sound. Correct?---Yep.

And you're aware also that while Abdula Nachabe worked in that company his brother Gamele worked in Senai Steel which was a steel fabrication company.---(not transcribable)

30 Right. Well, I'm not going to dispute with you that Abdula Nachabe had something to do with Senai Steel as well, but just in terms of what each of those companies did you're aware, aren't you, that Senai Steel wasn't a company that was an engineering concern, it was a company that did steel rectification works and steel fabrication? Correct?---(not transcribable) of course, specialises in, yep.

40 All right. But what I'm suggesting to you is that on at least one occasion you asked Mr Abdula Nachabe to have A&A Structural quote on a job as though it was putting itself forward to do the steel rectification works. Do you recall that or not?---It's possible. I don't recall that this was (not transcribable) but it's a possibility because it - - -

All right.--- - - - it was done, it was done on other contracts.

Right. Well, in fairness can I take you, please, to volume 8, page 1453.  
---Ah hmm.

It'll come up in a moment. So you see this is a 1 June, 2011 A&A Structural Solutions quote for Tomingley rectification works. Do you see that?---Can you make it bigger, please. Yep.

10 And you'll see under scope of works you can see straightaway, can't you, that this is not describing engineering analysis or reporting, it's actually describing work on the gantry structure at Tomingley? Do you agree or disagree, Mr Dubois?---(not transcribable)

I'm sorry, I'm going to have to ask you to repeat that because the sound just cut out.---I said yep. Yep.

Okay. And if we move to the next page and you'll see that the price for that job is 137,500 ex GST.---Ah hmm.

20

And at the bottom of the page it bears the electronic signature. If we can go down, please. Or it may actually be a real signature but of Abdula Nachabe.---Yep.

If we go back up just so you keep that price in mind \$137,500, and it was a 1 June, 2011 quote from A&A Structural. Can I then ask you to go, please, same volume, page 1445 and you'll see that this is a quote from Jim, and I'm going to ask you to assume that that's Jim Nachabe at Senai Steel, dated 1 June, 2011 as well and it's also in respect of the Tomingley site. Do you see that?---Where's the quote?

30

We'll go to the next page but first of all do you see the email on 1 June sending it through?---Yep.

Go to the next page, please, and you'll see now this is the Senai Steel preliminary quote for the Tomingley job dated 1 June, 2011 and if you look at the scope of works, we'll go through the pages but you'll see it follows a similar structure to the Dundee quote I took you to before but it's doing the work on the gantry structure to repair and reinstate it at Tomingley. And if we go through the pages, thank you, then to 1449 and at 1450, you'll see that the price there, ex-GST, is 112,400?---Mmm.

40

So you'll see that it's quoting both A&A Structural and Senai Steel on the same day are putting in quotes. You can see from the figure that the Senai Steel quote is the lower one. Correct?---Yeah.

And you know, don't you, that it was Senai Steel that did the work?---I mean, I would assume so, I mean, I don't know for sure unless I see (not transcribable)

- 10 It's the case, isn't it, that A&A Structural provided what you knew or what you sought was a dummy quote, that is another quote to fulfil your requirement to get multiple quotes and to make it look like it was a competitive quoting process?---That's what the contractors were told. They wanted the work and they were paid to do. That quote was also written by, by the same person. It wasn't written by Jim.

So you think Abdula wrote both?---Yes.

- 20 Wouldn't it be the case, though, with works in this nature, that is of steel rectification works, that it would normally be Gamele who would be the one that would put together the quote and come up with the costings?---You can ask Abdula or Jim about that. Yeah, I can't answer for them.

That's fine. But from your perspective, what I'm asking is it was you who sought that they provide two quotes, one of which was from A&A Structural?---No, it was in conjunction with them but I told them, "This is the requirement to satisfy the quotation system of the RTA," and they complied, so, you know (not transcribable)

- 30 All right. But in asking that A&A Structural provide a quote, well, first of all, I'll go back. Do you accept that it was you who sought - - -?---(not transcribable) I, I didn't force them to put two quotes in, okay? So they wanted the work and they were prepared to meet the requirement.

Well, I understand you're using the word "force" them but did you ask that Senai and A&A Structural both provide quotes?---I don't recall the exact conversations but, obviously, some, in some time, somewhere in some conversation, they were made aware that there's more than one quote needed, they realised, for work to be (not transcribable) contracted out.

40

All right. You can agree or disagree with this proposition. What I'm suggesting is that you sought that A&A Structural put in a quote, knowing full well that it didn't do the work for the purposes of it being a dummy quote?---Did they, that I knew, yes.

All right. And I'm suggesting it was you, irrespective of whether you forced or didn't force them, it was you who actually went to the Nachabes and said, "I want two quotes here, one from A&A Structural and one from Senai"?---Look, it's probably part of a conversation (not transcribable)

10

Sorry? That cut out and I wasn't quite able to - - -?---(not transcribable) it would have been in a conversation with agreements with them. It wasn't something that I was forcing them to do.

All right. But, again, you seem to be focusing on forcing them to do. I accept that they are adults and can do what they wanted to do, but it was you who made the request that, in effect, the two companies compete against each other for this work?---They didn't have to do that (not transcribable) yeah.

20

Mr Dubois, I'm not disputing with you, and you don't need to keep saying that they didn't have to. They were adults, I accept that. But you sought that they pretend to compete against each other?---Did I told them, yeah, I mean, it could have been, it's a possibility.

Well, what's the other possibility for how A&A Structural comes to put in a quote for work which it didn't do?---(not transcribable) my previous comment was that it, it would have come up in the conversation, making them aware of how contracts need to be met, there was a (not transcribable) quotation (not transcribable) system, and they assisted each other and myself in getting the (not transcribable) over the line.

30

Commissioner, I'm just concerned that the audio is now so poor that it's going to be very difficult for anyone to come up with a transcript from the evidence of Mr Dubois. I'm not sure what we can do to remedy it but perhaps we could have a - - -

THE COMMISSIONER: Well, we should take a break, I think, and get the - - -

40

MR DOWNING: - - - short break just to see if we can improve it?

THE COMMISSIONER: - - - Commission staff to have a look at it and see what can be done, otherwise, as you say, we'll end up with at the least an imperfect transcript. Very well. Well, Mr Dubois, we're going take an adjournment. The purpose is to check out what's causing, it's like a static sound, which is cutting out some of - - -?---Okay.

10 - - - the receipt of some of your evidence. So I think we'll play safe. We'll adjourn for however long it takes, hopefully it won't take too long, and see if we can't identify if there is a fault there whether we can have it corrected.

MR DOWNING: And, Commissioner, I might just ask that when we do resume Mr Dubois is tending to give a lot of his evidence with his hand in front of his mouth - - -

THE COMMISSIONER: Oh, yeah.

