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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION PARAGON

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 31 MAY, 2021

AT 2.00PM

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

THE COMMISSIONER: My apologies for the delay. There's been other matters I've had to deal with and that's now been dealt with. We're ready to proceed.

10 MR DOWNING: Thank you. Mr Dubois do you recall that just before the luncheon adjournment I took you to some of the documents in respect of asphaltting works that MJ Wilsons had quoted for in early 2013?---Yes.

And the last document I took you to, if we could go back, was at volume 6, page 362, which was the letter of acceptance. So accepting the – addressed to Mr Abraham but accepting the quote for works across those seven sites that I took you to the quote for in the sum of 180,000 plus GST?---Yes.

20 Now, can we go then, please, to the invoice, which is the same volume, page 369? So see it's the MJ Wilsons Projects invoice, it's number 200, and dated 21 January, 2013, and you'll see that it goes over two pages and you'll see it's for the amount that was quoted, 180,000 plus GST.---Yes.

And you'll see that it appears that there's a stamp on it where you've lost the, it hasn't printed perfectly. It seems that you've signed off on it, it looks like 18 February, 2013, you confirm that the goods and services had been received, performed satisfactorily.---Yes.

30 Now, first of all, do you recall whether this is an invoice that you assisted in the creation of or perhaps drafted?---I think it's the, it's the copy of the quote, isn't it?

THE COMMISSIONER: I'm sorry, I couldn't hear you.---I think it's a, I think it's like a copy of the quote. It just, they just must, just, only the, the heading was changed.

That may be so but that doesn't quite answer the question.---Oh, sorry, yes. Sorry, yes.

40 MR DOWNING: Do you believe that you either drafted it or - - -?
---Assisted.

Assisted.---Yes.

Can I ask you to note this, that if you look at the two pages, start at the first page, you'll see that it's for the works that had been previously described, the heavy vehicle inspection site, Sydney Road – sorry – Sydney roadside parking bays and it's for asphaltting and widening of the road?---Yeah.

As per the quote. But if you look at the actual locations that are covered in this invoice, you will see that there's Henry Lawson Drive, Lansdowne.
---Yep.

Henry Lawson Drive, Revesby.---Yeah.

Henry Lawson Drive, Georges Hall.---Yeah.

And Henry Lawson Drive.---Okay.

10

So, you'll notice there that it covers the four Henry Lawson Drive locations that were covered in the original quote.---Yep.

But if we go back, please, to the quote, which starts at page 353, you'll see that it's missing Lucas Heights that was part of the quote.---Ah hmm.

If you go to the next page, please, you'll see that the invoice misses Captain Cook Drive which was part of the quote. And if we go, please, to page 356, you'll see that it misses Penrith that was part of the quote.---Yes.

20

So, if you go then back to the invoice, please, page 369 and 370. It only covers the four Henry Lawson Drive locations, three have disappeared from what was the quote but it's for the full amount that had been quoted for the seven locations, \$180,000.---Ah hmm.

So, first of all, do you have any recollection as to how that came about?---I actually don't recall, no.

30

Do you know whether any work was done, first of all, at any of the sites that are actually listed in the invoice, that is the four Henry Lawson Drive locations?---From memory there were, yes. I remember a few of the, I mean, like, two or three of the sites. I don't remember that, I don't recall all these sites.

Do you know whether any work was done at Captain Cook Drive, Lucas Heights or Penrith?---As part of this project?

Yes.---I don't, I don't recall. I do recall some works being done on the sites on Henry Lawson Drive.

40

But this invoice is based on a quoted figure for seven sites but only reflects, on the face of it, work said to have been done at four.---I can't explain why. I, I have to, I have to assume and I'm not overly sure why, I have to assume an answer.

Just in terms of your role with the creation of this invoice, if you go, please, to page 371. You'll see this is just a colour version of the same invoice. You'll see that it's invoice number 200 dated 21 February 2013. And if you

go to the next page, you'll see that it covers the same four Henry Lawson Drive sites and the same sum?---Yes. Yes.

And if you go to the metadata, please, at page 373?---Ah-hmm.

10 You'll see that this is a document, Andre's the author, created 18 February, 2013. So it would seem later, in fact, than the date on the face of it. And if you go to the next page, 374, it shows Dubois A. is the last author and that last saved dating February 2013. So looking at that, I'm going to ask you to accept that this was found on one of the devices at your house. It would appear from that, wouldn't it, that you are the person that drafted it and it would seem may well have read it and let to it last being saved?---Yes.

Now, can you recall whether with these jobs, that is, these asphaltting jobs, you organised for Mr Goldberg to perhaps subcontract the work?---I do recall a subcontractor being involved.

20 Can I ask you to go, please, same volume – sorry. Before I take you to the document, is your recollection that it was Ozpave? Do you believe Ozpave was the subcontractor?---That, it rings a bell in my mind, so, yeah.

Can I ask you to go, please, to page 375, same volume. And you'll see this document is a letter purportedly from a John Gooding at MJ Wilsons to Jason Curmi at Ozpave.---Okay.

Dated 29 January, 2013, and suggesting that it's accepting a 6 December, 2012, combined value quote for works at Lansdowne Reserve, Mulgoa Road, Penrith and Boomerang Reserve, Milperra.---Ah-hmm.

30 Now, just pausing there. This document I'm going to suggest was found on one of the devices, that is a USB stick, at your home.---Ah-hmm.

Can you recall whether you drafted this?---I would have had to.

Was John Gooding just an alias created to be used by Mr - - -?---I, I mean, I don't remember that name, sorry. I don't know if it's something that I maybe have given Mr Goldberg the template and he put that in. I don't, I don't remember.

40 But do you recall that there had been some discussions with Ozpave in early December 2012, that is, in the month before the quote was obtained by MJ Wilsons for them to quote on the asphalted works for the sites in Sydney or some of them?---Well, that's why I remembered Ozpave.

So the John Gooding name doesn't ring a bell as to perhaps a name that Mr Goldberg - - -?---No, I would have - - -

- - - either suggested or you suggested to him that might be used as a person corresponding on behalf of MJ Wilsons?---I would have, said it in previous conversations, I don't recall it.

Does the name of the person at Ozpave that the letter is addressed to, Mr Jason Curmi, ring a bell?---No.

10 What I'm going to suggest is that in December 2012, you contacted Ozpave and you sought quotes in respect of the paving jobs that ultimately MJ Wilsons quoted on and was paid for.---It's a possibility 'cause I do remember speaking to them or even meeting with them, maybe on more, on, on more than one job.

Well, I'm going to suggest that on 3 December, 2012 - - -?---Mmm.

- - - that you and also Mr Chahine went and met with Mr Curmi at the various locations to seek that he provide quotes. Do you recall that?---I do but it would have probably been for another job.

20 You sure?---Well, I'm, I'm assuming. It's a long time ago. When was this? 2015?

It's December 2012, so it is some years ago?---(not transcribable) yeah, a long time.

30 Can I take you to a series of documents from Ozpave. If we go, please, to volume 6, page 316. Do you see on 6 December, 2012, it's an email from -- sorry. If we go back down to the bottom of the page, you'll see on 4 December, 2012, there's an email from you to Ozpave providing your details, saying, "Met with Jason yesterday. Can you please pass him my details".---Mmm.

And I'm suggesting that that's Mr Jason Curmi at Ozpave.---I'm assuming so, yeah.

And I'm suggesting that you met with him at various sites, being the different locations around Sydney that you ultimately got MJ Wilsons to quote on, and it was paid for.---That's right.

40 So if you go then, please, to the top of the page, you'll see that on Thursday, 6 December, 2012, you get this email from Ozpave providing attached quote. And if you go, please, to page 317, you'll see it's the 6 December, 2012 quote from Ozpave to you. This one relates to Henry Lawson Drive and Milperra Road, Milperra. And there's a price 44,575 plus GST in one quote, or 47,275 in the second quote, and then there's a separate quote for traffic control and signage. Do you see that?---Yep.

And if you go to the next page, please, do you see the person signing off on the quote is Jason Curmi, the estimator at Ozpave?---Yep.

If we could then go, please, to page 320, you'll see same day, 6 December, 2012, there's another email from Ozpave. And if you go to the next page, this time it's a quote for asphaltting work at Henry Lawson Drive at Kentucky Reserve, Milperra.---Ah hmm.

And again go to the next page, page 322 from Jason Curmi.---Yep.

10

If we could go, please, to page 324. Now a third email from Ozpave to you on 6 December, 2012. This time it's a quote, if you go to the next page, to 325, for Henry Lawson Drive at Lansdowne Reserve, Lansdowne.---Ah hmm.

