

1 Thursday, 25 October 2018

2 (10.02 am)

3 MR PENNICOTT: Good morning, sir.

4 CHAIRMAN: Good morning.

5 MR PENNICOTT: I think we had reached the point where
6 Mr Wilken going to cross-examine Mr But.

7 MR BUT HO YIN, IAN (on former affirmation in Punti)

8 CHAIRMAN: Yes.

9 Mr But, you are reminded that you are still under
10 your affirmation. This is a matter which I raised with
11 you yesterday.

12 A. 清楚。

13 Cross-examination by MR WILKEN

14 MR WILKEN: Good morning, sir, and good morning, Mr But.

15 Yesterday, when you were being led in
16 evidence-in-chief, you confirmed that you adopted what
17 you said to the police; do you remember that?

18 A. 係。

19 Q. I want to ask you what you told the police and what you
20 told the Commission yesterday. Yesterday, you were
21 asked where you were working in October 2015. Do you
22 remember that? I can take you to the passage. It's
23 page 132, lines 2 to 7 of the transcript.

24 Scroll down, please. It must be before this, I'm
25 sorry. I think the transcript has altered overnight
26 because I noted this yesterday. Page up, please.

1 Page up, please. Here we are. Page up, please, to 130.

2 There you see, "it was in October" -- do you see
3 that at line 20?

4 "[In] the middle level of area A.

5 Question: ... do you mean the NSL as opposed to the
6 EWL, or do you mean something else?

7 Answer: It wasn't the EWL."

8 Question: It wasn't? So it was in the lower area,
9 the lower slab, the NSL; is that right?

10 Answer: Yes."

11 So that was your evidence yesterday. That's not
12 what you told the police, is it? I'm going to take you
13 to what you told the police. D2/921.5, paragraph 14,
14 and the Chinese is at page 921. It starts at 920; I'm
15 grateful to Mr Shieh.

16 You told the police that you were working on the
17 upper slab. Which one was it? Upper or lower slab?

18 A. 喺口供入面提到就係area A，但係事實調派到之後，的確同我落嘅
19 口供一樣，係冇見過工人喺嗰一刻再剝螺絲牙，喺10月底嘅時候。

20 Q. That is not the question I asked you. Was it the upper
21 slab, as you told the police, or the lower slab, as you
22 told the Commission?

23 A. 或者口供嘅時候有打錯咗少少，因為上層個定義係可以喺南北線嘅上層，
24 我係咁樣同警察講，可能佢打漏咗少少嘅字眼。

25 Q. You were on site. You know that the upper slab is the

1 East West Line, don't you? The NSL is the lower slab.

2 Correct?

3 A. 唔好意思，要你睇一睇份圖則，喺南北線同埋東西線嘅A區中間係的確有一
4 層嘅。

5 Q. So your answer is that both are correct, is it? It's
6 a simple question.

7 A. 我唔清楚點樣為之兩個。

8 Q. Is it the upper or the lower slab?

9 A. 我澄清多一次，警方可能喺我落嘅時候，我同佢講喺A區嘅上層，我係冇講
10 錯嘅，因為A區嘅南北線同埋東西線之間係仲有一層嘅，所以我就係話畀警
11 方聽我喺南北線嘅上層。

12 Q. I see.

13 Another point between what you told the Commission
14 and what you told the police. You told Mr Pennicott
15 yesterday, when you were talking about the red
16 machine -- do you remember talking about the red
17 machine?

18 A. 有講過紅色機器。

19 Q. And you did not know whether the red machine you saw on
20 two occasions was the same machine or not. Do you
21 remember telling Mr Pennicott that?

22 A. 我作供係咁樣。

23 Q. That's not what you told the police. D2/921.5/15, and
24 in your version it will be 921 in Chinese, paragraph 15.
25 The third line:

1 "... (which was the red portable electrical machine
2 mentioned before) ..."

3 So you told the police it was the same machine, and
4 you told Mr Pennicott you didn't know whether it was the
5 same machine. Which is correct?

6 A. 我喺度講一次喇，我作供嘅時候，就話就係之前所提及嘅一個紅色電動機器，
7 係咪--我係咪咁講？

8 Q. No. You said you didn't know whether it was the same
9 machine, and you confirmed that just ten lines ago:
10 "Yes, that was my evidence", you said at [draft]
11 line 16.

12 A. 咁我咁樣講一次喇，我話畀警方聽嘅時候就係之前所提及嘅同一部手提
13 電動機器，但係我喺過程之間我都有交代畀警方聽係咪相同同埋之間嗰
14 個工人使用緊嘅一部機器。

15 Q. So the police have got it wrong again is your view?

16 A. 我有咁嘅意思，我只係話就係之前所提及嘅同一部紅色手提機器，但係
17 我喺口供入面並冇講到話究竟係咪同一部，同埋之前嗰個工人用緊嘅係
18 同一部。

19 Q. I see. Let's move on.

20 Now, your evidence is you arrived at Hung Hom in
21 mid-September; that's correct, isn't it?

22 A. 係呀，的確。

23 Q. You cannot, therefore, have seen any cutting of rebar in
24 early September; correct?

25 A. 冇錯。

1 Q. And you cannot have told Mr Poon about any instance of
2 cutting rebar in early September; correct?

3 A. 冇錯。

4 Q. Can we go to D1, page 20, paragraph 35.

5 Here, Mr Poon says:

6 "In or about early September 2015, Mr But also
7 reflected to me that similar incidents occurred."

8 Mr Poon must be wrong there, mustn't he?

9 A. 我唔同意，因為係9月初前後咁嘅。

10 Q. Well, you have agreed with me that it is your evidence
11 that you arrived in mid-September. That is not early
12 September; correct?

13 A. 冇錯咁，但係你啱啱係話係9月嘅前後咁嘅，咁潘先生要工作都繁忙，冇
14 理由都可以咁清楚。

15 Q. I see. So when Mr Poon gives evidence, he is not being
16 precise; is that what you are saying?

17 A. 我有咁嘅意思，都係講緊「前後」呢個字眼。

18 Q. All right, let's try another topic. Can we go to D2,
19 page 912, paragraph 11. Here, your evidence is:

20 "... I did not tell anyone nor did I stop them at
21 that time as these were not works that Chinat were
22 responsible for."

23 That's your evidence; correct?

24 A. 係我嘅證供。

25 Q. Can we go back to Mr Poon, paragraph 35, D1, page 20.

1 Here, Mr Poon says:

2 "He also attempted to stop those doing what they
3 were doing ..."

4 Which of you is correct?

5 COMMISSIONER HANSFORD: Sorry, which paragraph are we
6 looking at in this?

7 MR WILKEN: Paragraph 35, sir.

8 COMMISSIONER HANSFORD: Thank you.

9 MR WILKEN: Which of you is correct, you or Mr Poon?

10 A. 邊一方面呀? 唔好意思。

11 Q. You say, in your statement, paragraph 11, "I did not
12 attempt to stop the workers"; Mr Poon says, in his
13 statement at paragraph 35, you did attempt to stop the
14 workers. Which one of you is correct?

15 A. 我重新多一次, 我係冇權阻止到, 即係有嘗試同埋有冇權應該係兩樣嘢嚟。

16 Q. I'm asking you a question. It's quite straightforward.
17 Which of you is correct? Mr Poon says you attempted;
18 you say you didn't. Which one? Which one of you is
19 correct?

20 A. 我唔記得。

21 Q. Okay. Let's go to the ...

22 CHAIRMAN: Sorry, but your evidence is that you were new to
23 the work, you stopped and you saw these people using the
24 machine and watched them for some time. Are you saying
25 now you don't remember if you tried to stop them from
26 doing the cutting, or are you saying something

1 different? Surely you would remember. This was your
2 very first time seeing it.

3 A. 我意思係我唔記得我有冇嘗試去阻止。

4 MR WILKEN: So your statement is wrong. I'll take you to
5 it. Bundle D2, page 912, paragraph 11:

6 "... I did not tell anyone nor did I stop them at
7 that time ..."

8 That's what you say in your statement. So that
9 statement is wrong?

10 A. 我唔記得我有冇嘗試去制止佢哋。

11 Q. Very well.

12 On the same incident, do you remember your evidence
13 yesterday -- and the chairman has just referred to it --
14 you stood there, you said yesterday, for ten minutes,
15 yes, in September; correct?

16 A. 大約係十分鐘左右。

17 Q. And you said the cutting was loud; correct?

18 A. 係呀，有啲尖啲嘅聲音。

19 Q. And your evidence yesterday was you thought it was like
20 building a collapsing cupboard; correct? You said that
21 twice.

