

**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 KHYLE RODGERS

I, KHYLE RODGERS OF [REDACTED] say as follows:

1. I refer to my first witness statement dated 2 October 2018 ("**First Witness Statement**"). Unless otherwise stated or the context otherwise requires, any abbreviations shall bear the same meaning ascribed to them in my First Witness Statement.
2. I make this second witness statement in reply to the following statements submitted to the Commission of Inquiry and the address any relevant matters raised in these statements:
 - (a) the first witness statement of Mr. POON Chuk-Hung, Jason ("**Jason Poon**") dated 3 September 2018 ("**Poon Statement**");
 - (b) the first witness statement of Mr. Ian Butt ("**Mr. But**") dated 19 September 2018 ("**But Statement**"); and
 - (c) the witness statement of Mr. Chu Ka-Kam ("**Mr. Chu**") dated 27 September 2018 ("**Chu Statement**").
3. Any allegations or matters raised in the statements mentioned in paragraph 2 above (or any other statements) which are not addressed in, or are inconsistent with, my witness statements are denied. If I do not address any allegations or matters raised in other witness statements, it should 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.



Financial position of China Technology

5. Jason Poon alleged at paragraph 8 of the Poon Statement that, “[China Technology] *always has a healthy cash flow and has no outstanding financial loans*”.
6. I stated in my First Witness Statement that I was aware in early 2017 that Poon’s workers and subcontractors were not getting paid on time and I heard that some of them went to the Labour Department.
7. Leighton effectively lent China Technology money to purchase a lot of his temporary and permanent materials for the project i.e. the formwork and scaffold. Leighton bought the materials and I believe Poon agreed a repayment schedule with Leighton.
8. Poon would complain regularly that he did not feel he was getting paid enough by Leighton. On a couple of occasions, Poon commented that he had to “use his wife’s money” to keep the business going. I believe his wife’s family had significant financial resources. I recall that the comments were made in meetings sometime in 2016, although I do not recall the exact dates.

Alleged reporting of incidents to Gabriel So and me

9. Jason Poon alleged at paragraph 36 of the Poon Statement that, in September 2015, he told Gabriel So and to me about alleged incidents of the cutting of threaded rebars.
10. Poon also refers to Mr. So as the “superintendent of Leighton” and me as “senior superintendent” (i.e. Mr. So’s superior). Poon has got things back-to-front. I was one of the superintendents and Mr. So was the general superintendent.
11. Poon did not inform me of the alleged incidents in September 2015 or at any other time. I would have remembered. It follows that I did not state to Poon that I would inform “our” workers not to do such acts.
12. Similarly, I do not recall between 15 and 20 September 2015 (or any other time) Poon inviting me to conduct a site inspection with him. In fact, I do not recall ever doing an inspection with Poon, other than one time in 2016 when we did a “walk around” with MTRCL staff. I do not recall “witnessing” with him a staff member of Leighton

cutting threaded rebars. As I mentioned in my First Witness Statement, I did not have much contact with Poon after the early stages of the Project. He tended to report to Mr. So, Dale Rodgers or Gary Chow.

Allegations of cutting of rebar / photographs

13. The Poon Statement and the But Statement contain comments regarding the uniforms and hats of Leighton workers. I respond to these comments below.
14. Leighton had a system of uniforms and hat colours for subcontractors and workers. All workers had to attend a Leighton induction course at Kwai Fong to learn the system before commencing work on site. Leighton did not have many of its own labourers. Instead it would use day labour from subcontractors. The hat colour system was as follows:
 - (a) Red hats indicated banksmen;
 - (b) Blue hats indicated riggers;
 - (c) Pink hats indicated scaffolders;
 - (d) Grey hats indicated electricians;
 - (e) Yellow hats indicated general labourers and/or carpenters and steel fixers; and
 - (f) White hats generally indicated foremen and other supervisory staff.
15. The uniform system was:
 - (a) Leighton's day labourers usually wore orange and white polo shirts with reflective strips, although there were some variations. In addition, subcontractors' workers often wore these Leighton shirts;
 - (b) The only times it was compulsory to wear a safety vest under Leighton's system was when a person was directing traffic or machines at the work site (in these circumstances, the worker was also required to have a red torch and a whistle) or if the person did not have reflective clothing at the work site and needed to wear a reflective vest;