And to 326, again from Jason Curmi. If you could go, please, to 328, you'll see another email from Ozpave to you on 6 December, 2012, attaching a quote. This time the quote, if you go to page 329, it's Henry Lawson Drive at Boomerang Reserve in Milperra.---Mmm.

20

And if you go to page 330, it's from Mr Curmi. And if we could go, please, to page 332, you'll see another email, 6 December, 2012, from Ozpave to you. Heading is "Quotation Cronulla". And if you go to the next page, please. Sorry, 334. You'll see that this time it's a quote from Ozpave dated 6 December, 2012, for Captain Cook Drive, Cronulla.---Ah hmm.

And if you go to the next page, it's from Mr Curmi. If we could then go, please, to 337. See this time it's another email, 6 December, 2012, from Ozpave, and you'll see from the heading the quote for Lucas Heights. And if you go to 338, you'll see the quote is from Ozpave, 6 December, 2012, for asphaltting works at Old Illawarra Road, Lucas Heights.---Yep.

30

And then to page 339, it's from Mr Curmi. If you go, please, to page 340. I'm sorry, 341, I apologise. You'll see an email again – sorry, this time dated 13 December, 2012. And this time it's a quotation for Penrith as per the heading.---Yep.

And if you go to page 342, you'll see it's the Mulgoa Road, Penrith quote from Ozpave for asphaltting work.---Yep.

40

And if you go to page 343, from Mr Curmi. And then if we go, please, to page 345. You'll see now a 20 December, 2012 email from Ozpave, this time with the heading "Revised quote Milperra". You'll recall that one of the earlier quotes, the one that, indeed, the first one I took you to, from 6 December, 2012, at page 317, was for Henry Lawson Drive and for Milperra Road, Milperra.---Okay.

And if we go then, please, to page 346. Do you see that it's now for the same location, Henry Lawson Drive and Milperra Road, Milperra, and signed by Mr Curmi?---Yep.

So having looked through those, does that assist you in recalling that in early-to-mid December 2012, you actually contacted Ozpave and sought that they quote on the various locations for that paving works were required?---Yeah, yes. That's why I mentioned them.

10 Do you recall though whether they actually did the work?---I don't think they did the work, no. From memory. They may have done other work. I can't remember now.

Just in that regard - - -?---I may have engaged them before. I don't remember. Just in that regard, do you recall that Ozpave had already done some asphaltting work in different RMS jobs that you had been responsible for earlier in time?---Yeah. I think maybe in Mount White.

20 Mount White. And do you recall that that was a Complete Building Fitout job, so that they had been subcontracted by Complete Building Fitout? ---That's right.

But in this instance, can I take you, please, to a letter starting at page 379 of volume 6. It's a two-page document. Please let us know when you have read this page and then I'll take you to the next page.---Okay. Next page.

30 Just read it to yourself if you could first, please. Just read this one first and let us know when you've finished. Have you read to the bottom of the page?---I'm getting there.

Sorry.---Yeah, next page, please. Okay.

Just looking at what Ozpave have indicated, it's confirmed that Mr Curmi was the estimator and that met and provided quotes, and I've taken you to the quotes.---Yeah, yeah.

40 You'll also see that it refers in the correspondence from Ozpave to Ozpave being awarded three projects, but noted that the works weren't completed as there was some rush for the works to be done and that Ozpave couldn't accommodate the timeframes. Do you recall that?---This is, like, 10, going back eight years, telling you that they were in a rush to complete a project. This doesn't mean anything to me, no. And I, and I, and I don't remember meeting Jason Curmi with Chahid Chahine.

You don't?---Maybe, maybe on a Mount White project but I remember seeing him with John Goldberg.

That's Mr Curmi?---Yeah. Or somebody from Ozpave. Could have been him.

Well, this letter at page 379 refers to Jason remembering that there was a meeting with you and – they've described him as Shahid Chahine with an S but take it as Chahid with a C-h, because there is a reference to Hoody.---Ah hmm.

10 On the sites in respect of these jobs, do you deny that or do you just say you don't recall?---I said maybe he, at the Mount White job, I don't know, but other, the other ones I remember being there with Mr Goldberg.

But as far as the suggestion that there was three projects awarded but not ultimately done. If we go back, please, to page 375 of the same volume. You'll see that there is a letter of acceptance that was found on your, the devices at your home, suggesting that there had been an acceptance of a quote for three jobs. Lansdowne Reserve, Mulgoa Road, Penrith and Boomerang Reserve, Milperra.---I don't know, was this document sent to them?
20

I can't answer that but they do say in their correspondence that they were awarded three projects but none of them were ultimately done because of time frames.---Okay. I, I don't, I don't, I don't remember this document but if it's on my – I don't deny it, yes.

Well, the correspondence from MJ – I withdraw that – from Ozpave indicates that notwithstanding having provided quoted directly to you in December, that ultimately they did no work.---Yes.
30

Do you know who did the work, if anyone did any work, on those sites – that is the paving work – that MJ Wilsons was paid for in January 2013?---I actually thought that they did multiple sites under MJ Wilsons. That's what I was assuming. That's what I remember.

THE COMMISSIONER: You were asked before by Counsel Assisting in relation to the quotes you sought from Ozpave early-to-mid December, whether any work was actually done in relation to those projects, and your reply was "I don't think so." Is that still your evidence?---Sorry, can you please - - -
40

Yes. Counsel Assisting, just a few minutes ago, put to you that in early-to-mid December 2012 quotes were sought from Ozpave in relation to the various projects. He asked you whether any work was actually done in relation to the subject matters of those quotes. Your reply was "I don't think so."---This is - - -

Is that still your evidence, that you don't think that any work was done in reference to those quotes?---I recall there was some sites done, but the, the invoice was missing some sites, which my answer to Jason was that I don't think so, I don't think they were done. I don't remember why they were taken off the invoice, now with this evidence. But I, for some reason in my mind I remember there was some sites that were asphalted on Henry Lawson Drive.

10 Well, as to what's in your mind, what I just want to clarify is whether, having been taken through all the documentation concerning these quotes, your previous answer to the question whether any actual work was actually done in respect of them, you replied without hesitation "I don't think so." And I take it that that is still the position.---Yes, to, yes, to some degree, but I, I still think - - -

No, no - - -?--- - - - there are some sites that were done, though, maybe, potentially.

20 I'm not talking about degrees. I'm talking about you embraced entirely, when it was put to you, that whether any work was done on these projects that were the subject of the quotes, and your reply was "I don't think so." Now, does that answer still stand?---Can I get the whole context of the sentence?

No, no, no, no. No, no, no, no. No, no, no.---Sorry, like, I'm, I'm - - -

Mr Dubois, would you listen to my question and answer it directly?---Can I - - -

30 That is your duty as a witness and I want you to focus again. You remember saying, in answer to the question I've put to you, and Counsel Assisting, as to whether any actual work was done, you said, "I don't think so."---That was my answer to that question.

Right. No, just a step at a time.---Mmm.

40 Has there been anything shown to you, having been taken through all the quotes and the matters referred to in the quotes, that requires you to change that answer "I don't think so"? Is there anything in all of the matters, each of the quotes that Counsel Assisting has taken you through, that would cause you to change your evidence when you said, "I don't think so"?---I'm not changing my answer. All I'm saying is that I remember there was some sites that could have been done on Henry Lawson Drive. That's all I've said.

Please. I'm trying to ascertain what did happen and what didn't happen. ---Yeah.

Before you said it didn't happen. That is, when it was put to you, whether any work was actually done in respect of these projects, and you said, "I don't think so." Senior Counsel Assisting has taken you through all of the documents, the string of documents just a moment ago, and my question to you is there anything in any of those documents which would cause you to alter your answer "I don't think so"?---No.

All right, thank you.

10 MR DOWNING: Just thinking back, though, to the fact that the process of you obtaining the quotes and meeting with Mr Curmi and getting the quotes, was that done with a view to, first of all, Ozpave doing the work directly for the RMS?---When was the – I'm trying to remember when I actually got Ozpave to quote those. So before MJ Wilsons did the work. Was it six months earlier?

No. That was a quote - - -

20 THE COMMISSIONER: No, no, please. Just answer the question.---Well, I have to limit the dates before I answer the question.

MR DOWNING: That's fine. The quotes ranged from 6 December, 2012, to 20 December, 2012, and you would have seen from the invoice I took you to that the MJ Wilsons invoice – there was a letter of acceptance on 9 January, 2012, and a tax invoice issued on 21 January, 2013. Sorry the - - -

THE COMMISSIONER: '13, ah hmm.

30 MR DOWNING: The letter of acceptance date, I am sorry, was 17 January, 2013, and the invoice was 21 January, 2013.---Okay. To answer your question, most likely that would have been just to get some quotations to get references and baselines.