MR DOWNING: - - - and that may just be making it a little bit harder so - - -  
20 -

THE COMMISSIONER: All right.---(not transcribable)something to do with my hand.

MR DOWNING: Well, just, when we resume if you could just try it for a moment and see how we go. I want you to be comfortable but - - -?---My hand doesn't cause static, sir (not transcribable)

THE COMMISSIONER: Yeah, no, I agree. It's probably a different problem but just in the interests of trying to get ideal circumstances, whilst  
30 giving evidence perhaps if you could just take your hand away from your face when we resume. But we'll see, in the meantime we're going to investigate the technical issues. I'll adjourn for a short time.

#### **SHORT ADJOURNMENT**

**[10.45am]**

THE COMMISSIONER: Ready to proceed?

40 MR DOWNING: Yes, thank you, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Downing.

MR DOWNING: Mr Dubois, can you again see and hear?---Yes, I can.

Thank you. Just to finish off the questions I was asking you about Senai Steel and A&A Structural. I suggested to you that it was you who requested that both those two companies, in effect, compete against each other for the purposes of that particular job that I took you to, the quotes in respect of Tomingley, and you indicated that was, I think your evidence was that it's possible. What I want to suggest to you is there's no other rational possibility, is there, to explain how it was that both those two companies came to be competing for the one job, being the rectification works at the Tomingley STC structure?---Sorry, I don't understand the question, sorry, it's, because it's a long one.

That's all right. I asked you before whether it was, or I suggested to you that you had asked both A&A Structural and Senai to compete for that one job at Tomingley. Do you recall those questions?---That was before the break, yes.

It was. And I think your answer was to this effect, that it was possible that you asked them both to quote for the same job?---Correct.

And what I'm suggesting is, in circumstances where Senai Steel genuinely did steel rectification work and steel fabrication work but A&A Structural didn't, that there's no rational explanation, other than it was you asking in effect for one genuine quote from Senai and one dummy quote from A&A Structural. Do you agree with that or not?---Possibility. In discussions with them.

Right. Well, what's the other possibility for how it could have been that they ended up quoting?---(not transcribable) they were working in partnership. So - - -

But you know, don't you, that they don't end up quoting on jobs unless it's you who invites them to quote?---What I'm saying is that I can't recall exactly telling them we have to have one from A&A and one from Senai, but in the scheme of things it would have been a conversation about the need for multiple quotes (not transcribable) to be in line with the requirements.

All right, okay.---(not transcribable)

Right. What I'm putting to you, though, and you can agree or disagree, is that in seeking that A&A Structural put a quote in, you weren't seeking a genuine quote, you were seeking a dummy quote?---(not transcribable) examination.

THE COMMISSIONER: Sorry.

10 THE WITNESS: (not transcribable) sorry, can you just repeat that so I can answer it.

MR DOWNING: Yes. But we are really having difficulty with hearing your evidence and I just wonder whether you can just try and put your hand slightly around the side of your face because it does seem - - -?---It's not my hand, it's not my mouth, it's the computer software, okay? (not transcribable) screen right in front of me. I can't do anything else other than literally – I, I don't have a headset either so I can't fix it. I apologise.

20 That's all right, Mr Dubois. We're just trying to get the best sound we can.

THE COMMISSIONER: Mr Dubois, could I just ask you this? This is perhaps going back over evidence you've given earlier but just to clarify things.---Yes, Commissioner.

My understanding is you had said that you had from time to time, with RMS contractors, organised with them what might be called a dummy quoting system, namely that you would arrange for one or possibly more than one contractor to bid to give the appearance of there being a competitive process  
30 but in reality one or more of the quoting contractors were providing dummy quotes, that is not serious quotes. Am I right in trying to summarise the evidence you've given?---That's correct.

Right. And as I understand it you're saying this case, I'm now referring to the quotes submitted by Senai Steel and A&A Structural, given that A&A had no experience or expertise in steel construction, if you assume that to be the case, they did not possess any expertise, they did not operate in that field of steel construction, then would you accept that those facts would tend to suggest that the A&A quote was one of these dummy quotes we've just  
40 spoken about?---That's correct.

Okay. That's as far as we can take it.

MR DOWNING: Thank you, Commissioner.

THE COMMISSIONER: I did notice before in the answer Mr Dubois gave to your previous question we were getting some interference. At the moment that's not occurring but we'll just have to monitor it as we go and do our best in the circumstances. If we need to have the problem identified and attended to, then we may need to adjourn again.

10

MR DOWNING: Thank you, Commissioner. Mr Dubois, I want to move now to GEC Consulting and Ghazi Sangari. You remember I've asked you some questions about that contractor already?---Yes.

And you recall that GEC, I'll just refer to it in that shorthand, GEC provided some drawings, so detailed drawings for particular RMS worksites?---Yes.

And I want to take you to two particular point-to-point sites, one at Urunga and one at Mount Ousley. Do you recall those two sites?---I recall Mount  
20 Ousley, I don't recall the Urunga site.

Urunga I think is up on the Mid-North Coast somewhere, whereas you've already indicated you know where Mount Ousley is, just south of Sydney.  
---Yep.

But can I take you to a particular contractual document that was entered into between the RMS and GEC? So volume 9.3, page 256. And you'll see, it's a standard form RMS contract for professional services and you'll see from the heading that it's for the point-to-point site design at Urunga.---Okay.

30

And if we go, please, to page 257. That's just the table of contents. 258. You'll see that this isn't signed but it's a contract between the RMS and GEC and it has the date 24 July, 2012.---Okay.

And just in terms of the actual schedule of the works required under this contract, I'm not going to take you through the whole document but if we can go ahead, please, to page 314. You'll see that in schedule 4 there's a description of the services and can I just ask you to have a look at that for yourself briefly and just tell me when you've read the dot points that follow  
40 under the heading Services.---Okay.

Now, I don't know if that assists you at all in terms of recalling this particular job, that is the Urunga point-to-point job, but you'll see that as part of the first dot point it requires detailed civil road design.---Yes.

And if we go, please, to volume 9.4, page 1. You'll see that on 1 August, 2012, under the heading Urunga Point-to-Point, Mr Sangari sends to you what he describes as "an attached sketch" and you'll see the heading is "prelimlayout.pdf".---Ah hmm.

10 So it's addressed to you but it's sent to, the heading is "Hello Alex Craig. Can you guys review the attached sketch and let me know if okay to proceed or changes required." And if we then go ahead, please, to the next page, the attachment page 2. You'll see that this is the attachment. So this is the attachment in respect of Urunga point-to-point and I want you to assume that Mr Sangari gave evidence that this is only a concept design, it's not a detailed sketch for the Urunga point-to-point site. Just assume that for me.---Ah hmm.