22 A. 係。

23 Q. But, again, looking at paragraph 11, you did not tell
24 anyone about it; correct?

25 A. 係。

1 Q. At this stage, you've been in the industry, September
2 2015 -- you've been in the industry about a month;
3 correct?

4 A. 冇錯。

5 Q. You are new on site; correct?

6 A. 係呀，剛剛到。

7 Q. Surely, if you thought this was wrong, you would tell
8 someone, wouldn't you?

9 A. 咁一個新人去到個陌生環境，應該都唔會周圍亂咁講嘢或者問其他嘢。都
10 我人比較內向少少。

11 Q. You were working -- you were at least the superior of
12 Mr Li later, weren't you? He worked under you?

13 A. 稍後時間，佢係我嘅助理。

14 Q. In January 2016?

15 A. 大概係嗰一段時間。

16 Q. So, by January, you had earned sufficient of Mr Poon's
17 confidence for you to be promoted to be in charge of
18 other people; correct?

19 A. 都係--主要都係協助番潘先生嘅飯會度交代畀我哋嘅工作，協助佢完成。

20 Q. That's not an answer to my question. I will repeat it.
21 So, by January, you had earned sufficient of Mr Poon's
22 confidence for you to be promoted in charge of other
23 people; correct?

24 A. 公司就有乜話特別升職嘅制度，但係做foreman嘅主要工作係的確係管理
25 啲我哋啲員工。

1 Q. So, in three months, you had gone from a complete
2 newcomer to site to site foreman; correct?

3 A. 都係一個助理科文，由新手變咗一個助理科文。

4 Q. That's hardly the act of an introvert, is it?

5 CHAIRMAN: Well, perhaps you might rephrase that. You may
6 have a very efficient introvert who is recognised as
7 such.

8 MR WILKEN: I am grateful, sir.

9 In three months, you have sufficient knowledge of
10 the site to be promoted to assistant foreman; correct?

11 A. 都唔可以用「提升」嘅，我哋都係寓學習於工作。

12 Q. You were learning on the job. In September, you see
13 people, you say, cutting rebar. You stand there for ten
14 minutes, it's loud, and you say nothing; correct?

15 A. 都係到之後飯會，潘生講起，咁我哋員工有十至八個人坐喺度，我都有
16 和應嘅，都有話係，係有啲咁嘅事情。

17 Q. Where is that in your statement? The simple answer is:
18 it is not. If you were being an honest witness to this
19 Commission, that is what you would say, wouldn't you?

20 A. 如果口供係冇，就有提到，喺口供度。

21 Q. I have put the point fairly to you. I will move on.

22 Can we turn to file D2, page 914, paragraph 21.
23 Here, you set out your awareness of the inspection
24 system; correct?

25 A. 冇錯。

1 Q. And you say that if there were any defects, they had to
2 be remedied immediately; correct?

3 A. 係呀。

4 Q. And there was a formal inspection by MTR before concrete
5 was poured; correct?

6 A. 有個清潔嘅檢查。

7 Q. You say here:

8 "... if the inspectors of MTR were not satisfied
9 with the works, representatives of Leighton would ask
10 the responsible sub-contractor to rectify the problem
11 immediately. The rectification works would continue
12 until inspectors of MTRC were satisfied with the
13 construction works."

14 That's your evidence; correct?

15 A. 唔，冇錯。

16 Q. If defective rebar was there in the reinforcement, it
17 could well be that the rebar would be remedied on
18 inspection; correct?

19 A. 修復嘅工作嚟講，如果一條螺絲牙短咗，係冇辦法修復。

20 Q. Yes, it can. You cut the rebar, you drill into the
21 D-wall, and you would put another bar in; correct?

22 A. 你講嘅冇錯，但係我講緊嘅係條螺絲牙冇辦法修復，而唔係講緊用其他
23 方法修復。

24 Q. Are you talking now as to what you know now or what you
25 knew in September 2015?

1 A. 我有補充，我唔記得自己2015年可唔可以用咁嘅意識嚟說出嚟。

2 Q. You know, it would be nice to get one straight answer.

3 Put another way, you cannot say that defective rebar
4 was not remedied before concrete was poured; correct?

5 A. 唔好意思，翻譯唔係好清楚。

6 Q. Put another way, you cannot say that defective rebar was
7 not remedied before concrete was poured; correct?

8 A. 我唔清楚。

9 Q. Very well. Let's turn to your third statement, file D2,
10 page 1005, paragraph 2. Here, you identify, or you say
11 you identify, two people: Law Chi Keung and Ah Tung;
12 correct?

13 A. 唔。

14 Q. Can we go to the photographs, please. The photographs
15 follow; it should be 1007.

16 Now, if you look at the bottom right-hand corner,
17 you will see a date stamp, 4 September 2015; correct?

18 A. 係，冇錯。

19 Q. You didn't take these photographs, did you?

20 A. 冇錯。

21 Q. You didn't see these photographs being taken, did you?

22 A. 冇錯。

23 Q. You weren't even employed at Hung Hom on 4 September
24 2015; correct?

25 A. 冇錯。

1 Q. You do not know where these were taken?

2 A. 冇錯。

3 Q. You don't know on whose mobile phone they were taken?

4 A. 冇錯。

5 Q. You looked at these photos on 4 October this year,
6 didn't you; that's your evidence?

7 A. 正確。

8 Q. Some three years after these photos were taken?

9 A. 冇錯。

10 Q. Now, 1007 -- you can't see anyone's face, can you?

11 A. 正確。

12 Q. Next page, please.

13 You can't see anyone's face here either, can you?

14 A. 睇唔到人樣，只有身材。

15 Q. Correct. Next page, please.

16 And you can't see anyone's face here either, can
17 you?

18 A. 冇錯。

19 Q. Do you know that Law Chi Keung could not recognise
20 himself in these photographs?

21 A. 我唔知道。

22 Q. I can take you to his witness statement. I'm not sure
23 precisely which file it's in, because the updating has
24 gone a bit awry. It's only been served very recently,
25 so it may well be bundle C33 or 32, but the page

1 reference is 25782.

2 MR PENNICOTT: It's C34.

3 MR SHIEH: C34.

4 MR WILKEN: I'm grateful to Mr Pennicott and Mr Shieh.

5 And it's paragraph 4. Here, he says:

6 "I cannot identify whether the person with a blue
7 helmet in the photos referred to ... by Jason Poon and
8 Mr But ... is me."

9 So he does not recognise himself.

10 A. 口供係咁講。

11 Q. And if we do the same for Mr Ah Tung, which is the same
12 volume, 25786, paragraph 4, he says:

13 "I cannot identify whether the person with a red
14 helmet in the photos referred to ... by Jason Poon and
15 Mr But ... is me."

16 That's what he says.

17 A. 口供係咁樣。

18 Q. Are you aware that Leighton used different coloured
19 helmets -- sorry, different coloured helmets were used
20 on site for different tasks?

21 A. 知道。

22 Q. And that a red helmet means someone is a banksman?

23 A. 係。

24 Q. Ah Tung was not made a banksman until 30 September 2015.

25 That's what his statement says. You can see that in

1 paragraph 3. Do you accept that?

2 A. 我唔清楚。

3 Q. That's his evidence. You can't deny it, can you?

4 A. 清楚。

5 MR SO: Sir, I think this question could be rephrased. In
6 any event, this witness cannot say how that witness's
7 evidence is correct or not, and that witness is
8 certainly subject to cross-examination, so I would
9 respectfully say this question would not be appropriate.

10 MR WILKEN: I'm afraid Mr So is wrong. I'm entitled to say
11 that this witness cannot deny that allegation.

12 CHAIRMAN: Yes. This witness either is in a position to
13 deny it or not deny it.

14 MR WILKEN: Correct.

15 CHAIRMAN: That's not an admission objectively of the
16 absolute truth of the statement.

17 MR WILKEN: Precisely, sir.

18 So you cannot deny that this witness says that he
19 was appointed a banksman on 30 September 2015; correct?
20 "Yes" or "no"?