Just so you would have some idea of what MJ Wilsons could then charge? ---Correct.

So it's likely that those quotes were obtained, not with a view to Ozpave genuinely being given the work?---That's what I'm assuming from seeing this evidence.

40

Just on that issue of whether any work was done, can I take you to a couple of other documents that might relate to this? Can I take you, please, to volume 6, page 381, and you'll see that this is a Country Pavement Services invoice. Now, it's a company based in Tamworth, not in Sydney, but you'll see, first of all, it's dated 28 March, 2013. It's addressed to Complete Building Fitout, so Mr Chahine and Mr Hadid's company and you'll see from the location, it's referring to Boomerang Reserve.---Okay.

I want you to assume that Boomerang Reserve is a garden reserve which is located on Henry Lawson Drive in Revesby.---Okay.

So looking at that, first of all it's obvious, isn't it, from the document, that it's relating to some form of pavement work that had been done?---Yeah.

Presumably at that location.---Yes.

And it's the sum of 22,500.---Yes.

10

Do you know whether perhaps, notwithstanding that it was MJ Wilsons that was invoicing the RMS and being paid for the work, whether Complete Building Fitout might have separately been engaged to organise the contractors so that Country Pavement Services actually were brought in to do some of the work?---Potentially, because I do remember some site, again as I have said earlier, that some sites along the Henry Lawson Drive – this I'm assuming is along Henry Lawson Drive – were done. So this could have been it. I can't remember. It was some time ago now.

20

Do you have any knowledge though whether, for instance, Complete Building Fitout and MJ Wilsons were in effect billing the RMS for the same thing?---Maybe. Maybe. I can't recall. Potentially, I don't know. I have to - - -

Did that ever occur to your recollection, that is that you would have two different contractors actually billing for one set of work?---Pretty sloppy but, I mean, I can't recall exactly.

30

Can I take you then, please, to page 382, and you'll see it's another Country Pavement Services invoice, again dated 28 March, 2013, and again to Complete Building Fitout. So it's not directly to the RMS, it's to Complete Building Fitout, and this now relates to Lansdowne Reserve. And you'll recall, I take it, from the documents I've taken you to, that there was a Henry Lawson Drive, Lansdowne address that was covered both on the invoice and the quote.---Okay.

40

Looking at that and noting that it's 8,000 plus GST and it relates, on the face of it, to some asphaltting work, could it be that Country Pavement Services was brought in to do that part of the job and it billed Complete Building Fitout who in turn billed the RMS?---Potentially, yes.

With MJ Wilsons separately billing for that and other jobs.---Maybe, potentially, yes.

Accepting that it's some years ago now, can you recall that this was a job where you were building in a significant margin so that kickbacks could be

paid so that in effect two contractors were billing for one set of work?
---Yes, I do, I have mentioned this before to you, to the Commission previously. This is one of three or four projects that this occurred. So yes.

Now, thinking back to the work that MJ Wilsons did, it only remained a contractor for the RMS for a relatively short period. The records indicate that it did work between July 2012 and July 2013. I'm sorry, February 2013 and April 2014. I apologise.---This is MJ Wilsons?

10 MJ Wilsons that does RMS work and is paid for it only between February 2013 and April 2014.---Okay.

Can you recall what it was that led to the end of the MJ Wilsons work in mid-2014?---Well, you've touched on it earlier with the disputes that I had with the cafes and Mr Goldberg.

So was that around the same time as the disputes with the café that you cut off work?---It could potentially be, yeah. I assume so. Or maybe a short time after that the disputes occurred.

20

Well, what's your recollection as to the nature of the dispute? So in timing-wise, what happens? Is he doing the work satisfactorily?---This is with the cafés you mentioned earlier.

Well, the cafés are a separate matter, and you've given some evidence about, that the café and the falling out over the fact that no money was coming back from it.---Yep.

30 But did that lead – was it the fallout of the café that led to the cessation of work for MJ Wilsons?---Pretty much. There was a fallout with, with, with the person himself, so with Mr Goldberg.

And that led you to offering him no further work?---We went our separate ways.

Now, a couple of other matters in respect of Mr Goldberg. Do you remember that separate to the cash payments that you've described receiving from him that on one occasion that he provided you with some jewellery?---Correct, yes.

40

And I'm going to suggest to you that on 16 June, 2013, you and Mr Goldberg went to a particular auction. Do you remember attending that?
---Yeah, that was in, in (not transcribable) I think Miranda or something - - -

Tradies at Gymea?---Gymea, that's it, yeah, close to Miranda.

And do you recall that it was a First States Auctions branded auction that night?---I don't remember the name, but it was an auction, yes.

I'm going to show you some documents, but what's your recollection of what it was that Mr Goldberg bought that night?---He bought some, I don't, I can't remember exactly what he, what he bought. He bought some jewellery and there was also some jewellery that I had picked out. And he paid for it in cash.

10 If we go, please, to volume 6.5, page 6. You'll see a tax invoice from First State Auctions, dated 16 June, 2013, indicating the location of the auction at Tradies, GyMEA. It's addressed to Mr Goldberg.---Yes.

And you'll see that it lists various lot numbers. There's 12 lots with a subtotal of \$21,125.---Ah hmm.

With then a buyer's premium of \$3,168.75 payable, so the total payable was \$24,293.75.---Mmm.

20 Now, what do you recall receiving as jewellery from what he purchased that night?---I think it was like \$20,000 from memory, so, but I remember him buying also some jewellery, so - - -

Well, you'll see that there is a description there of various items. There's a ring, there's a pendant, well, various rings, various pendants, stud earrings, and a loose radiant cut diamond. But what do you recall that he gave you from the items that were purchased?---I think item 21 rings a bell.

That's the loose cut diamond?---Yep. (not transcribable) I think it was the, there was a ring with, item number 94.

30 The eternity ring?---Yeah, number 127.

So that's the pendant.---Yep.

Now - - -?---And there was also the - sorry?

Sorry, go on.---I think it was maybe number 50 and - - -

40 So the emerald and, sorry, emerald and diamond pendant?---Yeah, there's a purple stone. There's, there's a, there's a chain and there's also a ring.

But those that you have identified from that list are the ones you believe he gave to you?---Correct. Yeah.

This may assist. Can we go, please, to page 1 in that volume. And you'll see that we do have some - - -?---Yeah.

- - - certificates of authenticity in respect of individual items.---Yeah.

Is that one of the items you got?---Yes.

And if we could then go, please, to page 8. Is that one of the items you were given?---I don't recall this one.

If we could go, please, to page 12.---I think it was six items or five items. This one I do recall.

It's one that you received?---Yeah.

10

So is it your recollection he paid cash for it all?---Yes.

And did you have any knowledge as to where the cash had come from?---It would have been the work that he was given through the RMS contract.

Now, thinking back to the relationship that you had with Mr Goldberg and the work that MJ Wilsons was getting, did you have any knowledge as to whether Mr Abraham, the person I've suggested that had MJ Wilsons put in his name, whether he was receiving some particular form of payment for his
20 role?---I'm not, I don't know. I don't know. I'm not aware of that.

I'm going to suggest that between January and May 2013 - - -?---Yeah.

- - - there was a payment of \$370,525 from Areva into MJ Wilsons. Can you think of any reason why Mr Alameddine's company would have been making a payment of that nature into - sorry - a payment from Areva into Ibrahim Transport, the company set up by Mr - sorry - a company set up by Mr Abraham. Do you have any knowledge of why Areva was making a
30 payment?---I wouldn't know. I don't know. I didn't even know they existed.

Thank you. One final matter in respect of Mr Goldberg. Do you recall that at some point, you organised to have a family trust set up for your family?
---Yes.

And do you recall retaining lawyers for that purpose?---Retaining lawyers, sorry?

Retaining lawyers, that is, to have them prepare the documentation for the
40 trust?---Yes. Yes.

And if we could go, please, to volume 6, page 61. Do you recall it was Hunt & Hunt Lawyers that you retained to assist with the setting up of the trust?
---Initially, this was, I was assisted with this with, by Mr Goldberg, so I think he organised this one on, on my behalf.

But did he find the lawyers or - - -?---And I think he was working with, I think it was Fox Accounting and they would, maybe, they would, they would have worked through - I'm not sure how it worked.

But you'll see that Hunt & Hunt prepared the trust document for the Habbouche Family Trust. And do you recall reading this document when it was received?---I remember receiving two folders that he gave me, so, I mean, I don't really understand how it works, trusts.

10 But was the idea to set up a family trust with the beneficiary to be your mum?---Yes.

And you'll see - - -?---But that changed later on, sorry.

What did it change to?---That was, like, years later, I, I, when I went to my accountant, I showed him this trust and he said it's all set up wrong.