20 I also want you to assume that as far as the Mount Ousley site is concerned, whereas GEC ultimately billed for doing detailed design work for Mount Ousley or one particular Mount Ousley site no design drawings at all, whether concept designs or final designs were ever located in the RMS records. Can I take you, please, same volume 9.4, page 8. You'll see that GEC lodges an invoice for design drawings and documentations for the Urunga site and the Mount Ousley site. Both point-to-point sites. Both in an amount of \$18,000 so that when we go down to the bottom of the page it's 36,000 plus GST, so 39,600 all up.---Okay.

30 What I wanted to ask you is do you have any recollection of asking Mr Sangari to bill on the basis of doing detailed drawings for each of those sites when in fact GEC did not do detailed drawings?---I don't remember the sites. I remember, I know where Mount Ousley is. But don't remember (not transcribable) Urunga.

You don't remember Urunga at all?---No, I don't.

Right. Even putting aside for the moment the exact sites, can you recall with Mr Sangari at any point asking him to bill for work he had not done?  
---No.

40

Do you recall ever suggesting to him that it would be okay to bill for work where in respect of a particular site he'd only done preliminary sketches?  
---No, I don't recall.

Do you recall ever suggesting to him that he should bill for a site where he'd done no design drawings at all?---No.

Do you recall that, and I've asked you questions about this already, that Mr Dubois – I withdraw that. Mr Sangari through GEC did some design work  
10 for Mr Steyn's house in [REDACTED]?---Yes.

And that was starting with the driveway and then going to the works that were actually done to build a new pool house and a separate two storey house?---Yes.

Do you recall whether – I withdraw that. I'm going to suggest that around the same time of those Mount Ousley and Urunga jobs, that Mr Sangari through GEC was doing some design work at Mr Steyn's house. Do you recall ever suggesting to Mr Sangari that in return for him being able to bill  
20 for work he hadn't done, that you wanted him to do some work at Mr Steyn's house?---I don't recall.

Right. I want to move on now to a different topic and that is the work done by Ultimate Demolitions, which is a company controlled by Mr Rifai. Remember I've asked you some questions about that already?---Yes.

And do you recall that with UDE, it only did the one contract for the RMS?  
---I think it was Galston, right?

30 Galston Gorge. Correct.---Yeah.

And just, to be fair to you, I want to take you back to the documents in respect of that. So if I could take you, please, to volume 18.4 page 71? Do you see it's an email from you to Ultimate Demolitions on 21 March, 2011 with a request for quote for pavement works at Galston Gorge?---Yeah.

And if we go to the next page, you'll see it's the request for quote for that work, that is the vehicle length inspection bay?---Yeah.

40 And you'll recall from evidence that you've given earlier that the works at Galston Gorge involved building inspection bays and variable message

signs at each end of the gorge, to try and prevent over-length vehicles going through?---That's correct.

Right. And if can go ahead, please, to the next page, to 73. You'll see there's a description there of the scope of works. If you just have a moment to orientate yourself to what was involved.---Okay.

10 And then if we go ahead, please, bearing in mind that that was a request for quote on 21 March, if we go ahead, please, to page 93, same volume. And you'll see that there was a, so this is again an email from you to Ultimate Demolitions, 4 April, 2011, with a revised request for quote and scope of works for the Galston Gorge vehicle length inspection bays?---Okay.

And if we go to the next page, you'll see that you then send through – I withdraw that. Mr Rifai sends through proposed design layout for the project on Galston Gorge on 5 April, 2011?---Okay.

20 Can I then please take you to page, same volume, 18.4, page 295? You'll see that this is the quote that UDE Group provide for the Galston Gorge work. It's dated 31 March, 2011. You see that?---Yeah.

And you'll see that it refers to the work at two different locations, and I want you to assume that it's the east and western end where there were vehicle inspection bays to be built, but if we scan down the page, you'll see the elements of the work that are described?---Yeah.

30 Can we go, please, to 296? You'll see that the price all up was \$194,000 plus GST, which I want you to assume that when you add the 19,400, it takes the total to \$213,400 on that job. Can I then take you, please, to page 345, same volume? And you'll see that this is now the UDE tax invoice for 13 June, 2011 in respect of the Galston Gorge job and if we scan down the page you'll see again it's referring to the two locations, and if we go over the page it's in the amount, quoted at \$194,000 plus GST, so 213,400. So that's the invoice, 13 June, 2011. I'm going to ask you to assume that on 7 July, 2011 that invoice was paid electronically by the RMS, so the 213,400 was paid. Now pausing there, do you recall that this was the only job that UDE ever did for the RMS?---What was the question? Was, was that the only job they did for the RMS?

40 Yes.---Possibly, could be. It didn't do many so it could be the only one.

Do you recall that this was a job in respect of which you sought a kickback?---Yes. We've gone over that last time.

All right. And just in that regard, can I ask you to go, please, to volume 5.1, page 4? And bear in mind that that invoice was submitted on the 30<sup>th</sup> of June, and I suggested it was paid on 7 July, 2011. You'll see, if we go to the top, this is the MWK Developments bank statement from the ANZ Group and you recall, don't you, that MWK was the company that was set up by Towfik Taha but I've asked you questions about it already in the way  
10 in which it was used. Correct?---Yes.

And you accepted, I think, in your previous evidence that it was used so that payments could be made into it and you could withdraw money from the account, which you were a signatory on.---Yes.

You'll see, if we go down that page, that on the 12 July there's a deposit of 63,800.---(not transcribable)

And if we could go, same volume, please, to page 18. You'll see that this is  
20 the bank voucher showing that on 12 July there was the deposit of 63,800 in the form of a cheque into the MWK Developments account.---Ah hmm.

If we can go to page 19 you'll see that Westpac have confirmed that that cheque for 63,800 was drawn on an account in the name of the UDE Group Pty Ltd, which is the company controlled by Mr Rifai. Just pausing there, looking at that, it's the case, isn't it, that that was the kickback that you sought in respect of the Galston Gorge job and it was paid by UDE into MWK?---I think we went over this last time.

30 Just bear with me. I'm asking you something separate in a moment but you accept that, don't you?---Yes.

All right. I want you to assume that Mr Rifai has given evidence on at least one version that he believes that the payment was made to a contractor that was doing work on the Galston Gorge job. You know that's not the case, don't you?---Can you repeat that question, please?

Mr Rifai has given evidence about that payment that was made to MWK, and on - - ?---Yes.  
40

- - - part of his evidence he suggested that that payment must have been made to a contractor, that is the payment, the 63,800 to MWK must have been made to a contractor that was doing work for him, that is for UDE, on Galston Gorge. Just pausing there, and I'm asking you to assume that that was part of the evidence Mr Rifai gave. You know that that's not correct, don't you?---I mean, I'm -- can we go for a short break, Jim, please? There's something that I want to discuss, please.