21 A. 我唔可以否定佢嘅說法，但係喺相片中，我只係認番啲相關人士啫，應該
22 兩件事嚟。

23 Q. No, because the person you identify as Ah Tung is
24 wearing a red helmet, isn't he?

25 A. 冇錯。

1 Q. And a red helmet means he's a banksman; correct?

2 A. 紅色頭盔係banksman。

3 Q. And he says he wasn't a banksman until 30 September;
4 correct?

5 A. 佢嘅口供係咁樣講。

6 Q. These photographs were taken on 4 September; correct?

7 A. 相片日期係9月4號。

8 Q. So he could not have been wearing a red helmet on
9 4 September; correct?

10 A. 我唔係好同意呢個講法，因為喺地盤範圍內，有時啲工人可能忘記戴個
11 頭盔，都會攞咗其他人嘅頭盔嚟戴，有各種唔同嘅原因。

12 Q. I see. Are you speculating there?

13 A. 冇呀。

14 Q. You cannot say that on 4 September, Ah Tung took someone
15 else's helmet, can you? So you are speculating.

16 A. 我有咁嘅意思，我只係講一講個地盤狀況啫，普遍。

17 Q. Yes. You give a lot of evidence of generalities. I'm
18 trying to get to the specifics.

19 Are you aware that neither Law Chi Keung nor Ah Tung
20 fixed rebar?

21 A. 我唔清楚。

22 Q. Are you aware that they both said they didn't cut
23 threaded bars?

24 A. 唔好意思，可唔可以問多次？

25 Q. Are you aware that they both said they did not cut

1 threaded bars?

2 A. 我剛剛睇到何曉東（譯音）嘅口供上面有咁樣寫。

3 Q. And you cannot deny that, can you?

4 A. 我應該冇權否認人啲嘅證供㗎呵？

5 Q. No, you don't.

6 CHAIRMAN: Well, you can deny it. You can say something to
7 the effect of, "I used to see him every single day doing
8 it over a period of six weeks", or something like that.

9 But would it be correct to say that you have nothing
10 in your knowledge which would enable you to deny it?
11 They have said they did not cut threaded bars. Are you
12 in a position to say that they must be wrong in that
13 regard, because of what you yourself have seen?

14 A. 咁樣講喇，相片中，兩張相片我睇嘅時候，就係--我就未到地盤嘅，未到
15 呢個地盤工作嘅，佢啲相片中做緊嘅嘢都有明確咁樣顯示佢哋真係捱緊落
16 個螺絲頭度，佢之後日子有冇捱，我唔可以確定，我又唔可以否認㗎其實。

17 CHAIRMAN: Thank you.

18 MR WILKEN: Mr Chairman and Commissioner, I have no further
19 questions. Thank you for your patience, Mr But.

20 CHAIRMAN: Thank you.

21 MR WILKEN: I imagine Fang Sheung may be next.

22 MS CHONG: I have no questions for this witness.

23 CHAIRMAN: All right.

24 Cross-examination by MR BOULDING

25 MR BOULDING: Good morning, Mr But.

1 A. 早晨。

2 Q. You tell us that you were an assistant foreman back on
3 the Hung Hom Station in 2015; correct?

4 A. 冇錯。

5 Q. You told the learned Commissioner and Prof Hansford
6 yesterday that you began working at the Hung Hom Station
7 construction site in mid-September 2015. Do you
8 remember giving that evidence?

9 A. 冇錯。

10 Q. You tell us, in paragraph 4 of your first statement --
11 that's D3 at D910 -- you tell us there:

12 "I have had the opportunity to read the witness
13 statement and the supplemental witness statement of
14 Mr Poon dated 3 September 2018 and 14 September 2018
15 respectively."

16 Do you see that statement?

17 A. 係。

18 Q. That's true, is it? You did in fact read those witness
19 statements?

20 A. 律師用中文解釋咗一次畀我聽。

21 Q. I'll put the question again. Did you in fact read those
22 witness statements, Mr But?

23 A. 律師一路同我睇住，一路解釋番畀我聽。

24 Q. So you did read those statements, did you?

25 A. 有。

1 Q. Thank you. You say:

2 "I" -- "I" being Mr But -- "agree that the facts
3 deposed to therein are true."

4 Do you see that statement?

5 A. 係。

6 Q. I wonder if we could have a little look at Mr Poon's
7 statement together, please, Mr But.

8 Could you be given Poon's first witness statement.
9 It's bundle D1, pages 19 to 20. Do you have it?

10 A. 19至20頁，有。

11 Q. Right, and do you see on page D19 the heading "C1.
12 Incidents in August 2015"?

13 A. 睇到。

14 Q. And if you would be kind enough to look through
15 paragraphs 30 to 34, you would agree with me, wouldn't
16 you, that in those paragraphs, Mr Poon is talking
17 exclusively about events which occurred in August 2015;
18 correct?

19 A. 會唔會翻譯番啲句子畀我聽？因為我睇嘅時候有律師在場翻譯畀我聽嘅
20 逐句。

21 Q. So you want all that to be translated to you, four or
22 five paragraphs translated to you, in Chinese; is that
23 what you want?

24 A. 唔該你。

25 Q. I'm not the right person to do that. But perhaps

1 someone who's far more qualified in these fields than
2 I am could translate the heading, "C1. Incidents in
3 August 2015". I don't know whether you could do that.

4 MR PENNICOTT: If you read it out, they will translate it.

5 MR BOULDING: "C1. Incidents in August 2015", and then
6 paragraph 30:

7 "In mid-August 2015, I and 12 other staff" -- the
8 "I" being Mr Poon -- "of Chinat had an internal meeting
9 at Chinat's temporary offices in the Hung Hom Station
10 construction site. Mr Leung reported to me orally that
11 he saw in late July 2015 someone cutting the threaded
12 rebars using cutting/grinding machines at bay 2 and
13 bay 4 of area C1. At the same time, Mr Chu also
14 corroborated with what was said by Mr Leung and told me
15 that he also witnessed similar incidents happening."

16 Are you still with me?

17 A. (Nodded head).

18 Q. Paragraph 31:

19 "I asked Mr Leung and Mr Chu as to who was/were the
20 person(s) cutting the threads. Both Mr Leung and Mr Chu
21 told me that they were staff member(s) of Leighton.

22 32. I suggested to Mr Leung that he should report
23 the matter to MTRC for record purposes. Sometime later,
24 Mr Leung and Mr Chu told me that they had reported the
25 matter to MTRC.

26 33. In or about August 2015, I visited area C1 of

1 the Hung Hom Station construction site for site
2 inspection purposes. At a position between bay 2 and
3 bay 3, I witnessed three male persons ('the persons')
4 wearing reflective safety vests of Leighton using
5 a grinding machine to cut the threaded rebars one after
6 another. The surrounding environment was clear and
7 bright. I was around 30 to 40 metres away from the male
8 persons and can see them clearly without any
9 obstructions whatsoever in front of me."

10 Then finally at paragraph 34:

11 "I approached the persons who were using the
12 grinding machine to cut the threaded rebars to install
13 them to the couplers on the diaphragm wall. I attempted
14 to stop them from doing what they were doing, but it was
15 in vain as they ignored me."

16 A. 聽到。

17 Q. Splendid. We can see there, can we not, Mr But, that
18 Mr Poon is talking about matters which occurred in
19 August 2015; correct?

20 A. 文章30段到34段係講緊8月嘅事情。

21 Q. Well, you didn't turn up on the site until mid-September
22 2015, did you?

23 A. 冇錯。

24 Q. So how can you possibly, Mr But, tell the learned
25 Commissioner and Prof Hansford that the facts deposed to
26 by Mr Poon in these paragraphs are true? You can't, can

1 you?

2 A. 我有睇過呢啲段落。

3 Q. Mr But, I know a lot gets lost in translation, but
4 I will put the question again. You read these
5 paragraphs, but what I'm suggesting to you is that they
6 relate exclusively to matters which occurred in August
7 2015. You did not turn up on site until mid-September
8 2015. In those circumstances, it is impossible for you,
9 is it not, to agree that the facts in those paragraphs
10 are correct?

11 A. 我唔清楚。

12 Q. That cannot be right, Mr But. I'm asking you about your
13 evidence which you've given on affirmation, and the
14 proper answer, I suggest, Mr But, is, "Mr Boulding, you
15 are right. I cannot possibly agree or confirm that the
16 facts in paragraphs 30 to 34 are correct." That's the
17 right answer, isn't it, Mr But?

18 A. 知道。

19 Q. Thank you. I'm glad we got there in the end.

20 Now, if we look on, we see that in paragraphs 35 and
21 following, "C2. Reporting the incidents to Leighton in
22 September 2015". Do you see that heading, page D20?

23 A. 係。

24 Q. You've been asked a couple of questions about
25 paragraph 35 already, but I will persist, if I may. It

1 says:

2 "In or about early September 2015, Mr But also
3 reflected to me that similar incidents occurred. He
4 also attempted to stop those doing what they were doing,
5 namely cutting the threaded rebars but, again, to no
6 avail."

7 You have read that, have you? Do you understand
8 that?

9 A. 睇到，睇到。

10 Q. Again, this is another paragraph, Mr But, that you say
11 you agree is true? That's a question. This is another
12 paragraph, is it not, which you say is true?