But I'm going to suggest it was set up back in February 2013.---Yeah.

20 So at a time when you were still in business with Mr Goldberg.---Correct. As I said, he was the one that set this up for me.

If you go to page 63 of the volume, you'll see that under Background, it indicates that the settlor has paid to the trustee the initial sum referred to in the schedule to be held by the trustee on the trust set out in the deed. Do you see that? So it refers to a settlor paying some money to the trustee. ---Settlor has paid to the trustee - - -

30 It's a legal term but do you just follow that so far, that it refers to a payment?---Okay.

Subject to details said to be in the schedule. Can I take you, please, to page 79.---Yep.

And do you see in the schedule what it provides is the name of the trust. So it's dated, the deed is dated 27 February, 2013.---Ah hmm.

40 And you'll see that the name of the trust is the Habbouche Family Trust. The settlor is Mr Goldberg.---Yes.

The initial sum's \$100. Correct?---Yep.

The trustee is you.---Yep.

And the beneficiary is your mum.---Yep.

So that according to the trust deed itself, Mr Goldberg had paid the \$100 initial sum to then be held by the trust on trust for your mum.---Okay.

And do you say that – well, did you know that he, according to the trust deed, was the person that had settled the funds for the purpose of establishing the trust?---I don't know. I, I don't remember how he set it up. All I was trusting him to set up this trust for me.

You say at some later stage you spoke to, is it your lawyer or accountants, and they told you there's some difficulty with it?---Yeah, that's correct, yeah.

10

Do you see at the top right there is a stamp indicating that it seems to have been lodged for the payment of stamp duty on 20 November, 2015? So some years later than the date of the actual deed itself?---Okay.

Do you recall is it perhaps at that later stage, when you spoke to – was it your accountant or your lawyer?---Accountant.

20

That they suggested that you might need to go and have it stamped so that stamp duty would be payable?---I actually don't remember, to be honest. It was a bit, it was a bit confusing, this whole thing.

You'll see there's also a fax stamp at the top dated 6 May, 2015, suggesting a fax sent at 14.14 that day - - -?---That's the accountant.

- - - from ATS Tax Experts. Were they your accountants?---Correct, yep.

30

Going back to what you can recall, do you say that the extent of Mr Goldberg's involvement was simply putting him in touch with people in order to have this created?---I didn't remember sitting, I don't remember sitting down with any accountants or his accountants. He kind of just set it up on my behalf.

Well, just in that regard, if we go back, please, to page 80 of the same document, you'll see that there are signatures there indicating that it was executed with the witness to the various signatures.---Mmm.

Being Mr Metleg.---Mmm.

40

So it looks like Mr Goldberg signed, you've signed.---That's his accountant. That's Fox Accountants.

Accountant whose document I took you to earlier in respect of the change from Australian Technology Group to Davencorp?---That's the one, yep.

So do you believe you met with Mr Metleg for the purpose of setting up this trust?---Yeah, either that or he gave me the folder to sign or he said sign here.

But what was your intention in having this trust set up?---I mean, he advised me to have a family trust for future, you know, for, you know, it's more if you get married, if you want to buy something, it's a protection mechanism.

Sorry, Mr Goldberg or Mr Metleg advised you?---Mr Goldberg.

10 So it was on his advice that you went and saw his accountant and ultimately had this set up?---I think he set up the folders. Either had gone there or he gave me the folder or the section to sign and then he'd finish the rest. From what I recall.

I just want to take you back briefly to the records that I took you to earlier showing the various sums being withdrawn from the MWK Developments accounts, and you'll recall I suggested to you that the records will demonstrate that it was your card that was used.---Yes.

At the various Westfield Centre Court branch attendances.---Yes.

20 Can we go back, please, to page – so volume 5.1, page 474. And on that page, first of all, do you see on 6 November there are two debits – this is on the MWK Developments account number 4-5-6-9 that you and Mr Taha were signatories on.---Ah hmm.

And do you see on 6 November it appears that there are two cheques presented, 1-0-0-8 and 1-0-0-9, both for \$45,000? So they're debits against the MWK Developments account.---Okay. Okay.

30 And if you go, please, to page 489, you'll see that – thank you. These are cheques I took you to earlier. So two cheques, both \$45,000 on 5 November and 4 November, 2012, that were drawn on that MWK Developments account.---Yes.

And I asked you some questions earlier about the basis for the payments at that time, whether it might have been to provide with moneys to settle tax obligations of MWK or perhaps related to the setup of the café or bakery businesses.---Correct.

40 Can we go back, please, though, to page 474? And on that same page, underneath those entries for 6 November, those two cheques, do you see that the same date, 6 November, there was also a \$45,000 debit at Westfield Centre Court?---Ah hmm.

And just in that regard, I've already suggested to you that that was you who withdrew it but can I take you to the records to hopefully demonstrate that? Bear in mind that at 6 November, 2012, and it's a \$45,000 withdrawal for a card entry at Westfield Centre Court that day.---Yep.

Can I take you, please, to page 492, same volume? And you will see that this is an ANZ record and it shows a couple of things, but first of all do you see the card number it demonstrates being present on that day ends in 8-0-2-4?---Yep.

And you'll see that there is a transaction ID number that starts 1-2-1-1 and ends with 1-7-5-4.---Yep.

10 Can I ask you to then go, please, to page 496? And you will see again an ANZ record for the same date, 6 November, 2012, and you will see that the same transaction ID number appears there. It starts 1-2-1-1 and ends with 1-7-5-4.---Yeah.

And you will see that it shows an amount withdrawn in cash of \$45,000. ---Yep.

Via swipe card.---Yep.

20 And if we go then, please, to page 497. Oh, sorry – yes, 497, thank you. And you'll see again the same transaction ID number.---Yep.

And again demonstrating on 6 November, 2012, a withdrawal of \$45,000 cash.---Yep.

And if we go, please, then to page 498. Do you see again a record from ANZ showing a date, 6 November, 2012. Again you will see that the transaction ID number is the same, it starts 1-2-1-1, ends 1-7-5-4.---Yep.

30 And this time it actually shows the breakdown as to how that money was withdrawn, and that is it was \$45,000 in \$50 notes.---Okay.

So 900 notes making up \$45,000. Do you recall that that was what you – well, first of all, do you accept that that was you who made the withdrawal? ---I mean, it's a, it's high possibility. I just don't remember pulling out that much money from ANZ in Parramatta. So, I mean, I'm sorry, it's nine years.

40 I know, I understand that. But I've taken you to records elsewhere to show that 8-0-2-4 is a card that you were using.---I completely understand the logic, sir, and I've said it's a high possibility that it could have been me and I haven't denied getting cash from these guys. I just don't remember pulling out – maybe it was \$9,000, but 45 grand, so, I mean, that's why I was suggesting it would have been maybe Towfik but it's a possibility that I could have been me. A high possibility.

Towfik had his own card on the account though, didn't he?---Yeah, he did. Definitely, correct.

There was no reason for you to give him your card?---I mean, that's, that's, I'm just kind of baffled by that amount. But anyway - - -

If we go back, please, to page 474, you'll see it's the bank statement again. So literally after that withdrawal is made on 6 November, you'll see there's a further card entry on 8 November, again in the sum of \$45,000. So same branch and again a card entry. Can I take you, please, to page 500, and you'll see the bank record shows now 8 November, 2012, and there's a different transaction ID number. So it starts 1-2-1-1 but ends with 7-4-5-1.
10 Do you see that?---Yes.

And it shows again that the card number used, being the swipe card used for this transaction, ends in 8-0-2-4.---Yes.

So bear in mind those last four digits of the transaction ID, please, ending in 7-4-5-1. Can I take you to page 505. So it's an ANZ record showing 8 November, 2012, a cash withdrawal of \$45,000 and the transaction ID is again ending in 7-4-5-1. You see that?---Yes.

20 And if we go to the next page, please, page 506, you'll see that the ANZ record for 8 November, 2012, demonstrates that, first of all, the transaction ID is the same one that I've taken you to for 8 November, that is, ending in 7-4-5-1?---Yes.

And it shows that it was \$45,000 withdrawn in cash, made up of \$50 notes, so again 900 \$50 notes.---Okay.

Now, again, and I expect I know what your answer will be but do you accept that that was you who made the withdrawal?---I honestly don't
30 remember this is me. I have a feeling that it would have been Towfik pulling out this money 'cause I remember Towfik coming to my house with sums of money. So if I was pulling out this money, when was he giving, what other money was he giving me? So that's why I can't - - -

Do you ever remember lending him your card, that is the card you had for use on the MWK Developments account?---It's a possibility 'cause I remember him visiting my house with large sums of money, so this is why I'm baffled that, you know - - -

40 But given that, first of all, it's the card that we know that you used on other occasions - - -?---Right.

- - - and, secondly, that it's at the Parramatta branch near your work - - -?
---Yeah.