10 THE COMMISSIONER: Sorry, could you give that answer again, Mr Dubois? (not transcribable) ---Yeah, I'm not comfortable answering that question. Please, I need to (not transcribable)

Put it this way. I think you've accepted that the amount that was on the screen a short while ago of \$63,800 represented the kickback to you for the Galston Gorge project.---Well, I'm assuming that 'cause it's gone into MWK, it's been (not transcribable) that put money into MWK. You're asking now specifically - - -

20 Well, I thought you had accepted that that amount represented the kickback for that project. Is that your best recollection?---Again, I'm not comfortable answering that question. When I spoke to Jim last time, it's something that I'm not comfortable - - -

MR DOWNING: Perhaps I'll just cut you off, Mr Dubois. Just before you say anything further.---Yeah.

30 I think the witness is a bit concerned about what he might say and what effect it might have, and I just wonder whether we might seek a suppression of just this aspect of the evidence, a suppression order in respect of it, because I think I understand what Mr Dubois' concern is.

THE COMMISSIONER: All right, well, perhaps if you could approach it in the best way that you think - - -

MR DOWNING: Thank you, Commissioner.

THE COMMISSIONER: - - - accurately puts the picture to the witness.

40 MR DOWNING: Well, if that's convenient, can we have a suppression order just over the next series of questions and answers on this topic? And then I'll indicate when I've completed that?

THE COMMISSIONER: Yes, certainly. You chart your course on this.

10

20

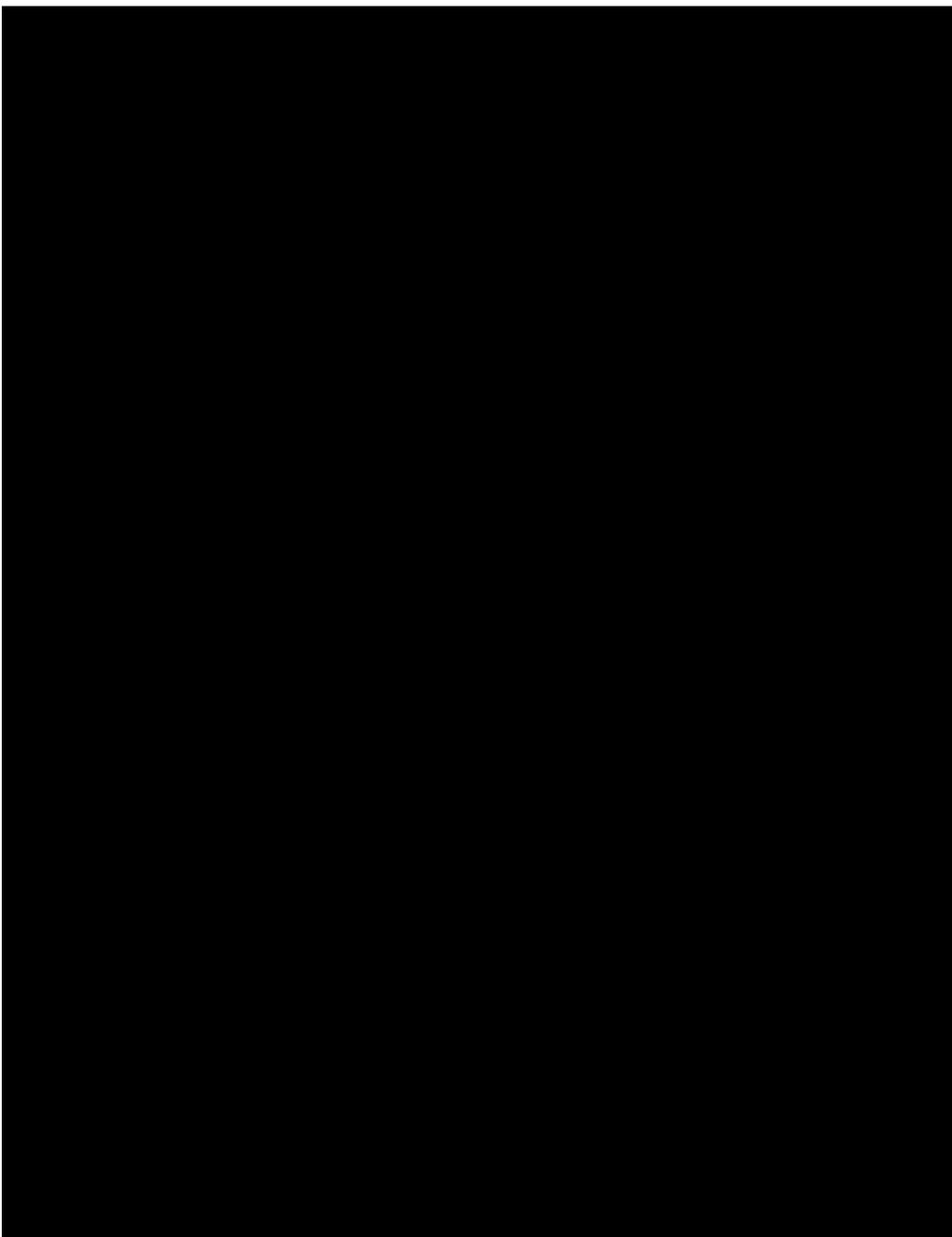
30

40

10

20

30



MR DOWNING: I will. So can I just confirm we've now ended any suppression in respect of the evidence and I will ask a question that I don't think will cause a difficulty.

THE COMMISSIONER: Yes. All right. Well - - -

MR DOWNING: All right. Mr Dubois, can you hear me again?---Yes, I can.

40

Can I just ask this. I've asked you when you gave evidence earlier in the inquiry about MWK and you confirmed that it was a company that Mr Towfik Taha had established, that is, he was the director and shareholder, but it was set up where in effect it was a vehicle to receive kickbacks for you. Correct?---Correct.

And you had access to the bank account.---I was a signatory, yes.

10 So MWK didn't do any contract work other than in one limited exception.  
Correct?---I think it may have done some (not transcribable)

But generally speaking it was simply used as a vehicle to receive kickbacks.---Not the reason why it was first established but it was then used for that (not transcribable). Or one of the reasons.

All right. Understand. But to the best of your recollection, it's the case, isn't it, that MWK Developments didn't do any subcontract work for UDE?  
---Correct. I don't recall (not transcribable)

20 All right. Thank you. If that's a convenient time, Commissioner.

THE COMMISSIONER: Yes, very well. Mr Dubois, we're going to take the morning tea adjournment. It seemed to me then just in that exchange you had with Mr Dubois that there was no technical issues manifesting. I don't know whether it does have something to do with the position of the microphone.