13 A. 係呀。

14 Q. But I've got to suggest to you, Mr But, that it would
15 have been impossible for you, would it not, to reflect
16 on events in or about early September 2015 to Mr Poon
17 when you did not start until mid-September. That's
18 correct, is it not, Mr But?

19 A. 我9月中開始到紅磡地盤。

20 Q. Quite. And he's talking about in or about early
21 September, which I suggest relates to a period before
22 mid-September, and if that's right, you cannot possibly
23 have reflected on anything to him in that period, could
24 you, Mr But?

25 A. 喺我到之前係唔可以。

1 Q. Thank you. We're finally getting there.

2 And reading on, if I may, again:

3 "He" -- that's Mr Poon; please listen -- "also
4 attempted to stop those doing what they were doing,
5 namely cutting the threaded rebars" --

6 CHAIRMAN: No, I think that's wrong.

7 MR BOULDING: Sorry, Mr But. You're absolutely right. Sir,
8 thanks for pulling me up.

9 Then Mr Poon says:

10 "He also attempted to stop those doing what they
11 were doing, namely cutting the threaded rebars but,
12 again, to no avail."

13 So Mr Poon is saying that you, Mr But, tried to stop
14 the workers cutting the bars, but it was to no avail, it
15 didn't work; they didn't take any notice of you.

16 Now, again, according to your evidence, Mr But,
17 given yesterday, that statement simply cannot be true,
18 can it?

19 A. 唔會有可能嘅，只係我唔記得咗我有冇嘗試。

20 Q. Well, we'll all look at the transcript, Mr But, but my
21 recollection is that that's rather different from what
22 you said yesterday. But let's move on, for the sake of
23 expedition.

24 Paragraph 36:

25 "In September 2015, I reported the incidents in ...
26 2015 to Mr So Yiu Wai, the then superintendent of

1 Leighton, and Mr So's superior Mr Khyle Rodgers, the
2 then senior superintendent of Leighton. I indicated to
3 Mr So and Mr Rodgers that staff members of Leighton were
4 cutting the threaded rebars.

5 37. Both Mr So and Mr Rodgers told me that they had
6 no knowledge of any staff members of Leighton doing such
7 acts. They also reassured me that they would inform
8 their staff members not to do such acts again and
9 reassured me that no similar incidents would occur again
10 in the future.

11 38. That said, in mid-September 2015, I myself
12 again saw staff members of Leighton once again, cutting
13 the threaded rebars.

14 39. Between 15 to 20 September 2015, I invited both
15 Mr So and Mr Rodgers for a site inspection. During the
16 inspection, all three of us saw one staff member of
17 Leighton cutting the threaded rebars using a hydraulic
18 disc cutter.

19 40. I immediately approached that person and tried
20 to stop him from cutting the threaded rebars.
21 Nonetheless, Mr So stopped me and asked, rhetorically,
22 'why would it be a problem to cut the threaded rebars?'
23 Mr So, in front of me, asked that staff member to
24 continue with what he was doing, namely cutting the
25 threaded rebars. I (secretly) took out a Huawei mobile
26 phone, which belongs to Chinat, and took 2 photographs

1 and a video clip of approximately 10 odd seconds."

2 Now, Mr But, it's correct, is it not, that you were
3 not involved in the meeting between Mr Poon, Mr So and
4 Mr Rodgers? That's correct, is it not?

5 A. 係。

6 Q. And, similarly, you were not one of the "three of us",
7 to quote paragraph 39, one of the "three of us" who
8 attended the site inspection; that's correct, isn't it?

9 A. 可以咁樣講。

10 Q. Well, I do put it that way, Mr But, and I'm going to
11 have to suggest that in those circumstances, you cannot
12 possibly confirm the accuracy of what Mr Poon says about
13 his meetings with So and Rodgers, can you?

14 A. 人面準確嘅內容我當然唔會好清楚，只係知道潘生所講番出嚟嘅口供人面
15 陳述嘅說話。

16 Q. Mr But, I'm sorry to be pedantic but sometimes lawyers
17 need to be. In paragraph 4 of your statement, that you
18 have affirmed to, you say, by reference to Mr Poon's
19 first and second witness statements, "I agree that the
20 facts deposed to therein are true." That's your
21 evidence, isn't it, Mr But?

22 A. 係呀。

23 Q. And that is simply incorrect, is it not, Mr But?

24 A. 點樣唔正確法？

25 Q. It's incorrect because we've established that you are

1 telling the learned Commissioner on oath that events
2 that Mr Poon refers to, when you were simply not on site
3 or not at the meeting in question, are true. You are
4 not in a position to do that, are you, Mr But?

5 That's a question, Mr But.

6 A. 我係冇辦法參與喺入面。

7 CHAIRMAN: Sorry, Mr But, if you said to me that you went
8 for dim sum with three people yesterday, and I was not
9 there, I can't confirm on oath or on affirmation that
10 your statement is correct, can I? I wasn't there.
11 I don't know if you had dim sum or not. All I can say
12 is I was told by you that you had dim sum with three
13 people. That's all I can say. Would you agree with
14 that?

15 A. 係。

16 CHAIRMAN: So you're not in a position to confirm one way or
17 the other whether what Mr Poon did in September, when
18 you were not present, is true or not? All you can see
19 is he told me this is what he did, or I learnt that this
20 is what he said he did?

21 A. 唔，唔，唔。

22 CHAIRMAN: Thank you.

23 A. 唔該。

24 MR BOULDING: I'm grateful for your intervention, sir. Just
25 one or two more instances, because credibility is

1 an important matter in this Inquiry.

2 CHAIRMAN: Yes.

3 MR BOULDING: I wonder if we can go to Mr Poon's second
4 statement, which is another statement you say you've
5 read and you confirm the contents are true.

6 If you would please go to D889. He says:

7 "In paragraph 80 of the first witness statement,
8 I said:

9 'At or about 0930 hours, I was brought to a meeting
10 room of MTRC Hung Hom Station office. There was a total
11 of 10 persons present, which included: ...

12 80.6. Mr Ian Pennicott SC ...'"

13 I take it, Mr But, that you do not say you were at
14 the meeting held on 13 June which Mr Poon is talking
15 about here; that's correct, is it not?

16 A. 係。

17 Q. So, by saying "yes", you are agreeing with me, are you
18 not?

19 A. 我的確唔喺個會議當中。

20 Q. So, again, I have to put it to you, Mr But, it's
21 absolutely impossible for you, is it not, to say that
22 what Mr Poon tells the learned Commissioner about this
23 meeting is accurate? You simply cannot do that, can
24 you, Mr But?

25 A. 即係用番啲啲律師先生個比喻一樣，都係嗰個答案。

26 Q. That will do for my purposes, Mr But.

1 I could go on at some length, but I'm just going to
2 have one more go at you speaking to the accuracy of what
3 Mr Poon says. I wonder if you would be kind enough to
4 cast your mind back yesterday to I think it was
5 Mr Pennicott's questions on the uniforms worn by various
6 members of staff on the site. Do you remember
7 Mr Pennicott asking you questions about that?

8 A. 係，問過相關嘅衣著問題。

9 Q. This is a matter which you helpfully deal with in
10 paragraph 5.3 of your first statement.

11 MR PENNICOTT: D911.

12 MR BOULDING: D911. Thank you very much indeed.

13 In paragraph 5.3, you tell the learned Commissioner
14 and Prof Hansford:

15 "Workers of Fang Sheung did not wear any form of
16 uniforms ..."

17 Do you see that?

18 A. 係呀，冇任何形式嘅特定制服嘅。

19 Q. Right. If we could go, please, to D1, page 37, and if
20 we could look, please, at paragraph 86 on page D36:

21 "Representatives of the MTRC then asked me if I may
22 produce any further information proving that those
23 persons involved in the cutting of the threaded rebars
24 were staff members of Leighton. I told them that staff
25 members of Leighton can easily be identified from staff
26 of other sub-contractors by their uniforms. As staff

1 members of Leighton were all addressed with Leighton
2 T-shirts and reflective vests, on the other hand, staff
3 of Fang Sheung were all rebar fixers and their uniforms
4 were heavily contaminated by sweat and rust in dark
5 brown colour."

6 Sounds awful, but dark brown uniforms heavily
7 contaminated by sweat and rust.

8 Again, if we can go back to paragraph 4 of your
9 witness statement, this is another matter where you
10 confirm the accuracy of what Mr Poon says, is it not?

11 A. 係。

12 Q. So who's right? Did they have any form of uniform? You
13 say they didn't. Or did they have a brown uniform?
14 Who's right?