- - - isn't the likelihood that it was you?---It's a possibility but I just don't remember this amount of money and me pulling it, you know? I, I would remember.

Even if it would be that you had lent the card temporarily to Towfik, it would have been money to then be given to you?---Look, I, I've said yes, but, yeah.

I now want to move from Mr Goldberg and the various companies, that is both MJ Wilsons and Wilkins Corp, to one of the other contractors or two of the other contractors, that is Abdula and Gamele Nachabe and the companies that did work through.---Yeah.

10

Now, you've confirmed already that Mr Nachabe, that is Abdula Nachabe, was someone that you knew outside of work.---That's right.

And remind me the connection was, was it via the gym?---Maybe it was initially gym, maybe it was another third party that introduced me to him, yeah.

But you knew he was an engineer?---Yeah.

20

And I think you gave some evidence about this earlier that you recall him working for one of the big engineering companies in Sydney.---That's right.

And do you remember that was Kellogg, Brown & Root?---I don't remember the name, no. But they're from, I mean, what's the abbreviation for that?

KBR.---KBR, that's, that's, that's, like, that rings a bell.

30

And you have a recollection that KBR was an engineering company that did some work?---KBR?

Sorry. Did some RMS work at some point?---Through myself?

Well, that you were involved in?---Mmm. Potentially. That would have been very early on. I don't remember.

I'm going to suggest it was early on but do you recall that, and this is going back to your time in the ITSP?---Could have, could have been, maybe.

40

Could we go, please, to volume 8, page 50.---I think it was on weighbridges, maybe? Maybe (not transcribable) weighbridges.

I think your recollection has stood the test of time on this front, Mr Dubois. So do you see, according to this email, on 8 September, 2009, you send an email to an Ian Connolly at KBR, copied to Mr Pringle and Mr Finch but also Abdula Nachabe - - -?---Yeah.

- - - indicating that after some discussions with Mr Connolly yesterday, the RTA wanted KBR to do some site integrity inspections on the weighbridges?---That's right, yeah.

And you'll see the locations of them down below, the seven sites.---Mmm.

So do you have a recollection that at that point that you had, well, first of all, you must have known who Abdula Nachabe was?---Yes.

10 And that he was working at KBR at the time?---Yeah.

And is it correct that KBR subsequently did that inspection of the weighbridges?---Yes. I, I, I recall that, yeah.

And do you recall whether Mr Nachabe had some involvement in that project?---I'm assuming so. He's CC-ed on the email, so, I mean, I, I think there was a few engineers involved with this, from memory.

20 But do you recall then, moving on in time from that work in 2009 when you were back in the ITSP, that you learnt from Mr Nachabe that he was going out on his own?---That's right.

And I'm going to suggest that that was something that occurred in - - -? ---2011, early.

Early 2011.---Yep.

30 And just thinking about that, do you recall him letting you know that he was looking at setting up his own company?---I think I, I, I was, I don't remember, I don't, I don't recall how I, how I knew. Maybe he had told me just in conversation.

Well, do you recall that he and a colleague that was working together with him at KBR went out and started what became A&A Structural Solutions? ---I didn't know the other guy. I just knew Abdula, yeah.

Abdula?---Yeah, correct.

40 But do you recall any discussions with him before he finished up at KBR about whether, in fact, he might be able to obtain some work through you at the RMS? Or, sorry, what then would have been the RTA.---Can you just repeat that, please.

Do you recall some discussions with Mr Nachabe, before he left KBR, about whether he might be able to obtain some work on his own account once he set up his own business?---I mean, it could have happened, yes. Could have. I don't, I don't recall the conversations, though.

But he was someone that you did see from time to time outside of work as well as through KBR?---I saw him more outside work as opposed to KBR, yep.

All right. But it's likely, isn't it, that at some point you discussed with him his plans to leave and the fact that he might be looking for work in the outside world?---That's right.

10 And can I take you just to the search, just to show you the dates relevant to A&A Structural Solutions. If we go to volume 8, page 1. And you'll see that A&A Structural Solutions is registered on 3 March, 2011.---Yep.

And if you go over the page, please, you'll see that Mr Nachabe is a director from the outset, from 3 March, 2011.---Yep.

And that Mr Al Banna is a director, but only for a brief, relatively brief period, from 3 March, 2011 to 31 August, 2011.---Okay.

20 And if you go over the next page, please, to page 3, you'll see that, with the shareholding, that Mr Nachabe was the shareholder and a former shareholder was Mr Al Banna.---Yep.

Now, were you aware that at or around the same time that A&A Structural Solutions was being set up that Mr Abdula Nachabe's brother Gamele was also setting up a different company?---I may have heard of his brother or maybe seen him very rarely, but I didn't know about his companies, no.

30 Well, if you just go, please, to same volume, page 39. You'll see this is a search for Senai Steel and you'll see that it's set up on 7 April, 2011, so just a month or so after A&A Structural was set up.---Yep.

And if you go over the page, please, in terms of directors, you'll see that Gamele Nachabe was a director from 7 April, 2011, and for a period Abdula Nachabe was a director. He was the director from 7 April, 2011 to 27 May, 2015.---Yep.

40 And if you go over the page in terms of shareholdings, you'll see that Mr Gamele Nachabe owned the shares but Abdula Nachabe was a former shareholder.---Yep.

Can you recall any discussions with Mr Abdula Nachabe at or around the time A&A Structural gets its first RTA work, about whether he had a brother who could perhaps provide some steel works separate to engineering inspection works?---That was after the inspection works had occurred.

So it was later in time.---Correct, yeah.

So after the inspections had been done.---Correct, yeah.

And is your recollection that, what, Abdula then said to you, “Well, I’ve identified work and my brother has a company that could do it”?---No, see, after the inspections had occurred, there was some sites, as I said before, my previous evidence, that there were, there were some urgency work, works required. There were no panels that existed for this sort of thing, so I was looking to try and find a contractor that could do it, and I think he may have suggested his, his brother that they can – yep.

10 So it arose in the context of reports come back about the various gantry structures, and with some of them there was an identified need for urgent works?---Correct, yeah.

And you believe Abdula said, “Well, if you need something done urgently my brother works in steel.”---It could have happened like that because we didn’t have any panels or any contractors that, from what I knew, that did this sort of steel work.

20 But Senai Steel then does not just the urgent work but does quite a lot of work on the different gantry structured sites?---Yes, afterwards, correct.

But then going back to the beginning of the relationship with A&A Structural, do you recall that perhaps even before Mr Abdula Nachabe set up A&A Structural you might have been in some communication with him about what works he might be able to do or how he might be able to assist you with RMS works?---I mean, it could have happened in conversation, as I said, we used to see each other outside of work quite often, yes.

30 All right. Can I take you please to volume 8, page 141, and I want you to bear in mind again, that the date for A&A Structural’s registration is 3 March, 2011.---Okay.

So it doesn’t exist until 3 March, 2011. Do you see starting at the bottom of the page there’s an email from, it’s ebahcan@[REDACTED] to you at the RTA.---Yes.

The heading is “Structural integrity reports for overhead gantries”. Do you see that?---Yes.

40 Do you recognise that as the private email address of Abdula Nachabe? ---Yes.

You’ll see that on 11 January, 2011 Abdula Nachabe emails you the client brief for the HVCS Structural Integrity Reports and if you read please, to the bottom of that page, so points one and two and tell me when you’ve done that, and then we’ll go over to page 142.---Okay. Okay.

So if we go to page 142.---Okay.

Looking at that, it would appear from that, wouldn't it, that you had sought perhaps he provide some input into what the client brief to be the structural integrity reports should consist of?---Yes, maybe in discussions with him I would have asked his advice, correct.

So, breaking that down, you've asked him to provide some advice about the context of a client brief for a job that you were going to seek - - -?---Scope of works.

10

Sorry, scope of works. But seeking his input to finalise the scope of work for a jobs that you're going to then send to him to quote on.---Again, I don't remember the conversations but looking at this it may have been asking him what is included in the actual inspections of the gantry and what should I, what should be included in the scope of works because of line items, working of heights and as you can see, go down the page. So he must have sent that to me via private email so yes, I sort of discussed this project with him.

20 I take it with a view that you're going to award the contract to his company?
---I was going to try my best to do that, yes.

All right. Although at this point the company didn't exist?---Well, at the time, I'm not sure what I was thinking at the time but I definitely sought his advice as you can see from the email.

