

**Commission of Inquiry into the Diaphragm Wall and Platform Slab Construction
Works at the Hung Hom Station Extension under the Shatin to Central Link Project**

SECOND WITNESS STATEMENT OF ANTHONY ZERVAAS

I, ANTHONY ZERVAAS, of 39/F Sun Hung Kai Centre, 30 Harbour Road, Hong Kong, say as follows:

1. I refer to my first witness statement dated 13 September 2018 (“**First Witness Statement**”). Unless otherwise stated or the context otherwise requires, any abbreviations shall bear the same meaning as in my First Witness Statement.
2. I make this second witness statement in reply to the first witness statement of Mr. POON Chuk-Hung, Jason (“**Jason Poon**”) dated 3 September 2018 (“**Poon Statement**”) submitted to the Commission of Inquiry and address any relevant matter raised in the Poon Statement.
3. Any allegations or matters raised in the Poon Statement which are not expressly dealt with in this statement are denied and shall not be construed as an admission on my part.
4. Unless otherwise stated, the facts stated herein are within my personal knowledge and are true. Where the facts and matters stated herein are not within my own knowledge, they are based on the stated sources and are true to the best of my knowledge.

Allegations of cutting of threaded ends of rebars

5. In response to paragraph 41 of the Poon Statement:
 - (a) Photographs 3 and 7 of Exhibit PCJH-5 of the Poon Statement were the same photographs that Jason Poon sent to me in his email of 9.45am on 6 June 2017. This email is Exhibit AZ-4 of my First Witness Statement. An electronic copy of Jason Poon’s email dated 6 June 2017 in its original format is produced on a USB stick and marked **Exhibit “AZ-25”**; and
 - (b) the metadata of the electronic copies of these two photographs (i.e. photographs 3 and 7 of Exhibit PCJH-5 of the Poon Statement) indicates that the photographs

C24656

were taken with a Sony D5303 mobile phone using an application named Camera 360; and

- (c) The metadata of these photographs is contrary to paragraph 41 of the Poon Statement, which states that Jason Poon took the photographs using his Huawei mobile phone.
6. Jason Poon's allegation in paragraph 45 of the Poon Statement that he discussed with me between September 2016 to January 2017 regarding "*the possibility of drilling and plating steel dowels in the shear zones between the EWL slab and the diaphragm wall*" is false. This alleged discussion did not happen. As I joined the Project on 11 October 2016, I could not have discussed matters relating to the Project in September 2016 with Jason Poon.
7. In response to paragraphs 46 and 47 of the Poon Statement, I note that:
- (a) I never had the alleged conversation with Jason Poon in or about late November 2016;
 - (b) I never had the alleged conversation with Jason Poon in or about December 2016;
 - (c) Contrary to what Jason Poon has alleged, I did not:
 - i. "*agree to find a solution to settle the Defective Steel Works*"; or
 - ii. "*became reluctant and started to deny the occurrence of the cutting of the threaded rebars... told me that "this was none of Chinat's business"*."
 - (d) As set out in paragraph 11 of my First Statement, I was first informed of the alleged cutting of threaded ends of rebars by way Jason Poon's email sent at 9.45am on 6 January 2017 (Exhibit "AZ-4" of my First Witness Statement) (i.e. after the alleged incidents in paragraphs 46 and 47 of the Poon Statement). This is confirmed by my reply email dated 6 January 2017 (Exhibit "AZ-8" of my First Witness Statement) in which I state that it was quite alarming that Jason Poon had not brought the issue to Leighton's attention earlier particularly when the alleged malpractice occurred in September 2015. Jason Poon's reply email dated 7 January 2017 (Exhibit "AZ-9" of My First Witness Statement) did not dispute the fact that he had never raised this issue with me before. Indeed, Jason Poon's response was to say that Khyle Rodgers knew about it. Jason Poon's email also states that to "*call a spade a spade*" it was Leighton's "*unfair*

commercial manner” which led to their action “*on commercial review*”, and that “*further findings on serious non-conformity will be explored later which may evidence many hearsay on site*”; and

- (e) The communications between China Technology and Leighton in the days leading up to Jason Poon’s email sent at 9.45am on 6 January 2017 relate to the commercial issues that are referred to in Jason Poon’s email dated 7 January 2017. These emails express Leighton’s dissatisfaction with China Tech’s work. In particular, I exchanged emails with Jason Poon on 4 January 2017 regarding these type of issues (produced and marked **Exhibit “AZ-26”**). On 6 January 2017, Joe Tam sent me an email which recorded the unsatisfactory or unfinished work of China Tech with photographic records (produced and marked **Exhibit “AZ-27”**). The photographic records collated on 5 January 2017 were formally issued on 7 January 2017 (produced and marked **Exhibit “AZ-28”**).