15 A. 佢指嘅意思係套制服冇--嗰套冇乜特定形式嘅制服，着到畀啲鐵銹沾污
16 咗，着到全身都有啲啡色。

17 CHAIRMAN: All right. So you're not really in a position to
18 give evidence as to what Mr Poon meant. You are saying,
19 as I understand it, that their clothing, not uniforms,
20 were contaminated by sweat and rust; is that right?

21 A. 冇錯，冇錯。

22 MR BOULDING: Well, I need to persist just a little bit,
23 Mr But. Please forgive me.

24 Look at what Mr Poon says:

25 "On the other hand, staff of Fang Sheung were all

1 rebar fixers and their uniforms ..."

2 Do you see the word "uniforms"?

3 A. 係。

4 Q. He goes on to say:

5 "... their uniforms were heavily contaminated by
6 sweat and rust in dark brown colour."

7 So the uniform was dark brown, but it was
8 contaminated, and I've got to put the question again
9 because credibility is important here: who's right? Did
10 Fang Sheung have no uniform, as you say, or a dark brown
11 uniform, as Mr Poon says? Who's right, please?

12 A. 可唔可以清楚翻譯多一次潘生個句「深啡色」嘅句子呀?

13 Q. I will read it so it can be translated to you:

14 "On the other hand, staff of Fang Sheung were all
15 rebar fixers and their uniforms were heavily
16 contaminated by sweat and rust in dark brown colour."

17 So, Mr But, who is right? You say they had no
18 uniforms at all. Mr Poon says that they had dark brown
19 uniforms. Who's right?

20 A. 我諗唔係深啡色嘅制度，係講緊套制服畀啲汗水，畀啲鐵銹整到有啲深啡
21 色，而啲句句唔係講緊有套深啡色嘅uniform，只係話染上呢啲顏色。

22 Q. Well, Mr But, I think I've made my point. I'll move on.

23 If we could have a look, please, at paragraph 9 of
24 your first statement.

25 MR PENNICOTT: 912.

1 MR BOULDING: Is it 912? Yes, 912.

2 Here you are talking, are you not, about the
3 incident that occurred, allegedly occurred, in 2015,
4 near area C1; do you see that, Mr But?

5 A. 係。

6 Q. And yesterday you will recall, will you not, telling
7 Mr Pennicott that it was around area C1, but you
8 couldn't recall whether they were cutting at the top or
9 bottom level; do you remember giving that evidence?

10 A. 有講過。

11 Q. Do you remember giving the evidence I've just related to
12 you, Mr But? Namely that you said it was around the
13 area of C1 that you saw the cutting, but you couldn't
14 recall whether they were cutting at the top level or the
15 bottom level; do you remember giving that evidence?

16 A. 有。

17 Q. And you tell us in paragraph 9:

18 "At that time, I was about 8 metres apart from the
19 workers and could see precisely what they were doing."

20 That's your evidence, is it not?

21 A. 冇錯。

22 Q. Now, I would estimate that I'm about 4 metres from you.
23 Does that seem about right?

24 A. 大約4米。

25 Q. So you were looking at workers allegedly cutting bars

1 twice the distance between us; that's how far they were
2 from you, correct, approximately?

3 A. 一倍。

4 Q. Okay.

5 Then you tell us in paragraph 10 -- you refer in
6 paragraph 10 to your "training and knowledge in the
7 construction industry"; do you see that?

8 A. (Nodded head).

9 Q. You go on to say -- I pick up the third sentence:

10 "According to what I saw, I estimated that the
11 workers had cut about 6 centimetres of the threaded
12 rebars and about 2 centimetres of the threaded rebars
13 remained on the threaded bars."

14 Do you see your evidence there, Mr But?

15 A. 係。

16 Q. I've really got to suggest to you, Mr But, that if you
17 were standing where I am now and the workers in question
18 were doing what you say they were doing, twice the
19 distance that you are from me, it would be impossible
20 for you to estimate to that degree of accuracy --
21 2 centimetres, 6 centimetres -- exactly what they were
22 doing; that's correct, isn't it?

23 A. 唔同意，都會有個比例睇得到㗎嘛。

24 Q. From 8 metres?

25 A. 有比例㗎嘛。

1 Q. I've got to suggest to you that that's simply fantastic,
2 Mr But, that you say you could do that from 8 metres
3 away. It's not possible, is it?

4 A. 我唔同意。

5 MR BOULDING: Sir, I see the time. I've got a bit more to
6 do. If that would be a convenient moment for you?

7 CHAIRMAN: Yes, thank you.

8 I just want to ask one thing. Mr But, if you go to
9 paragraph 9, and if you look at the last sentence, it
10 says -- and that will be translated to you:

11 "I saw the workers cutting approximately 10 threaded
12 rebars and screwing them into the couplers on the
13 diaphragm wall."

14 Do you see that?

15 A. 係。

16 CHAIRMAN: I may have misunderstood you yesterday, but my
17 very firm impression yesterday was that according to
18 you, in your evidence, you did not see anybody actually
19 screwing these cut rebars into the couplers.

20 A. 係，我唔記得。

21 CHAIRMAN: Well, I may be wrong, and no doubt counsel who
22 are here will look that up, but I have a very clear
23 impression of you distancing yourself, that is not being
24 prepared to say that you actually saw these shortened
25 rebars, with the thread cut away, being screwed into
26 couplers. What is your memory of what you saw at the

1 time? Did you actually see it happen or not?

2 A. 我親眼見到佢哋劑，就唔記得有冇扭上去個牆身上面。

3 MR BOULDING: Sir, you are absolutely right and that's why
4 I didn't seek to challenge that point. I'll give you
5 the precise transcript reference when I come back after
6 the coffee, because, as Mr Wilken said, the transcript
7 he's working from and what I'm working from was hot of
8 the press yesterday, so we don't have the correct
9 references.

10 The exchange was, a question by Mr Pennicott:

11 "So you've got the EWL slab, Mr But, we know it's
12 got rebar towards the top of the slab and some more
13 rebar at the bottom. Did you see this cutting going on
14 at the top or the bottom?

15 Answer: I don't remember.

16 Question: With regard to these alleged cut rebars,
17 did you see any workers attempting to screw them into
18 the couplers on the diaphragm wall?

19 Answer: I didn't. I didn't see it."

20 CHAIRMAN: Yes. Thank you. We'll adjourn now for

21 15 minutes. Thank you very much.

22 (11.29 am)

23 (A short adjournment)

24 (11.48 am)

25 MR BOULDING: Good morning again, Mr But. I fear I've got
26 a few more questions for you.

1 But before I start, if I can just tell the learned
2 Commissioner that the extract from the transcript that
3 I read from immediately before the coffee break was
4 Day 3, page 133, line 23, to page 134, line 6.

5 CHAIRMAN: Thank you.

6 MR PENNICOTT: Sir, that's right, and Mr Boulding is right
7 to point out that that's what the witness said there,
8 but can I just caution, because I don't want anybody to
9 be misled, I was actually asking the witness questions
10 not about paragraph 9 but a later paragraph in his
11 witness statement. So if that's absolutely clear: this
12 was not by reference to paragraph 9.

13 MR BOULDING: Sir, I didn't mean to suggest it was, but our
14 submission will be that the answer is the answer and
15 there we are. But I'm grateful to my learned friend for
16 pointing that out.

17 Now, Mr But, I'd like to ask you a few questions, if
18 I may, about the seriousness of the cutting of rebar.
19 Do you remember being asked about this yesterday by
20 Mr Pennicott?

21 A. 邊一個問題?

22 Q. Well, there were quite a few questions, but it will do
23 for my purpose if I can read out an exchange which took
24 place in the wake of Mr Pennicott's questioning, when
25 the chairman got involved, and I'm reading from
26 transcript Day 3, page 129, line 8. The chairman says

1 to you, Mr But:

2 "Sorry, if I may just ask one question, Mr But.

3 At that time, on the first occasion, when you saw
4 this happening, you had only been there a short time and
5 in the industry a short time. Did you think yourself
6 that what they were doing was in any way wrong, or were
7 you there just to watch the machinery in action?"

8 Do you remember the chairman, Mr Hartmann, asking
9 you that question?

10 A. 係。

11 Q. Then the transcript records that you say -- this is
12 page 129, line 14:

13 "I will try to explain this, Chairman. I thought it
14 was wrong. The reason was, even if you assemble
15 a wooden cupboard at home, if you cut a thread in half,
16 your wooden cupboard is likely to collapse. When I saw
17 the bars being cut, I thought it was problematic."

18 Do you remember giving that answer?

19 A. 係。

20 Q. So you used a couple of terms -- "problematic",
21 "wrong" -- do I assume that you realised that it had the
22 potential to cause a safety issue? Is that something
23 you realised at the time, that you thought about at the
24 time?