30 All right. If you look at the exchange of emails back onto page 141 going up to the top, so we're going from 11 January to 18 January and then 19 January. I take it, you accept that what is going on there is you corresponding with him with a view to, ultimately, this request for quote going out to him so that he could put in a quote for it?---It looks like here he's setting up a company or getting the insurance required for some sort of work that is related to this – sorry, your question (not transcribable)

It was that you're emailing him backwards and forwards about him getting himself in a position so that he could ultimately put in a quote- - -?
---A quotation, yep.

40 - - - for the job that you had sought his input about the content of the request for quote?---Correct.

And just to again put it in time context. If we go back, please, to – sorry – go ahead, please, to page 143. You'll see on 31 January, 2011, so this is now just a couple of weeks later than that exchange with Mr Nachabe, he emails a number of people, but you amongst them, but also Maher Chamsine, to indicate – well it says, “Salam boys. I won't be working for KBR no more. I've been made redundant. Insha'Allah, speak to you soon.”---Okay.

And you then respond on the same day effectively asking him, “Well, what did you do?”---Correct, yeah.

You know, joking with him about why he had been made redundant.
---Yeah.

Now, Maher Chamsine is Barrak Hadid’s cousin, correct?---Yeah.

10 And is there a relationship by marriage to the Nachabe’s?---Correct. I mentioned that earlier, yeah.

So, in any event you obviously knew by 31 January, 2011, that he had been made redundant?---Yep.

But looking at that and noting the exchange of emails that I took you to earlier from mid-January 2011, it would seem, would you accept, that he had telling you that it looked like he might be going out on his own?---Yes.

20 And if we could then go, please, to page 411. Do you see on 7 February, 2011, you actually sent to Tam McCaffery, who I take it then was your supervisor, to request for quote for the STC structural gantries visual condition reports for his review.---Yes.

And you’ll see that there’s then a response from Mr McCaffery to you on 9 February, indicating it looks good, nothing further to add, subject to other people putting their comments in.---Yep.

30 And if you go then, please, to page 145, you’ll see this is the actual document that you’d attached, which is the scope of works and requirements of visual and structural condition of STC gantry – sorry, STC structural gantries, guard rail, STC bunker housing and signposts at 19 STC sites. And this was the document that you had sought that input from Mr Nachabe about drafting so that you could get it finalised, correct?---I needed to get some line elements for the scope of works, yes. So he provided input.

And I take it you recall this project being the 19 gantry locations around the state where there was an inspection that was required?---Yeah. I mentioned this earlier, yes.

40 And do you recall that you had some discussion with Mr Nachabe where you indicated to him that you would give him a hand by ensuring that he got this job?---I’ve never given him a hand but I think I definitely gave him a hand when I sent him, you know, other people’s quotes to, to make sure they can cross, cross reference.

But was it your intention that you wanted to – I withdraw that. You got quotes from others?---Yes.

But I take it you got those quotes not with a view to awarding the jobs to those companies but with a view to ensuring that he could get his quote in at the right price and obtain the work?---Yeah. I wanted to try and favour him, yes.

Now, were you expecting that you would get something back in return for favouring him?---No. I didn't, I don't remember, I don't recall getting anything in return for this, no.

10

Oh, well I'll take you to a document later. I'm going to suggest you did obtain a kickback from it.---Mayne, okay, maybe I did but I don't recall it, yeah.

But as far as the quoting is concerned, do you say that you don't recall any discussion with him about whether, in return for assisting him to get off the ground with A&A Structural, that you might get something in return?

---Actually, I don't recall getting anything in return. So, I mean, that's 10 years ago now, more than 10 years ago.

20

Accepting you say you don't recall getting at un return, do you recall that discussion ever coming up with Abdula Nachabe, that you might want something in return?---I, I, it came up in other projects later on for the gantry works but with, with - - -

Gamele?---Gamele, correct. But with this one, I don't recall it. Sorry. Maybe, I'm not sure. I mean, I will say if I do remember, I will just say I do remember.

30

Can I take you, please, to page 161? And I take it you recall that after you got that input from Mr McCaffery that the request for quote for people to then provide their services to do the inspections and reports, it went out? ---Yep.

And if we go, please, to page, so 161. You'll see on 14 February, 2011, at 10.02pm you send an email to Mr Nachabe at A&A Structural Solutions with a request for quote for this job.---Yep.

40

And you'll notice that the company does now have its own email address, so it's got a domain for A&A Structural Solutions.---Yep.

Whereas the earlier email I took you to was a private email address.---Yep.

And if we go, please, to page 162. You'll see it's the actual, the scope of works for the particular job, dated 2 February, 2011. So this is the document getting sent to Mr McCaffrey.---Yep.

And you'll see, if you go back, please, to the email at page 161, the closing date was Friday, the 25th of February, 2011.---Yep.

And do you recall that Mr Nachabe sought an extension of time in order to get the quote in?---No.

Can we go, please, to page 229. Same volume. So do you see on 24 February, 2011, Mr Nachabe sends you a request that he be given a little bit more time, to the 26th of February, to complete and submit his quote?

10 ---Okay.

And you've already made reference to this, but it's the case, isn't it, that you actually went to market and got quotes from the various engineering concerns?---Yes.

And if we go, please, to page 230, you'll see that one of the organisations that you got a quote from was GHD.---Yep.

20 So that on the 25th of February, 2011, the GHD quote comes in.---Yep.
SKM (not transcribable)

And if you go, please, to page 221, you'll see that it's the quote for exactly the works that you've been seeking, that is the 19 locations around the state.---Yep.

30 And if we go ahead, please, to page 252, you'll see GHD's quote. It was a primary offer of 66,463 ex GST to do the job. And you'll see that there's a note there as to the basis of that. So it assumes that the condition assessment will be carried out using existing personnel, access infrastructure at each location. So there's no need to, for provision for traffic control management. And then at the next page, page 253, you'll see there's an alternative offer in a higher price, at 105,884 ex GST. And again there's a note there explaining the basis for that price.---Ah hmm.

So in effect alternative quotes depending on the way in which – well, depending on what was going to be required at the job. You see that?
---Yep.

40 And if we go then please to page 290. You see that on also 25 February that a Mr Wooldridge at SKM also submitted a quote.---Yep.

And you'll recall SKM is Sinclair Knight Merz, M-e-r-z?---Yeah.

And if you go, please, to page 292, you'll see the beginning of that quote. And if you go ahead, please, to page 322, you'll see the cost estimates. There's a price provided on that page. There's a subtotal of 29,560.
---Mmm.

And then over the page you'll see there's a price provided on the basis of the added benefits of 3D laser survey of the gantries and barriers of \$68,835.---Mmm.

And then finally can I take you to page 398 and you will see on that page on 28 February, 2011 you get a quote from Parsons Brinckerhoff, can you see you that?---Yeah.

10 Do you recall that they were the three companies that you got to quote, separate to A&A Structural, but the actual larger engineering concerns were GHD, SKM and Parsons Brinckerhoff that you got to quote?---Yes.

If you go to page 400, you'll see the quote starts there and, relevantly, in terms of the price, if you go to 429 you'll see that the total price and there's a breakdown as to how it's made up is \$105,339.---Yes.

Do you recall in this job you actually forwarded the Parsons Brinckerhoff quote to Mr Nachabe?---Yes.

20 And you sent it to his private email to, in effect, give him a leg up when it came to getting his paperwork and the quote in?---Yes.

Just in that regard if you go to page 441 same volume, you'll see that on 7 February, 2011 you actually send – I withdraw that. Saturday 5th, you see it's your email at the RTA but sending the email to Mr Nachabe's private email address, that is the ebahcan@[REDACTED] address, not to the A&A Structural. If you go to 442 you'll see it's the first page of the Parsons Brinckerhoff quote. So you sent that to him in order for him, I guess, well I suggest you sent it to him so that he could take whatever information he needed from that and assist him in getting his quote in.---Yes.

30

In any event, it's correct isn't it that Mr Nachabe through A&A Structural got the job?---Yes.

If we could go please to page 487 and you'll see there's a letter of acceptance and contract documents in respect of the inspection and report writing in respect of the gantries that sent on Sunday 6 March, 2011 from you to Mr Nachabe, correct?---Yeah.

40 And then, if we could go please to page 716 you'll see there's a purchase order number created in respect of this job and relevantly the purchase order number ends in 5353/1. Do you see that?---Yes.

It's created – I withdraw that. On 21 April you send the number to Mr Nachabe in respect of this job involving the inspect and reporting on 19 gantry sites.---Yes.

It's the case, isn't it, that you then received over the following months the various inspection reports in relation to each of the gantries?---That's right.