8. In response to paragraph 53 of the Poon Statement:

- (a) Jason Poon did not make any appointment with me to conduct a joint inspection on site; and
- (b) In any event, my usual schedule was to travel and work in Macau every Friday (15 September 2017 was a Friday), so I would not have agreed to meet with Jason Poon on a Friday on site.

9. In response to paragraph 54 of the Poon Statement, I note that:

- (a) I did not inform Jason Poon that my “*schedule was re-adjusted*” as I would be in Macau every Friday as per usual schedule. I repeat paragraphs 8(a) and (b) above; and
- (b) As set out in paragraph 22 of my First Witness Statement, Jason Poon contacted me by telephone on 15 September 2017 regarding details of his payments and the email Jason Poon had sent to me in January regarding the alleged cutting of threaded ends of rebars. During the conversation, I told Jason Poon that I had reported the alleged incident to MTRC, and Leighton had conducted an investigation and could not find any evidence of alleged cutting of threaded ends of rebars. Jason Poon then asked me again whether I was going to pay

him. I told Jason Poon to be reasonable about this and offered to meet him the next morning. However, he hung up on me.

10. In response to paragraphs 59 to 61 of the Poon Statement:

- (a) It is correct that Jason Poon, Karl Speed and myself had a meeting with Jason Poon on 15 September 2017;
- (b) Contrary to Jason Poon's allegations:
 - i. Karl Speed did not threaten or blackmail Jason Poon and China Tech and I do not agree that the atmosphere of that meeting was "*intense*";
 - ii. Jason Poon did not show Karl Speed at the meeting photographs and video clips on Jason Poon's mobile showing cutting of threaded ends of rebars;
 - iii. Karl Speed did not accuse Jason Poon of "*fabricating the whole incident*" or accused Jason Poon of "*lying*";
- (c) Karl Speed's intention of joining the meeting was to provide reassurance to Jason Poon that China Tech had not been blacklisted by Leighton and to preserve the relationship between Leighton and China Tech;
- (d) As set out paragraph 25 of my First Witness Statement:
 - i. Karl Speed reassured Poon that China Tech was not blacklisted and noted that China Tech's joint venture with FEWA was still working with Leighton in the Liantang Project; and
 - ii. Karl Speed reiterated that Leighton would like to maintain the working relationship with Jason Poon.

11. In response to paragraph 62 of the Poon Statement:

- (a) I did not conduct a joint site inspection with Jason Poon on 16 September 2017, thus the alleged discussions between me and Jason Poon during the joint site inspection never happened. The attendance records for Leighton's site office for 16 September 2017 (produced and marked **Exhibit "AZ-29"**) show that I did not attend the site office that day; and
- (b) I attended a meeting with my Leighton colleagues on 16 September 2017 to review financial information. This is confirmed by an email dated 16 September 2017 from James Billingham of Leighton (which was copied to me) that refers

to “*today’s review*” (produced and marked **Exhibit “AZ-30”**)¹ and my Outlook calendar on 16 September 2017 (produced and marked **Exhibit “AZ-31”**).

12. In response to paragraph 63 of the Poon Statement, contrary to what Jason Poon alleged:
- (a) I did not have any meeting with Jason Poon and Karl Speed on 18 September 2017. This is confirmed by my Outlook calendar on 18 September 2017 (produced and marked **Exhibit “AZ-32”**). As shown in my Outlook calendar, I was at site office of Liantang Project in Liantang until around 2.30pm. After the meeting in Liantang, I drove to Leighton’s offices in Wanchai to park my car before attending another meeting at 3.30pm in Wanchai. Therefore, I would not have been able to meet with Jason Poon at around 3.00pm on 18 September 2017; and
 - (b) All the details of the alleged discussions were incorrect as the alleged meeting did not take place.

Dated the 15th day of October 2018.

Signed: _____

Anthony Zervaaas

¹ I have redacted the body of the email dated 16 September 2017 which contains commercially sensitive information.