25 A. 係。

26 Q. And, according to your evidence, Mr But -- and we ought

1 to say we don't accept all of it for a moment -- but
2 according to your evidence, the cutting of rebar
3 appeared to be quite frequent because, by mid-September,
4 you had witnessed cutting through threaded rebars
5 occurring twice. Do you recall your evidence to that
6 effect: in September, you had seen it twice already?

7 A. 冇錯。

8 Q. So you thought it was wrong, you thought it was
9 problematic, you thought it could cause a safety issue;
10 correct?

11 A. 係。

12 Q. So why didn't you report the matter to Leighton?

13 A. 我當時都係一個新人職嘅員工，嚟到呢個地盤，未熟習所有禮頓嘅相關
14 嗰啲上司、下屬嗰個架構層，所以就冇向禮頓匯報。

15 Q. Well, it might have been a new site for you, you might
16 not have been too familiar with it, but in circumstances
17 where it was bad, it was a safety concern, can I not
18 suggest it was simply the obvious thing to do, Mr But?
19 It was obvious, wasn't it?

20 A. 冇即時死亡嘅風險，就我都係重申多一次，我就--我真係唔熟，當時我新
21 去到都係幾日左右，未熟悉禮頓嘅人員，所以我冇匯報到。

22 Q. Okay. I hear what you say about Leighton. But why
23 didn't you at least report these two alleged incidents
24 immediately to your boss, Mr Poon? Why didn't you do
25 that, Mr But?

1 A. 首先，潘生每日午飯嘅時間都會到我哋嘅地盤度會進行個例會，我絕對有
2 時間喺例會度同佢匯報嘅，同埋老闆嘅工作比較多，亦都唔可以經常致電
3 畀佢。

4 Q. Come, come, Mr But. It might be the case that no one is
5 going to die, but you're the person who said it was
6 wrong. You're the person who said it was a safety
7 issue. It doesn't take more than 30 seconds, does it,
8 to pick up a mobile phone and ring your boss and say,
9 "Look, Jason, look, Jason Poon, do you know what's going
10 on on this site?" That was the obvious thing to do, if
11 it really occurred, wasn't it, Mr But?

12 A. 我再重申一次，每日午飯我哋都會有個飯盒會，喺飯盒會嘅時間係可以將任何
13 關於情--關於地盤嘅所有情報向老闆講解清楚，同埋老闆好忙，唔係經常可
14 以接到電話，所以通常有咩嘢事情都會留喺飯盒會度匯報，除非都係有啲涉及
15 死亡或者意外嘅事件。

16 Q. So do I understand that because your boss was so busy,
17 you say you took the opportunity to report these two
18 September incidents to him during the course of the
19 lunchtime meetings in September; is that your evidence
20 before the tribunal now?

21 A. 係可以喺飯盒會匯報。

22 Q. Well, I know you can report them, but is your evidence
23 that you actually reported these two incidents to
24 Mr Poon at the lunchtime meetings in September? Is that
25 your evidence, Mr But?

1 A. 口供上面都有，我今朝都補充過，就喺開飯盒會嘅時候，就潘生有提出過，
2 我係有附和過嘅，我都話我有知道嘅咁樣。

3 Q. So your evidence now is that you knew about it and by
4 the phrase "echoing it" you are saying, are you, that
5 you told Mr Poon about these two incidents in the
6 lunchtime meetings in September? Is that your evidence
7 now?

8 A. 有答過「我知道」同埋有和應過，而唔係我提出。

9 Q. Well, I've got to take you back to your statement again,
10 Mr But. Please could you go back to your statement.
11 It's D909. That's the beginning of the statement. If
12 we could go, please, to D912, here you say, in
13 paragraph 11:

14 The incidents I observed as stated in paragraphs 9
15 to 10 hereinabove happened on two occasions in September
16 2015. Although I found the cutting of threaded rebars
17 abnormal, I did not tell anyone nor did I stop them at
18 that time as these were not works that Chinat were
19 responsible for."

20 I concentrate upon your words, your signed words,
21 that you have confirmed as being accurate on
22 affirmation:

23 "Although I found the cutting of the threaded rebars
24 abnormal, I did not tell anyone ..."

25 So what's right? You told Mr Poon and your lunch
26 mates at the September lunch meetings, or you didn't

1 tell anyone? What's right?

2 CHAIRMAN: I think this is the always difficulty of
3 translation, of course, but there is the phrase "at that
4 time", and it becomes a question of does that refer back
5 to telling or not? Because he says, "I did not tell
6 anyone nor did I stop them at that time".

7 MR BOULDING: You have heard what the learned chairman said,
8 Mr But. I will put the point that so far as we can see,
9 the evidence that you're giving now appears to depart
10 yet again, unfortunately, from what you've said in your
11 witness statement. Is that fair comment?

12 A. 邊一段偏離呀?

13 Q. I am suggesting that paragraph 11 has departed from what
14 you told the chairman you had done just a few moments
15 ago.

16 A. 我唔清楚。

17 Q. Okay. If I could move on to another matter but still in
18 the same vain -- I wonder if we could go to
19 paragraphs 24 to 26 of your witness statement, please,
20 your first witness statement. That's D915. Just so
21 that I can read them to you, so that they can be
22 translated, paragraph 24:

23 "In or about early February 2016, I saw on two
24 separate days that workers wearing Leighton uniforms
25 were holding a cutting/grinding machine to cut the
26 threaded rebars. The cutting/grinding machine was the

1 same as the one that I had observed the workers using in
2 September 2015: see paragraph 9 hereinabove. The
3 workers cut threaded rebars 2 to 3 times on each of
4 those two days.

5 25. On one of those occasions, I saw a worker
6 approaching an area in C1 where there was a large
7 polyethylene cloth. When this worker flipped over the
8 polyethylene cloth, I saw about 20 threaded rebars lying
9 on the floor.

10 26. In a lunch meeting in or about February 2016,
11 Mr Ngai mentioned to Mr Poon that he saw similar
12 incidents happening. Mr Poon indicated that he would
13 inform senior officials of MTRC about this matter."

14 Now, against that background, you tell us, in
15 paragraph 13 of your witness statement:

16 "[Mr Poon] asked all foremen to report the matters
17 to MTRC frontline officers should we see similar
18 incidents in the future."

19 That's something Mr Poon actually said, was it not,
20 Mr But?

21 A. 係。

22 Q. And according to your evidence, you'd seen on two
23 separate days Leighton workers cutting threaded rebars,
24 and that 20 threaded rebars were found lying on the
25 floor; correct? That's your evidence?

26 A. 係。

1 Q. What I don't understand, Mr But, is if that had really
2 occurred, why didn't you report the matter to the MTR
3 frontline staff, as you had been instructed to do by
4 your boss? Why didn't you do that?

5 A. 我有咁做。

6 Q. So you were, for want of a better term, disobeying
7 orders?

8 A. 都唔可以用呢個形容詞嘅，我忘記咗當時有冇咁做喇，應該話。

9 Q. Well, I think you say that Mr Poon told you that if
10 incidents of the kind you described occurred again, you
11 were to report them to MTR frontline staff, and it's
12 really an evasive answer to say, "I forget whether
13 I disobey, maybe I could put it this way." That doesn't
14 answer my question at all, Mr But. Why didn't you do
15 what Mr Poon told you to do?

16 A. 唔好意思，我回答多次，我忘記咗有冇咁樣做。

17 Q. So you've got wrongs going on, you've got potential
18 safety concerns, you see something twice in a couple of
19 days, 20 threaded rebars on the floor, your boss tells
20 you, "If you see that again, But, you make sure MTR
21 frontline staff know about it", and your answer is you
22 forgot whether you did that? Is that really your
23 answer?

24 A. 係。

25 Q. Not credible, Mr But. It's not credible, is it? You're

1 not telling the truth, are you?

2 A. 我有--我從來冇唔講真話。

3 Q. There's a first time for everything, Mr But.

4 These two separate instances, 20 threaded rebars
5 lying on the floor, why didn't you take any pictures of
6 the cutting or of all of these bars lying on the floor?
7 Why didn't you do that? It was the obvious thing to do,
8 wasn't it, Mr But?

9 A. 當時附近都有人，就算先生你出到街，人哋揸住個電話咁樣嚟拍你，你都
10 會激動喇，更何況喺個地盤環境，大家工作緊。

11 Q. So you say that lots of other people also saw, do you,
12 these 20 bars lying on the floor, bars being cut on
13 separate days? Lots of people saw this, did they?