Can I just take you for a couple for example. First of all, if we could go to one please at page 662, same volume. Do you recall that this was the Gundagai report and if we go to the next page please, just pausing there. Do you recall that Gundagai was the location where there was the need for urgent works?---I think that was the, it could have been the one that had urgent works.

10

Right. Perhaps if we go to the next page please. You'll see that this was a draft. Do you have a recollection that you got what was a draft report in respect of it because of the need to get urgent works done?---I think that all (not transcribable) reports were draft initially.

When they were sent to you?---Yeah.

Is there a reason for that?---On review, they would be then finalised.

20

But you're familiar with the format of the reports. They go through photographs and analysis of the integrity of the various gantry structures. ---That's right. A long time ago, this - - -

Can I just take you, just for another example, to (not transcribable) if we go to page 788. And I take it you recognise that as the gantry structure there? --- (not transcribable) yep.

And then another example, if we could go, please, to page 920. Boggabilla. I take it you recall the gantry structure there.---Ah hmm.

30

And you retained reports of this nature from A&A Structural in respect of each of the gantry structures.---For each gantry, correct.

And they then submitted their invoices and A&A Structural were paid, correct?---Correct.

And if we go, please, to page 721, the same volume. Do you see it's an email from AA Steel seeking a progress payment on 10 May, 2011?---Yep.

40

From Mr Nachabe. And if you go to the next page, you'll see that this is invoice number 2. And it makes reference to the original contract, sum of 89,665. And it makes reference to a progress payment that had been made for 13 draft reports of 49,079 – well, there's an error in the figures. Too many numbers beyond the decimal point. But \$49,079 and some cents. ---Mmm.

And then there's a breakdown there indicating the balance that was yet to be invoiced.---Yep, so the 2,933.

And if we could go then please to page 723. You'll see that on 27 May, 2011, Mr Nachabe sends you an email with what seemed to be the final invoice for the 19 STC condition reports.---Yep.

And if we go to the next page, you'll see again it shows the original contract some, the amounts previously invoiced, so 89,665 is the original price that had been quoted. To date, there'd been some problems with the decimals, but \$71,731 invoiced.---Yep.

10

So what was left, this final bill, was for 17,933 plus GST.---Okay.

Now, I'm going to suggest to you that after A&A Structural was paid for this work, in fact you obtained a kickback via a payment from Mr Nachabe. ---Mmm.

Just in that regard, can I take you, please, to volume 5.1, page 205? And you'll see that this is a bank account opening form for ANZ, and it's for A&A Structural Solutions.---Yep.

20

And you'll see that it ends with the account number 6-1-9-9.---Yep.

And if you go over the page, please. Sorry, to the next again. See that the signatories were Mr Nachabe and Mr Al Banna.---Yep.

Can I then take you, please, bearing in mind that account number, if we go back to that, is account number 6-1-9-9. If you go back to page 205. I'll take you into the count for the company at page 203. And do you see, this is a statement for A&A Structural and for that account ending in 6-1-9-9.---Ah
hmm.

30

And you'll see that there are some payments in there that are coming from the RTA.---Ah hmm.

And if you look at the amounts, they correlate, I suggest to you, with the amounts that were charged for the initial progress payment and then the second progress payment.---Ah hmm.

So you'll see payments on 6 June and 16 June, 2011.---Yep.

40

Can we then go, please, to page 205 – I'm sorry, 204. And you'll see there the last of those payments from the RTA is that final progress payment that I took you to the invoice for, \$19,726.30.---Ah-hmm.

Do you see that? But, then, do you see that on 18 July, there is a cheque 1-0-0-7 drawn for \$9,665?---Okay.

And I'm going to suggest that that was a payment that you sought from Mr Nachabe to be made into one of the MWK Developments accounts. Do you recall that?---I actually don't recall this.

Can we go, please, to page, so the same volume, page, so 5.1, page 20. And you'll see this is an ANZ banking record and what it shows in respect of that payment of 9,665, first of all, do you see the account number at the bottom of the page, ending in 6-1-9-9? Do you see there's various entries on that sheet but the last number ends in 6-1-9-9?---Yeah.

10

And that was the account number that I took you to, the statement for A&A Structural?---What are the other ones, though.

Well, do you see the number at the top, 4-5-6-9?---4-5-6-9, yeah.

And you recognise that, don't you, as the account for MWK Developments, that is the joint account that MWK Developments had with the ANZ?---And what's the 6-4-9-4?

20

I can't tell you what those other numbers are but if we go, please, to the statement, which is at volume 5.1, page 4. Do you see that this is the account statement for MWK Developments for May to July 2011?---Here we go. 9-6-6-5.

And do you see that that's a deposit which is made into this account on 18 July, 2011?---Okay.

And that number, I'm suggesting to you, reflects the payment that was made from the A&A Structural Solutions account into MWK?---Into MWK.

30

Now, just pausing there, it's the case, isn't it, that there's no other explanation for that money being paid to MWK other than you asking for Mr Nachabe to pay it?---I never denied it. I just said I don't recall it, yeah.

Thinking about it now and seeing that it's a sum of \$9,665 after something in the order of \$90,000 had been paid to A&A Structural for the work it had done doing the inspection reports. Does that assist that you might have spoken to Mr Nachabe and sought some form of cut or commission or kickback for your work?---Look, I can see the evidence here. As I said, I stand by that I don't recall it but I'm not denying it, it, it's happened, so this would have come as a kickback for sure.

40

But you don't have any recollection of a discussion with him, either before the work was done or after the money was paid by the RMS, about him giving you something in return?---I actually don't recall. I, I would have said in multiple conversations prior that, to you guys, I haven't, I don't recall it.

THE COMMISSIONER: There's no matter you can point to to explain it, that is, the payment of 9665, other than it was an arrangement for you to receive that amount - - -?---Correct.

- - - from Mr Nachabe or his company. Is that right?---Yes.

MR DOWNING: Now, you've indicated already that after the reports were in from A&A Structural, then the work began where initially Mr Abdula Nachabe indicated that his brother had a company that could do some
10 steelworks where there was some identified need for urgent work.---Yes.

And you've confirmed already that Senai Steel was the company that did that work. That is Mr Gamele Nachabe's company.---Correct.

And what I want to suggest to you is that between June 2011, which was when it appears that that payment – well, the last of the payments was made to A&A Structural for its reports, for its inspections reports, that between
20 June 2011 and October, 2012, \$726,472.55 was paid to Senai Steel for work on the various gantry structures.---Ah hmm.

First if all, time period, does that sound right to you, mid-2011 to late-2012?---That makes sense. It was after these reports that were – yeah, correct.

And I understand from your evidence earlier that you accept that there was some kickback that you obtained from Gamele Nachabe?---Correct.

Now what's your recollection as to how that came about? Was that something that was discussed purely with him, with him and Abdula
30 Nachabe and when?---I don't think, I, I don't think Gamele was very, in favour, to be – I don't remember. I have this feeling that he wasn't in favour or he wasn't too happy about it but that's something that maybe me, myself and Abdula had in place from this, I'm assuming. But I think that was discussed maybe very early on and then that was it. So once they did the project, they would provide me with a, with a kickback.

Do you believe that it's something that was raised with Gamele before he was engaged to do the first work?---No. I think the first time from memory was a smaller amount. I think it was 20 or 25,000, 23,000. I can't recall,
40 I'm, I'm, I'm, this is a long time ago but the first, from memory, and I could be wrong, was a small, was a small, just the, the rectification, I think it was bolts or something along those lines. I mean, you mentioned Gundagai, it could have been Gundagai.

Sorry, I - - -?---It could be 30, I'm not sure. So the first project was a smaller one and then I think after that we had to basically start repairing these gantries based on the report recommendations and this is where we had to basically dismantle these gantries, refabricate and sandblast them and

then put them back and this is where there was multiple of these that were done by Gamele, correct.

So the jobs got bigger?---Correct, yeah.

Is your recollection that that first one where you say that you can recall that there was a smaller payment, was that one relating to the emergency works that had been unedified?---Correct, yeah, yeah, yeah.

10 So from that initial job, you believe that there was some kickback sought and paid?---I, I don't know if there was any kickbacks from that, that smaller job because it was a smaller job but most definitely about the other ones. Again, I don't recall that one.

Now, you've indicated that you have some recollection of there being a discussion with him and that Gamele wasn't too happy about it.---Ah hmm.

20 But in terms of who was involved, I want you to think carefully, given that this evidence affects not just you but Abdula Nachabe as well. Do you believe that you approached Gamele alone or that Abdula was somehow involved in approaching Gamele with the idea that he would make some payments through Senai Steel?---I honestly don't recall the conversations but it would have been with Abdula probably present, potentially, yeah. I, I wasn't, I wasn't, I wasn't, I, I hadn't known Gamele from prior to this. So it would, I had met him through his brother. So it would have, it would have been through Abdula Nachabe.