- (c) China Technology workers usually wore light blue shirts; and
 - (d) Fang Sheung workers wore a mixture of all these combinations. They did not have a set uniform.
16. While this uniform system was expected to be followed, it was possible that the subcontractors' workers and Leighton's day labourers would not always wear clothing which would make it easy to identify who employed them. For example, it was common for the subcontractors' workers to wear Leighton shirts, reflective vests and yellow hats.
17. My comments in response to paragraph 41 of the Poon Statement and the photos in Exhibit PCHJ-5 are:
- (a) Photo 1 of Exhibit PCHJ-5: The person in this photo looks like a steel fixer, i.e. from Fang Sheung. His yellow hat indicates that he is a general labourer;
 - (b) Photo 2 of Exhibit PCHJ-5: The red hats indicate that the workers are banksmen. They appear to be cutting the protruding diaphragm bars because of cover issues (cover issues are when the steel bar is too close to the finished surface level of the structure so may cause corrosion or durability issues). It looks like the diaphragm wall because of the twin rows of vertical bars, the bars look to have concrete dust on them, there are capping bars joining the vertical bars together and there is a white plastic sheet which is used just outside the diaphragm wall for concrete protection and waterproofing;
 - (c) Photo 3 of Exhibit PCHJ-5: This appears to be the same worker as shown in photo 1;
 - (d) Photo 4 of Exhibit PCHJ-5: This photo is blurred and I cannot see what it shows;
 - (e) Photo 5 of Exhibit PCHJ-5: This photo shows workers who are wearing light blue t-shirts, which indicate that they are China Technology workers. I do not know why this photo is relevant;

- (f) Photo 6 of Exhibit PCHJ-5: This is a photo of a traverse construction joint. It is partly blurred. I do not agree with Jason Poon that it shows damaged couplers; and
- (g) Photo 7 of Exhibit PCHJ-5. I am not entirely sure, but the workers look like steel fixers i.e. Fang Sheung workers. The yellow hats indicate they are general labourers. I do not agree with Jason Poon that this photo shows rebars which have been cut or are defective.
18. Jason Poon alleged in paragraph 42 of the Poon statement that one of his workers, Mr. Ngai, told him that he had seen Leighton cutting the threaded ends of rebars and undertaking other inappropriate behavior. Mr. Ngai and I had meetings together almost every day and I can say with certainty that Mr. Ngai never told me about any such allegations.
19. Paragraph 9 of the But Statement alleges, that around the same time as the photos discussed above were taken, Mr. But saw Leighton workers using a “cutting/grinding” machine to cut threaded rebars before screwing them into couplers in the diaphragm wall. I have no knowledge of this alleged incident. As mentioned above, sometimes subcontractors also wore Leighton uniforms. In addition, as mentioned above, Leighton did not have its own workers but did sometimes use day labour from subcontractors. Leighton’s day labour would not have been screwing rebar into couplers. That was the job of Fang Sheung, the steel fixers.
20. The only portable cutting machine I know of was a portable bandsaw. It was made by manufacturer, Hilti. It was a slow and cumbersome way of cutting rebar. To cut a 50mm rebar would probably take around five minutes. It should only be used if a bar needed to be cut in-situ, such as if a protruding bar was attached to the diaphragm wall (as appears to be the case in photo 2 of Exhibit PCHJ-5). Otherwise, there was a large cutting machine located in the bending yard away from the site that was used by Fang Sheung. We also brought these machines inside to each pour location as necessary to make it more convenient to cut rebar to the desired length (i.e. not cut off or shorten the threaded ends of rebars). I was only ever aware of the portable bandsaw being used to cut rebar in the in-situ circumstances mentioned above.

21. Paragraph 28 the But Statement alleges that But saw rebar at the Hong Kong Coliseum site "*with only about 2cm of threaded rebars remaining on each of them*". I have no knowledge of this alleged incident. Although I do not recall the exact sizes, the Hong Kong Coliseum area used smaller diameter rebar than other areas, with shorter threaded ends than those used in other areas.
22. Paragraphs 12 and 19 of the Chu Statement stated that it might be necessary to cut the threaded ends of rebars if they were damaged when they arrived on site. My recollection is that the majority of the threading of the rebar was actually done on site and a red protective cap was put onto the rebars. The bars would be transported to the bending yard or straight to the pour site as necessary with the protective caps on. Early on in the project, Leighton put a Bosa (the coupler manufacturer) yard on site because the project required so many of the rebars. It remained on site until late 2016. If the threaded end of a rebar was damaged, the workers would just go to Bosa and have it re-threaded or get a new bar. There was no good reason for a worker to get the bandsaw and spend minutes cutting off the end if it was damaged. It would be quicker (and therefore probably cheaper) to get a new bar.
23. As confirmed in my First Witness Statement, I repeat that:
- (a) I am not aware, and (other than the allegations now made by Poon and other China Technology staff) have not heard, of any Leighton staff who gave or would have given any instructions to any person to cut off or shorten the threaded ends of any rebars, or allow such threaded ends to be cut off or shortened, that were installed in or intended to be installed in the slabs and diaphragm walls of the Project;
 - (b) I have not seen of the threaded end of any rebars being cut off or shortened; and
 - (c) I have also not seen any rebars that were installed or intended to be installed that had the threaded ends cut off or shortened.

Dated the 18 day of October 2018.

Signed: _____

Khyle Rodgers