14 That's a question, Mr But.

15 A. 可唔可以問多一次，邊度講緊有其他好多人睇到？

16 Q. Well, you said, "At the time there were people around.
17 It's not as though you take photos on the street, if
18 someone holds a phone on the street and takes photos --
19 you might become emotional." So you were the person who
20 was saying there were people around. That's your
21 answer. And I'm asking you whether those other people
22 will have seen what you're telling the learned
23 Commissioner about: 20 cut bars, I think you said
24 yesterday they were about 2 metres long, lying on the
25 floor. Those other people would have seen those, would

1 they, Mr But?

2 A. 唔好意思，可能我啱啱演繹得唔好，我所謂嘅有人喺度就係做緊當時嘅工作
3 揸住個螺絲頭喺個範圍嘅人，而唔係周圍經過嘅人，可能我啱啱講得唔
4 清楚，唔好意思。

5 Q. Well, you certainly didn't make yourself clear earlier
6 on, but what I am reminded of --

7 A. 唔好意思。

8 Q. Accepted -- what I'm reminded of is that earlier on in
9 your evidence, you said that everyone was taking
10 photographs all of the time at the site; do you remember
11 giving that evidence? We'll give a transcript reference
12 in due course. Do you remember giving that evidence:
13 "everyone was taking photos all of the time at the
14 site"?

15 A. 唔好意思，我想睇番一個完整嘅對答，我先答你呢個問題。

16 Q. Well, someone will look that up for me, but what I'm
17 suggesting, Mr But, is that if there had been such
18 an incident on the site -- 20 threaded rebars lying on
19 the floor -- the obvious thing to do would have been to
20 have taken a picture of it. You can do that in
21 a second. Boom, as simple as that. That's the obvious
22 thing to do, isn't it, Mr But?

23 A. 我諗我一秒唔可以影得一張清楚嘅相片。

24 Q. Well, I've got to suggest, Mr But, that the reason you
25 didn't report the matter to the MTR frontline staff, as

1 Jason Poon had told you to do, and the reason you didn't
2 take any pictures of all this rebar lying on the floor,
3 is that it's a figment of your imagination; you're
4 making it up.

5 A. 我講一次喇，我就話過我唔記得有冇咁樣做，咁點解冇通知地鐵嘅前線員工
6 呢？因為我唔記得有冇佢哋嘅存在，我經常都見唔到，就係咁樣。

7 Q. Mr But, the excuses are coming long and fast. If you
8 had really seen this and you realised it was wrong and
9 you realised there were safety issues, and you had been
10 told by your boss, Mr Poon, to tell the MTR frontline
11 staff, you could have found an MTR representative, if
12 you had wanted to. They were there all the time,
13 weren't they, Mr But; that's correct, isn't it?

14 A. 如果你問嘅問題係有冇見到港鐵嘅代表，我就可以答你，我真係冇乜印象，
15 可能我唔係成日都見到佢哋，喺地盤。

16 Q. You're suffering from a lot of amnesia, Mr But.

17 Thank you very much.

18 WITNESS: 唔該。

19 MR PENNICOTT: Sir, before anybody else asks any questions,
20 I wouldn't do this unless it was quite important.
21 Neither Mr Boulding or I will be able to help us with
22 this but those assisting me have. At the transcript at
23 [draft] page 42, line 8, I am told that a rather
24 important word is missing. That word is "not", which
25 rather makes it important.

1 CHAIRMAN: I don't know the context in which that single
2 word appears.

3 MR PENNICOTT: Sir, if somebody could just -- the answer
4 Mr But gave was this:

5 "Well, first of all, Mr Poon, during lunchtime,
6 would turn up at the site for regular meeting, but I do
7 have time at the regular meeting to report it to him."

8 I'm told the answer was:

9 "Mr Poon, during lunchtime, would turn up at the
10 site for regular meeting, but I do not have time at the
11 regular meeting to report to him."

12 So that's the context in which the word "not" has
13 been omitted, I am instructed. And I'm told there's
14 a Chinese transcript that will have the word "not" in
15 it, I imagine, and we need it to be looked at on the
16 English transcript.

17 COMMISSIONER HANSFORD: Could we ask him the question again?

18 Questioning by THE COMMISSIONERS

19 CHAIRMAN: Yes.

20 You said, Mr But, that you would have your lunchbox
21 meetings. Matters would be discussed at those meetings.
22 You have said that Mr Poon was a very busy man. Did you
23 have time to report to him about what you had seen at
24 one or more of those meetings or not?

25 A. 我--咁講番個字眼先喇，我就唔記得自己有用過「冇時間去匯報」呢個咁嘅
26 詞--呢個咁嘅--呢幾個字眼。

1 CHAIRMAN: All right. Well, let me start again.

2 Did you report, at the lunchtime meetings, what you
3 had seen?

4 A. 我有提出過，我只係係潘生提出嘅時候和應過話知道。

5 CHAIRMAN: Do you wish to take that any further,
6 Mr Boulding?

7 MR BOULDING: No. I'm content with that clarification, sir.
8 Thank you very much.

9 CHAIRMAN: Thank you.

10 MR KHAW: Mr Chairman, if I may, I have some questions for
11 Mr But.

12 CHAIRMAN: Yes, of course.

13 Cross-examination by MR KHAW

14 MR KHAW: Mr But, we know that you first joined China Tech
15 in August 2015, and you left China Tech in November
16 2017; is that right?

17 A. 正確。

18 Q. Immediately after you left China Tech in November 2017,
19 did you join a company in Chinese called 德利建築
20 Construction Ltd?

21 A. 唔係，我個口供上面都有講到我立即加入。

22 Q. So, after you left China Tech in 2017, where did you
23 work?

24 A. 我2017年11月離開中科興業之後，直到我作供，大約7月第一份口供，七、
25 八月左右，我係係4月加入德利建築，中間嘅過程，因為一啲私人原因，我

1 就有工作嘅。

2 Q. Can you tell us why you left China Tech in November
3 2017?

4 A. 喺2017年11月嘅時候，我哋中科就做緊港珠澳大橋嘅工程，我係直接就管理
5 呢個迴旋處嘅，迴旋處當時就差不多完工，我知道中科暫時就未有咁多個工作
6 地點，我就決定放假，咁就辭咗工，就休息。

7 Q. And you rejoined China Tech in August this year; is that
8 right?

9 A. 係，冇錯。

10 Q. Before you rejoined China Tech in August this year, you
11 were still working for Tak Lee; is that right?

12 A. 大約8月頭嘅，我仲係喺德利公司工作嘅。

13 Q. Is there any reason why you then decided to transfer
14 from Tak Lee to China Tech again?

15 A. 原因就係因為睇番我哋而家現職嘅上水水廠，管理人員嘅流動比較大，所以
16 潘老闆就打電話叫我去返去幫手。

17 Q. Did you find the offer, the terms that China Tech gave
18 you, better than the terms that you had when you worked
19 for Tak Lee?

20 A. 作為一個打工仔，呢個一定係其中之一嘅因素嚟。

21 Q. Fair enough. Thank you.

22 CHAIRMAN: I think the question was: were the terms that
23 were offered to you better?

24 A. 個日薪係比德利高嘅。

25 MR KHAW: Would you say that Mr Jason Poon trusted you

1 a lot, as his staff?

2 A. 我認為潘生再招聘我返入佢公司嘅時候，對嗰個人一定會有一定嘅信任程度嘅。

3 Q. Did he ever praise you, or praise your work, like, "Hey,
4 you are smart, you did a good job", "叻仔，做得好",
5 things like that? Did he ever praise you?

6 A. 我識咗潘生大約有三年，咁你由2015年開始計，潘生係個好惡嘅人嚟嘅，
7 我得到佢嘅獎--誇獎，呢三年嚟都係一隻手指內都會數得到嘅，即係親口
8 同我講嘅。

9 Q. So you found him a strict and fierce boss; is that how
10 you would describe him as a boss?

11 A. 我老闆聽唔聽到？係呀，正確。

12 Q. Do you respect him?

13 A. 基本對所有人都應該有存在尊重嘅。

14 Q. Are you afraid of him?

15 CHAIRMAN: I think the question here is a specific question:
16 do you respect him as a professional and as a good boss?

17 MR KHAW: Thank you.

18 A. 我都尊重佢嘅專業嘅。

19 Q. Are you afraid of him as a boss?

20 A. 都唔會話特別驚嘅，就最主要係做好自己，喺工作上。

21 Q. And so you would -- am I right in saying that you would
22 try your best to comply with his orders or his
23 instructions?

24 A. 喺呢個建造或者喺工程上係需要嘅。

25 Q. So your answer to my question is "yes"?

1 A. 唔可以概括全部，淨係講工程。

2 Q. So your answer to my question is that as far as work is
3 concerned, you would try your best to comply with orders
4 or instructions; is that right?