MR DOWNING: It does seem to - - -

30 THE COMMISSIONER: I'll leave it to more expert people than myself to sort that one out but we'll take a 15-minute adjournment.

MR DOWNING: Thank you, Commissioner.

#### **SHORT ADJOURNMENT**

**[11.38am]**

40 THE COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Dubois, I want to move to a different topic, and that is to do with evidence given by Mr John Goldberg, who you recall I asked you some questions about before?---Yes.

And you recall he was also known as Hussein Taha but changed his name to John Goldberg?---Yes.

Now, Mr Goldberg gave some evidence that he understood from discussions with you that someone had an existing three-to-five-year contract to do  
10 landscaping and lawn mowing works around camera sites around the state. Do you recall if that was every the situation at the RTS, sorry, the RTA or RMS?---Sorry, I'm not understanding the question, sorry.

Mr Goldberg, I'll take this further in a moment, but he indicated that based on discussions with you, he understood that at some point while he was doing works, which was involved with doing works with the RMS, so early years of your work, so 2011/2012, that he understood that someone had a contract given out by the RTA or RMS which provided that for three to five  
20 years they would do lawn mowing or landscaping works at camera sites around the state. So just pausing there, do you ever recall such a contract existed?---Is this for the point-to-point sites, you're saying?

Well, I'm not sure what sites. He just described it as camera sites. So this is Mr Goldberg's evidence. I know there were different cameras, Safe-T-Cams and point-to-point, but that was his evidence that he understood based on discussions with you that some contractor company had a three-to-five-year contract to do lawn mowing and landscaping work around camera sites.---This is, this is going back to 2012.

30 Around that time, yes.---My, my answer to that question currently now, from what I know, it's not going to be accurate because in 2012 it may be different cameras. I'm not sure certainly, so like (not transcribable) 2012 - -  
-

Just doing your best, do you recall if there was ever, and you can tell us whether it was certain types of cameras or all cameras, but do you recall if there was ever a contract given out by the RTA or RMS for  
landscaping/lawn mowing type works at camera sites?---There, there was things in play with regional areas and potential contracts for different  
40 camera sites but I, I don't recall exactly what camera sites it would have been at the time, at that time a discussion, sorry.

That's all right. Do you recall if those contracts for doing lawn mowing or landscaping works were for specific regional locations or whether there was one overarching contract for all of the different camera locations around the state?---So there's different – I'm just trying to think, going back. I don't think the point-to-point had been rolled out as much. I'm not sure. Sorry, I don't know I can answer that question, don't know.

10 Is it the case that you just can't recall now?---Yeah. Look, I know there were things in play, in place for, for, whether it's digital speed, whether it's a Safe-T-Camera, which is a red-light speed camera, (not transcribable) Safe-T-Camera, is it a point-to-point camera, is it for mobile speed cameras. You've got four or five different categories, and back in 2012 or 2011, I'm not sure what there was at the time.

But I just want - - -?---I don't know if I, there would have - - -

20 Sorry, I spoke over you. Just finish your answer, please.---I'm not sure what there would have been at the time at that (not transcribable) yeah.

Okay. I just want to make sure that we are understanding each other. I am asking you not about installation or even the mechanical or technical servicing, I'm talking about just lawn mowing and landscaping around the sites. You're clear that that's what I'm asking you about?---Yeah, lawn mowing and landscaping, I don't think there was anything at that time in place.

All right.---(not transcribable) yeah.

30 Do you recall if there was ever a contract of that nature for ongoing maintenance type lawn mowing or landscaping works that ran for three to five years?---Sir, I don't recall to be honest.

All right.---I don't recall that, no, I don't recall that, no.

Okay. But do you - - -?---But there's no, there's no, there's nothing that's coming up into my mind. Yeah.

40 Do you recall any discussion, and again this is based on Mr Goldberg's evidence, where you proposed that you and he could go into partnership in order for his company to get that three-to-five-year contract to do lawn

mowing or landscaping work around camera sites?---Can you please repeat the question?

Sure. This is based on Mr Goldberg's evidence. He suggests that at some point you and he discussed the idea that you would effectively go into partnership where a company that was, at least on paper, under his control would obtain a contract for three to five years to do lawn mowing or landscaping work at camera sites around the state? Do you ever recall such a discussion with Mr Goldberg?---No, I can't recall that discussion, sorry.

10

Do you ever recall proposing an arrangement of that nature to Mr Goldberg?---No. I actually, I, I don't recall that either.

Do you recall ever promising to him that in return for kickbacks that you could arrange that a company that he would be in charge of on paper, but you and he would effectively run together, would get that contract for the lawn mowing or landscaping work for three to five years?---No.

20 All right. I want you to just look at a couple of documents, and this is still dealing with Mr Goldberg. Can I take you, please, to volume 6.1, page 350? And you'll see that this document is a RTA EFT authorisation form for MJ Wilsons Projects. And just pausing there, you're familiar with is type of form, aren't you?---Yes.

So that when a company was set up as a vendor and was about to do work it would provide an EFT authorisation form so it could be paid.---Yes.

And you'll see this is for MJ Wilsons Projects Pty Ltd.---Yes.

30 And you'll recall there were some questions about this earlier and suggested that it was a company that was used as a vehicle to receive kickbacks that you obtained but in concert with Mr Goldberg.---I think so, yes.

All right. Can we go down the page, please. You'll see that the vendor authorisation is under the name Mark Abraham and it's signed, someone has signed as that person and with the position director.---Yes.

Did you sign that on behalf, or purportedly on behalf of Mr Abraham?---I don't recall signing that to be honest.

40

I want you to assume that Mr Abraham's evidence is that he knew nothing about MJ Wilsons doing RMS work and Mr Goldberg says that it's not him who signed it. Can you recall whether you may have in fact signed it purporting to be Mr Abraham?---I don't even recall the name. As, as, as my previous evidence Mr Goldberg and a friend of his (not transcribable) he, it was, he had a friend (not transcribable) I think he had a company in that friend's name and he was using that for, for quotations and things and the likes. But I don't recall signing (not transcribable)

- 10 Accepting that that's your evidence, first of all do you recognise the handwriting at all?---Yes, not really.

Does it appear to be your handwriting?---It's very close to my handwriting.

Do you recall ever with any of the contractor companies that you had doing work for you and who were paying kickbacks actually completing documents for them in order to set them up as vendors?---What documents? The EFT form?

- 20 Well, let's just deal with the EFT form. Do you recall ever completing one for a company that was a contractor company?---No, I don't recall.

Would you accept that you may have in order to make sure that they were properly set up as vendors?---As I said to you, I don't recall.

All right. Can I take you then same volume, please, page 739. I apologise. Just for the sake of the transcript it's volume 6.2, page 352. Do you have that up in front of you now, Mr Dubois?---Yes.