30 And then I've suggested to you that the work was done and payments were made over the period July 2011 to – sorry – June 2011 to October 2012. Can I take you then to some documents in respect of the form and sum of the kickbacks? So if we could go, first of all, please, to volume 5.1, page 212? And do recognise that's a bank statement for Senai Steel, so that's a St George bank statement?---Yep.

And you'll see that cheque number 26, drawn 25 July – I withdraw that – presented 25 July, 2011, is in the sum of \$13,200.---Yep.

40 And if we could go then, please, back now to the MWK Developments account statement. If we go back to page 4. You'll see that on 25 July, 2011, the MWK Developments account ending in 4-5-6-9 shows a deposit of \$62,700. Do you see that?---Yep.

And in terms of what made up the \$62,700 can I take you please to page 23, same volume, and you'll see that it's made up of one sum or one cheque I'm going to suggest in the sum of \$49,500 and another of \$13, 200.---Ah hmm.

You'll see that in respect of the \$13,200 the account number ends in 3-8-5-5.---Yep.

If we go back please to the statement at page 212 you'll see that it ends in 3-8-5-5.---Yep.

So I'm suggesting that the initial payment that was made was \$13,200 paid via cheque number 26 from Senai Steel's account and then deposited in the MWK Developments account that both you and Mr Taha were signatories on?---Correct.

- 10 Does that sum reflect your recollection that it was a small amount reflective the initial job being a smaller one?---I don't know what this was for but I haven't, I've actually said I've received kickbacks from Senai Steel.

But your evidence was that your recollection of events is initial payment is small one reflecting the initial emergency works?---Yeah, I don't recall if I received kickbacks from the initial emergency works but most definitely the other ones, yes.

- 20 All right. Can I then take you please to page 214, and again, it's the bank statement for the Senai Steel St George account ending in 3-8-5-5, and you'll see that on that page there is a cheque drawn or cheque presented on 21 December, 2011, cheque number 40, for \$37,564.40.---Yes.

If we go then, please, bearing in mind that sum on that date, if we go to page 30 same volume, and you'll see that there is a deposit at the Muswellbrook Branch of ANZ, and if we go to the top, just so you know which account we're dealing with, it's the MWK ANZ Account ending 4-5-6-9, so in exactly that sum.---Okay.

- 30 So, looking at that, do you accept that that was then the next payment, that is, the next form of kickback which was a cheque that was drawn by Senai Steel on its St George account and then deposited into this account that you and Mr Taha had set up for MWK?---Yes.

If we then go please to page 48, same volume. You'll see in this instance we actually have the cheque itself, so dated 20 January, 2012 in the sum of \$44,178.50 made out to MWK Developments.---Yep.

- 40 And it seems signed by Abdula Nachabe, do you know his signature or are you not aware of who's signature that is?---(No audible reply)

If you don't recognise it, please say.---Oh sorry, are you waiting for me to respond?

Yes, I was.---I'm sorry, I don't know his signature.

Okay. In any event, you'll see it's dated 20 January, 2012. If we go please, date is 20 January, 2012, \$44,178.50. Go please to page 42. You'll see

there is a deposit on 23 January, 2012 the Revesby Branch of exactly that sum \$44,178.50.---Yes.

Looking at that it would have been the cheque Mr Gamele Nachabe provided to you and you then took to the bank to deposit.---Correct.

And indeed, if we go please to page 215 same volume. You'll see it shows that cheque number 45 is presented on 23 January, 2012 in that sum.---Yes.

10 Then finally, if we could go, please, to page 84, you'll see on 10 October, 2012 Senai Steel draws a cheque for \$49,500 to MWK Developments on its St George account ending in 3-8-5-5, do you see that?---Yes.

Go then, please, to page 65, which is the MWK Developments bank account statement. And you'll see on 12 October, 2012, so two days later there is a deposit in that sum for \$49,500. Correct?---Yep.

20 And if we go, please, to page 218. You'll see, if we go to the top, you'll recognise it as the St George statement for the account for Senai Steel and the account number ending 3-8-5-5. And it shows that the cheque was presented on 49, sorry, on 12 October 2012 in that sum, 49,500.---Yep.

So looking at that, I'm suggesting to you there were four cheques drawn all up by Senai Steel, and presented to you so that it could be paid into MWK Developments account.---Yes.

30 Now thinking back about what occurred in that period, you'll see that from what I've taken you to, the cheques span the period July 2011 through to October 2012.---Mmm.

You indicated earlier you recall that Gamele Nachabe wasn't overly happy about being asked to make these payments.---(not transcribable) I had to have, like, a, that's why I have a feeling that, that's, there was maybe one conversation where there wasn't any, anything specific that he said but that's what I recall.

40 Well, did something happen, though, to result in no more work being allocated the way of Senai Steel?---I think Hassan Alameddine pushed his way in.

That is in order to do the steel works?---Yes.

And you've indicated already that there was works that he did but on the basis that he would supervise while the actual steel works were done by subcontractors?---May have done – sorry to cut you off.

That's all right.---He may have done some steel works in parallel or around this same time.

But do you say that you don't recall that the work being cut off after some dispute about the payment of any ongoing kickbacks or anything of that nature?---I honestly don't recall a dispute, to be honest. That, that, that, that triggers, triggers my, my memory at this stage.

But is your recollection that on each occasion that you got the kickback that it was a cheque handed to you by Gamele Nachabe?---Gamele or Abdula Nachabe, one of the two.

10

You don't remember which one now?---It's hard to remember, mate, look, 10 years ago, you know, nine years ago.

Now, do you recall whether you might have got Abdula Nachabe to provide some assistance to Mr Steyn in some way in respect of his house?---Mr Steyn. Mmm. Maybe, potentially. Maybe. He's a structural engineer so I'm not sure. Maybe he had a look at his house before he knocked down or something along those lines.

20 Can I ask you to have a look, please, at volume 10.4C page 4.---It would have been very early on.

And do you see on that day Mr Nachabe emails you. It just says, "Find attached," and then you send it on to Mr Steyn. And you'll see it refers in the attachment to the address in [REDACTED] and certification.---Okay.

And if we could go, please, to the next page, you'll see it's a condition report in respect of – well, I won't say the address, simply to say an address in [REDACTED].---Yep.

30

And if you go to the next page. And again, please. And to the next page with the executive summary. I'm not sure whether you read this at the time or perhaps just forwarded it on, but you see it was A&A Structural provided an assessment of the property at [REDACTED], it would seem, in relation to some damage.---Can I go through the document?

Tell us when you want us to move to the next page.---Next page, please, yep.

40 And you'll see that under the recommendation on this page that A&A Structural recommended the removal of a tree, which seemed to have been causing some structural damage to the slab and foundations.---It rings a bell now. I remember some tree causing an issue. I think he needed that tree removed for him to build his property. Okay.

But given that it was your relationship with Mr Nachabe, obviously not Mr Steyn's, do you have a recollection of you either volunteering, that is engineering engineers that might be able to assist Mr Steyn or Mr Steyn

asking you to try and find someone that might be able to help him?---Yeah, correct. The latter, I think Mr Steyn tried, was trying to find someone that could maybe give him a report that he can give to the council. I mean, this is a long time but now reading the recommendation, yeah, a tree in the way of a potentially, potentially building his, his property that he wanted to build.

10 And is your recollection that you spoke to Abdula Nachabe and asked if he could assist?---I mean, yeah. Look, judging by this. I mean, I completely forgot about this.

And I take it that there was no payment?---Not that I recall, no. No. Mr Steyn might say otherwise but I don't recall.

Would you have spoken to Mr Nachabe at the time and let him know that, in effect, this was a freebie, it was in the form of doing a favour for you?---I actually don't remember whether he got paid or not. That's the truth. I, I can't remember.

20 But it's unlikely, isn't it?---No, but I'm not going to, yeah, I not going to just give an answer. I'm not, I'm not, I'm unsure, yeah.

So, if there had been payment made for this report, who would have made it?---It would have, it would have had to have been Mr Steyn directly to Mr Nachabe. So you could probably ask Mr Steyn about this.

But you don't have any recollection of you making any payment for it?
---No. I mean, otherwise it was, either, either that or it was either a freebie based on the work that he's received. So - - -

30 Commissioner, if that's a convenient time, that's the end of that subject matter and thankfully it's fitted in well with the day. So I'll move to something different when we resume in the morning.

THE COMMISSIONER: Yes, we'll resume tomorrow at 11 o'clock. I'll adjourn.

MR DOWNING: Thank you.

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THE WITNESS STOOD DOWN [4.02pm]

AT 4.02PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.02pm]