- 30 And do you see this is a letter on MJ Wilsons Projects letterhead?  
---Ah hmm.

Notifying of a change of account details.---Ah hmm.

And it's indicating that changing over from one account to a new account with the Commonwealth Bank and providing details.---Yeah.

And you'll see below it's signed Mark Abraham.---Ah hmm.

And you'll see on the right there's some notations indicating that it was received by Theresa Jabson, who you know was someone in the Finance section.---Ah hmm.

Did you have anything to do with the creation of this letter?---I don't remember.

Did you prepare it?---I know, I know the, I know the MJ Wilsons Projects, the letterhead looks familiar, but I don't remember if I put together – maybe,  
10 but I don't know. May have, I don't know. I don't recall.

Is that you signing - - -?---No, I don't, I don't, that's not my signature. I don't recall signing.

When you say that the MJ Wilsons Projects letterhead is familiar, is that because that's something that you created?---No, it just looks similar to TTS group.

Do you recall having any discussions with Mr Goldberg about sending a  
20 document into the RMS to change the account into which moneys would be paid?---This is a long time ago. I don't remember.

All right. You can't assist us at all as to whether you either created this document or assisted Mr Goldberg to create it?---You asked me if I signed the document. I don't recall signing this document. You asked me if I assisted with it. I don't recall if I have. I have assisted with documents in the past. Potentially, maybe (not transcribable) right.

All right.---But other than that, I can't, I don't recall this particular  
30 document or this instance.

Okay. Can I move on to a different topic in respect of Mr Goldberg. You'll recall I asked you some questions before about the businesses outside of the RMS that you and Mr Goldberg were involved in for a period?---Yes.

They were the, the cafés and also the bakery.---Yes.

I want you to assume that Mr Goldberg has given evidence that when those  
40 businesses all wound up, so the two coffee shops, and I think it was Coffee Boss and My Caffeine Romance, correct?---Yes.

And also the bakery Humphrey's.---Yeah.

So Mr Goldberg's evidence, I want you to assume, is that by the time they all came to an end, he was owed \$50,000 arising out of the operation of those businesses, so that you owed him \$50,000. Is that correct or not?---I owed him \$50,000?

That's his version of events. That's his account. I want you to tell me whether you agree or disagree.---I just, I don't recall that, no. I don't recall  
10 owing him \$50,000. Sorry, that number doesn't - - -

What's your recollection as to what the financial position between you and Mr Goldberg was by the end of those businesses?---I didn't owe him anything.

All right. All right, I want to move on to a different topic now, and this involves Hassan Alameddine and his companies.---Yep.

And you recall that I've already asked you some questions about Hassan  
20 Alameddine's younger brother Ahmed and the extent to which he might have been involved in works at various times?---Yes.

All right. Do you recall ever asking Hassan Alameddine to organise someone to do some jobs for you? That is outside of the RMS, but to do some jobs for you?---You have to be more specific, sir.

All right. First of all, do you recall ever asking Hassan Alameddine to get someone to do some excavation works for you?---(not transcribable) works?

30 Yes.---That's a very general comment, I mean, excavation works, where?

All right.---(not transcribable) site (not transcribable) in my backyard (not transcribable)

Excavation works at an address in [REDACTED] for, in order to put plumbing and electrical trenches in. Do you recall ever asking Mr Hassan Alameddine to organise someone to do that?---[REDACTED]? No.

[REDACTED] was your address for a period in the earlier years of your work at the  
40 RMS, correct?---Yes.

From about 2012 to 2015.---Yes.

Do you recall ever asking Hassan Alameddine to organise for someone to come and put, do some excavation work in order for plumbing and electrical trenches to be installed?---No.

Do you recall Ahmed Alameddine actually coming to your house and doing that work?---No.

10 Can you recall Ahmed Alameddine - - -?---It was a rental, there was a rental (not transcribable) there was a rental property and it was all concrete. I don't know.

Do you recall Ahmed Alameddine ever coming to any address at which you lived and doing some excavation work?---I don't recall that, but not at [REDACTED], definitely not.

20 All right. Separate to [REDACTED], thinking about the properties that you owned or perhaps your family owned, can you recall Ahmed Alameddine ever coming and doing some excavation work?---I don't recall him doing any excavation.

Do you recall ever organising for any work to be done at your mother's home?---I mean, he may have, he may have. I'm not sure. Again, I don't recall.

Well - - -?---I remember there was another guy that did the excavational work who, who didn't really do a good job (not transcribable)

30 But just pausing there, just pausing there. The last question I asked you wasn't about whether Ahmed did it specifically, but I asked you about whether you recall getting anyone to come and do work at your mother's address. Do you now recall that you got someone to come and do work at your mother's address?---Yeah, we've gone over this already.

All right.---So what's the question? (not transcribable)

40 Well, first of all, do you agree that you organised for people to do work at your mother's address?---Yes, over a period, yes.

And did that involve, at least in part, contractors that did RMS work?  
---No, I don't recall that.

Do you recall whether Ahmed Alameddine came to your mother's address and did some excavation work?---I just answered that question. I don't recall him doing it. He may have assisted, but, yeah.

10 All right. Do you recall ever getting Ahmed Alameddine – I withdraw that. Do you recall ever asking Hassan Alameddine to get someone to help do some moving of furniture at your café?---Yes.

And do you recall Ahmed Alameddine actually came to one of the cafés and assisted with moving things?---I don't know if he came with his brother, but he definitely, I do recall Hassan Alameddine helping, I think he use, he had a truck or something along the lines of one.

So you remember him coming?---Yeah, I don't recall his brother but, yeah.

20 Do you recall which café?---My Caffeine Romance.

All right. Well, I'm going to suggest that Ahmed Alameddine was present as well and helped move things like fridges around at the café. Do you agree or disagree?---May have been in an instance where I wasn't there, but I do recall moving a fridge myself and tearing my muscle in that, so I don't recall Ahmed being there, so, but maybe another occasion where I wasn't there.

30 But do you recall asking Hassan to either himself or get someone to help you deal with moving things around at the café?---Yeah, I do recall that.

And it's correct, isn't it, that he wasn't paid for that?---No.

All right. No, you – does that mean, no, you disagree or, no, he was not paid?---No, I don't recall paying him separately for this. Just for helping moving some furniture, no.

40 Okay. I now want to move on to some questions about Barrak Hadid and Chahid Chahine. Do you recall that for a period you lived close to Mr Hadid in Greenacre?---Yeah. Bankstown.

And would you see him from time to time?---It was Bankstown.

Oh, Bankstown, so not Greenacre?---No.

All right. Can I then take you to a document, but before I do, do you recall – I’ve asked you some questions already about the office and workshop that Mr Hadid and Mr Chahine had in Campbelltown.---Yes.

And it was in Hephher Road, you recall that?---I don’t recall the name of the road but I do recall the, the yeah.

10

But you went there from time to time, didn’t you, to meet with them and talk about jobs and other things?---Yeah.

Can I show you what is Exhibit 182, please. I’m going to suggest that this is a whiteboard that was on the wall in the Campbelltown offices that Mr Hadid and Mr Chahine operated.---Okay.

Did you ever see that?---They did have a whiteboard. I don’t know, it looks like the same one, yes.

20

And did you see that they recorded on it upcoming works that they were doing for you?---Correct.

All right. And I take it, if you look on the right, you’ll see there’s “ECM”. You would have known that was a reference to Euro Civil & Maintenance. ---Yes.

“CBF”, a reference to CBF Projects.---Yes.

30 And “Ozcorp”, a reference to Ozcorp Civil.---Yes.

And they were the three companies through which Mr Hadid and Mr Chahine were doing the RMS work for you.---Correct.

And it’s correct, isn’t it, that you had asked them to set up the three in order that they might be able to compete for at least, or look like they were competing for more work?---Can you repeat that question?

40 You had asked them to set up more than one company. Correct?---I didn’t ask them to do anything. I said to them, “This is the rules. This is how it has to be done if you want to basically get rewarded I can’t just award one

company.” And they came, I didn’t tell them which companies to, to open and in whose name to put it in. They did that.

I’m not suggesting you came up specifically with the name but what I’m suggesting is you asked them to set up more than one company. Do you agree or disagree?---I disagree and, look, it’s a very grey question. It was, let’s just say there was an agreement between myself and them.

10 Sorry, there was?---It was a discussion that was had and they, they wanted the work and to, to be rewarded for the work they, this is what the rules were in terms of the RTA or RMS rules (not transcribable) so - - -

So you explained to them that for instance they couldn’t have one company doing too much work. Do you recall ever suggesting that to them?  
---Something along those lines, yes.

So that in order to not, in order not to arouse suspicion having works with over three companies?---No, no.

20 You disagree?---I disagree. That, that, that conversation did come up with Craig as well in discussions but the, the RTA needed for anything above \$50,000 two or more quotes and these were the rules and I just couldn’t give them the work and they wanted the work, they needed the work and were pressuring me to do the work and to get around that problem there needed to be more than two or more quotes and this was the solution to basically guarantee they get the work. So it wasn’t just all of a sudden I came up with a lightbulb and said, “Guys, this is what you have to do. Here’s the solution.” And this is what you’re painting and that’s incorrect.

30 Well, you can agree or disagree. I’m going to suggest that you suggested to them, Mr Hadid and Mr Chahine, that they should set up – I withdraw that. But you know the first in time that they did work for the RMS through was Complete Building Fitout. Correct?---Complete Building Fitout. Correct.

And in time it changed its name to CBF Projects.---Yes.

But you know that they subsequently opened up Ozcorp Civil and Euro Civil.---Yes.

40 And I’m going to suggest that you at the time when they only had one company suggested that they should set up a second and a third company.

Do you agree or disagree?---I disagree. It was something that was agreed between the three of us.

All right. Lastly in relation to Mr Hadid and Mr Chahine, do you remember one of the companies through which kickbacks were funnelled was Euro Projects?---Euro Projects, yes.

It wasn't a contractor company.---Yes.

10 And - - -?---Euro Projects, yes.

Do you recall that CBF Projects was a contractor company? Correct?  
---Yes.

And what I'm suggesting, and I've asked you questions about this before, is that CBF Projects, after it was paid for jobs, paid money into Euro Projects, which was then passed, paid on to you or on your behalf to other people. Correct?---Correct.

20 And I've suggested to you that with Euro Projects that you had two debit cards on the ANZ account that had been set up so that you were able to withdraw money.---I don't think it was an ANZ. It was a different bank.

Well, I'm suggesting - - -?---Or maybe it was (not transcribable)

I'm suggesting it was ANZ. The records are in existence and I don't want to take up too much time with them but more importantly - - -?---Okay, that's (not transcribable)

30 - - - do you accept that you had debit cards that you were able to use in order to access funds yourself?---We've gone through this before and I've said yes.

Right.---And I even told you what the cards are, yeah.

All right. What I wanted to ask though was when it came to getting cash out of Euro Projects, do you recall whether, separate to you using cards to withdraw cash or to make EFTPOS purchases, that Mr Chahine actually withdrew money and gave it to you as well?---He may have done so from  
40 the ANZ (not transcribable) may have. I don't recall that. It was a long time ago.

All right. I'm going to suggest he was the signatory on the account but is it the case that you can't now recall whether separate to any cash you got out using the card, he got out cash and gave it to you?---Yeah, I don't know if it was him or if it was his business partner did that.

All right.---But I didn't accompany him to the bank so I don't know if it was him or someone else (not transcribable)

10 Okay. All right. I want to move on then from Mr Chahine and Mr Hadid to a more general topic, and that is the way in which, or whether there was a way in which you typically went about seeking kickbacks from different contractors. Do you understand I'm asking now about a pattern rather than just a single contractor?---I'm listening.

Right. And it's the case, isn't it, that really from about 2010, being about the earliest in time, through to 2019, you received kickbacks in one form or another from multiple contractors?---Yes.

20 And in your earlier evidence you indicated, as I understand it, that you disagree that you initiated discussions in order to seek kickbacks, you say that the contractors, in effect, raised the topic with you and offered them to you. Is that your evidence?---That's what I recall, yes. That's what I recall, yeah.

Mr Dubois, the contractors that I'm dealing with are, I won't go through all the company's names but they range from the companies controlled by Abdula and Gamele Nachabe, Towfik Taha, John Goldberg, Barak Hadid Chahid Chahine, Hassan Alameddine, Alan Rifai, also known as Talal Rifai,  
30 Ghanzi Sangari. So do you say that each of those persons independently raised with you the idea of offering a bribe rather than you raising the concept of that with you? Sorry, I withdraw that. Rather than you raising that concept with them?---I don't understand what you're trying to, I don't understand.

Well, I'll break it down. Your evidence is that it was the contractors that in effect raised this concept of paying you a bribe or a kickback, that they approached you with the idea.---The majority of them, yes. I mean, I don't recall exactly for each single one. You're asking me a question that's  
40 impossible to answer because I don't recall the exact instance of the discussions. It's impossible.

Well - -?---Okay. So in terms of your pattern, this is a common thing in the construction industry. In fact, Hassan Alameddine, and as you know from my previous evidence, didn't have previous experience in the building industry and he wanted to work. I was under pressure to give him work. I was expected to give work to the, to the community I lived in. It was a common practice. They approached me and said "We will give you a cut out of the profits that we make." So it wasn't me that basically came up with this grand idea or something, but it may have had, I may have had  
10 influence with other contractors after that. But what, what you're, you're suggesting is incorrect.

THE COMMISSIONER: Mr Dubois, can I just understand this? My understanding of the evidence is that this practice, call it a practice, whereby you were paid kickbacks, went on over many years, and I think it's suggested between 2010 and 2019, you would agree with that?---I don't recall when the last contract was given out, Commissioner, sorry.

20 But do you recall that it went on for a number of years?---Yes.

I want to distinguish the way that it operated at two levels. One is the concept, how it was devised, what the elements of the concept of what might be called unlawful contracting, involving kickbacks. That's at one level. Somebody had to devise it, put it all together, work out how it would work in practice. And then at the other level, what might be called at the project level, there are individual contracts which were put together, often starting with a quote and so on, which contained an element which we're describing as a kickback. Do you understand? I'm dealing with that at two different levels, the concept level and then the practice level, or  
30 implementation level, project by project, or contract by contract. Do you understand the difference?---Yeah.

Well, at the concept level there are a number of elements associated with it, wasn't there? One of which was how provision could be made for a kickback to come out of these different projects favouring you. In other words, what would be the mechanics of how you could do it, such as having extra amounts put into the quotes, put into the prices, so that there would be fat – I'll use that expression – fat in the contract price, which fat would enable you to receive a kickback, you understand what I'm saying?---I  
40 somewhat disagree with you, but I'm listening. That's not how it generally worked (not transcribable) the time.

So at the concept level, that is how it could be achieved, using your position at RMS, or however it was described before, to be able to engineer contracts to produce at the other end, that is when the contract was performed, a kickback. Do you understand what I'm trying to focus on?---Somewhat, Commissioner.

Well, now the person who devised the mechanism – well, firstly, perhaps go back a step. The person who devised the concept of being able to  
10 implement a scheme whereby you got a kickback was you, wasn't it?  
---I completely disagree, sir. That's not how it worked. (not transcribable)

No, no, no. Just stay with me. I'm talking not about the practice. I'm talking about the concept. The person who devised the concept whereby kickbacks could be received by you was yourself, wasn't it?---No.

Well, who was it?---As I said to you - - -

No, no, no, please, Mr Dubois, just - - -?---(not transcribable)  
20

I'm trying to just focus on the point. If you'd address the point of the questions.---(not transcribable)

Somebody – no, just wait a minute. There had to be human intervention. There had to be some person or persons who put together a scheme which would produce illegal kickbacks. And what I'm putting to you is of all the people in the world over the years in question who devised that concept to use RMS contracts to get a kickback, I'm putting to you, was yourself. That's correct, isn't it?---I don't understand your question. No, I, I disagree  
30 with what you're, what the general (not transcribable) the general - - -

This - - -?--- - - - the general assumption that you're making, Commissioner.

Okay. This history of the contracts by which you got a kickback, the scheme was initiated by you, wasn't it?---No.

Well, who initiated it?---Well, can I answer that question?

Yes, I'm asking you to.---Yeah. As I said in my previous answer to the  
40 case, that the, I was approached many, many times – this is all in my previous evidence, you know – so I was approached many times by multiple

people in the community to give them work because I was an employee of the RTA at the time. And it was, I originally got contractors to do the work to try and get a better price, but then I was pressured into giving these guys, specific people work, and it was suggested that if you give us the work, you will be rewarded. So it wasn't something I devised as soon as I came into the RTA. Sorry, I'm losing my (not transcribable) basically can I put this scheme, can I put this grand plan, that's not how it came about or how – actually, I didn't go into the RTA for these reasons. But as time went on, things were evolved. I was approached by multiple people. Friends that I  
10 knew needed the work and they approached me, and then they, that suggestion was made and it just basically went out of control after that (not transcribable)

But through the relevant period, the person who had the power to decide whether a particular contractor would be awarded a contract was you, wasn't it?---Correct. I put my hand up (not transcribable)

No, no, no, please, just answer my question.---I've answered all your questions.  
20

Well, do you accept that you held the power to decide and award contracts - - -?---It's not that black and white, Commissioner.

Are you ignoring my question? You're refusing to answer my question? --- (not transcribable) That's not, that's not how life works. I couldn't just say no.

Well, who did decide over the years to award these contracts that have been the subject of these proceedings? Was it you or was it somebody else?  
30 --- (not transcribable) I put my hand up and I (not transcribable)

No, no. Please. You keep talking over me. We can't both talk at the same time. I ask you please to just do me the courtesy of the listening to the question first.---Yes, Commissioner.

Who, over the years whereby these RMS contracts that have been the subject of these proceedings, who did have the power to award contracts to individual contractors, was it you or was it not you?---I, I was in that position, yes.  
40

Right. So that when you say, as you did before, that the contractors put you under pressure to award the contract, saying “and you will be rewarded”, what pressure could they apply to you, you who could decide whether they got a contract?---Do we really want to get into this?

Yeah.---I’m not comfortable answering that question again.

Okay. I’ll come at it again in a slightly different fashion. You chose to use the word “pressure” to answer one of my questions a moment ago.---Yes.

10

You said, “They put pressure on me and said, ‘If you award us the contract you will be rewarded.’” That’s how you put it, correct?---I was put, I was put under pressure and I was told “You need to give us the work.”

What pressure were you put under?---Again, I’m not comfortable answering that question unless you want to be - - -

You are legally bound to answer the question, and if you refuse it is an offence under the ICAC Act.---(not transcribable)

20

No, just wait a minute. I’m just giving you some friendly advice at the moment so that you don’t fall into the trap of committing an offence under the Act. Do you understand?---Yes.

I’m just simply saying you chose to say that the contractors put you under pressure.---Yes.

Saying that you would be rewarded. What pressure did they apply to you? ---If I answer that question, it puts my life in danger. Do you want me to answer it?

30

MR DOWNING: I’m sensing there’s a reluctance on the witness’s part, Commissioner, because of a concern for his safety, and I wonder, with a view to perhaps trying to get a full answer, that we might just ask that a short passage of the evidence be suppressed. It’s a matter for you ultimately but it sounds like we will struggle to get a fulsome answer without that order.

THE COMMISSIONER: Yes. Mr Downing, I might discuss that matter with you before we go any further in this segment. So I think at the moment what we’ll do is we’ll adjourn. Mr Dubois, we’ll resume at 2 o’clock and

40

we'll come back and revisit this issue. Do you understand?---Yes, I understand, Commissioner.

Thank you. All right. I might see Counsel in chambers and I'll adjourn.

**LUNCHEON ADJOURNMENT**

**[12.49pm]**