5 A. 當然可以咁講，有時佢有錯，我都會提出番嘅，唔係一方面㗎嘛。

6 Q. You remember you made a statement to the police in July
7 of this year?

8 A. 係。

9 Q. Can you tell us who asked you to make this statement to
10 the police?

11 A. 警察打電話嚟。

12 Q. So the police called you and asked you to make a visit
13 to the police station; is that right?

14 A. 係。

15 Q. Was it the first time ever that you were required to
16 make a statement to the police?

17 A. 冇錯。

18 Q. Were you scared at that time, when you were asked by the
19 police to make a statement?

20 A. 又唔會驚嘅，始終警察當時喺個電話內容度話需要約我嘅時候，就有提及過
21 係關於咩嘢嘅事情，係沙中線，咁沙中線，咁我就冇做咩嘢違背良心嘅嘢，
22 去落個口供絕對唔會有咩嘢驚㗎。

23 Q. Did they tell you -- I mean, when the police called you,
24 did they tell you what information they would need from
25 you?

1 A. 我大概講一講個內容，因為都事隔咗幾個月，我唔係好記得個通話直接內容，
2 大約就係佢話畀我聽「畢生，麻煩你協助嚟到呢個警署協助一個沙中線紅磡站
3 嘅口供，咁就我需要你嚟落份口供。」只係咁樣粗略講咗啲，咁就係--就係咁
4 樣嘅咋。

5 Q. So they did not tell you during the phone call what
6 exactly were the incidents that they were looking at in
7 relation to this project?

8 A. 我唔記得咗，我唔敢肯定。

9 Q. How long after this conversation, this telephone
10 conversation -- sorry, I will rephrase the question.

11 After this telephone conversation, did you go to the
12 police station on the same day?

13 A. 唔記得咗。

14 Q. Before you went to the police station, did you do any
15 preparation work in order to equip yourself with
16 information that you might need to supply to the police?

17 A. 冇，冇做任何準備就上去落口供。

18 Q. Did you talk to anyone that, "Ah, the police are now
19 asking me to make a statement"? Did you talk to anyone
20 about this before you actually made your statement to
21 the police?

22 A. 我太太。

23 Q. Did you talk to Mr Poon about the fact that you would be
24 required to make a statement to the police?

25 A. 咁樣講咩，自從2017年11月開始到我返番去上水濾水廠，今年8月之前，我係

1 冇同潘生有直接嘅電話聯絡嘅，會唔會清楚啲？

2 Q. During this period, did you see him?

3 A. 冇同佢見面。

4 Q. In your statement to the police, you provided certain
5 details, including time, regarding what actually
6 happened. For example, September 2015, et cetera.

7 A. 係。

8 Q. When you were in the police station, you were able to
9 remember such detail immediately, ie detail regarding
10 what happened about three years ago; is that right?

11 A. 我都用咗啲時間，嗰份口供落咗大約十三、四個鐘呀，第一份。

12 Q. So it took such a long time for you to recall the
13 details, including the dates, as to the dates regarding
14 when a particular incident happened; is that right?

15 A. 都會有花時間嘅。

16 Q. On another issue, just very briefly -- you told us that
17 when you started to work in the project in Hung Hom
18 Station, you were following a person called Ah Lam; is
19 that right?

20 A. 冇錯，冇錯。

21 Q. Ah Lam was a "sifu"; right?

22 A. 可以用呢個形容詞嚟形容嘅。

23 CHAIRMAN: Sorry, what's a "sifu"?

24 MR KHAW: Your master.

25 CHAIRMAN: Thank you.

1 MR KHAW: Sorry. Like a pupil master.

2 So he showed you, when you first started at work
3 there, he showed you and taught you what to do; is that
4 right?

5 A. 阿霖主要教我嘅工作係由一個平水工開始，睇番啲高低、個地盤嘅水平線
6 咁樣，就一路就叫我自己細心開始睇下人嘅嘅工作，一步一步咁樣。

7 Q. Can I say that you worked with him closely most of the
8 time on the site; is that right?

9 A. 工地上可以咁樣形容。

10 Q. In September, where you said you saw this bar cutting
11 incident, were you with Ah Lam at that time?

12 A. 唔好意思，幾多月？

13 Q. September 2015.

14 A. 9月嘅時候，係呀。

15 Q. Were there any workers of China Tech who were with you
16 at that time?

17 CHAIRMAN: Just to avoid any ambiguity, the question is:
18 were there any workers of China Tech, including Ah Lam,
19 who were actually accompanying you at the time when you
20 saw the events that you have described in September?

21 MR KHAW: Thank you.

22 A. 我唔清楚。

23 MR KHAW: I have no further questions.

24 CHAIRMAN: Thank you.

25 MR PENNICOTT: Sir, I wonder if I might be permitted to ask

1 one question arising out of Mr Khaw's cross-examination.

2 CHAIRMAN: Of course.

3 Examination by MR PENNICOTT

4 MR PENNICOTT: I wonder if the witness could be shown the
5 police statement. The Chinese version is at D917.

6 I guess that's D2. We probably don't need to go to the
7 English version for the one question I have.

8 Do you have the Chinese version there, Mr But?

9 You made this statement on 12 July 2018; do you see
10 that, towards the top?

11 A. 睇到。

12 Q. And the time is recorded at 8.15 in the evening; do you
13 see that, 2015?

14 A. 係。

15 Q. Is that the end of the interview or the beginning of the
16 interview?

17 A. 開始。

18 Q. And you told Mr Khaw that the interview lasted quite
19 a few hours; was it 12 to 14 hours, you said? So did it
20 last all night?

21 A. 我可能講得唔好，計埋返屋企時間，即係嗰個時間係計埋返屋企。

22 Q. Could you just explain when did you arrive at the police
23 station, when did you go home, when did the interview
24 finish?

25 A. 我當日大約朝頭早7點嘍返到屋企，第二日嘅7點左右。

1 Q. Right. So it did last all night, this interview, it was
2 throughout the evening and into the night?

3 A. 差不多。

4 MR PENNICOTT: Thank you very much.

5 Re-examination by MR SO

6 MR SO: If I may, sir, I have some re-examination.

7 Just that we are now still with the Chinese witness
8 statement that you have given to the police, Mr But --
9 for the record, it's D2, page D917.

10 This is the police witness statement that Mr Khaw
11 and my learned friend Mr Pennicott have just referred
12 you to. Can I just trouble you to go to D920, at
13 paragraph 13.

14 I'm grateful to my learned friend Mr Pennicott.
15 It's D921.4, paragraph 13.

16 Probably for the benefit of you, Mr But, probably
17 I will read the Chinese that you have written in the
18 witness statement. I refer to the second-last sentence
19 that you have mentioned in that paragraph. You said
20 this:

21 "潘生提到見到有禮頓工人喺上層area C1附近，確實位置唔記得，
22 剝啲鋼筋螺絲牙，剝完就扭入D-wall嘅螺絲帽呢件事，而我、阿錦、文
23 坤分別亦都提及見到有關相同情況，會後潘生提到稍後會口頭同港鐵反映
24 事件", et cetera.

25 You will recall this morning, Mr But, that my

1 learned friends Mr Wilken and Mr Boulding have both
2 mentioned with you whether you have mentioned the
3 incidents that you have seen to Mr Poon. You have, in
4 your evidence, said you echoed with others.

5 I wonder whether the translation would be
6 "佢有和應".

7 Regarding the paragraph that I have just shown you
8 in your police witness statement, can I just clarify
9 whether you did tell the police about the echoing
10 incident?

11 MR BOULDING: Sir, I understood that the normal Rules of
12 Evidence applied as much to this Commission of Inquiry
13 as would apply in the High Court and that's one of the
14 most leading questions I have heard for a long, long
15 time.

16 MR SO: I do apologise. I don't intend to lead, but I just
17 jog the memory of the witness regarding showing that
18 witness statement. I do apologise if I have crossed the
19 line that I should have kept within my boundaries. I'm
20 just trying to give an open-ended question and
21 an opportunity for Mr But to comment regarding that
22 paragraph of the witness statement.

23 CHAIRMAN: In which case, it should be presented by way of
24 a question that's not leading.

25 MR SO: I do apologise. I will rephrase it.

26 Mr But, anything you want to say about that?

1 CHAIRMAN: I'm not quite sure. The sentence seems to read,
2 in English, at least, reasonably self-evidently, so it's
3 difficult for a witness to know, if you say "Do you want
4 to know anything about it?"

5 MR SO: Okay. I will move to the next topic in that case.

6 CHAIRMAN: It presents the witness with a difficulty as to
7 how to reply.

8 MR SO: I see. I do apologise.

9 Can I just refer you back to your witness statement,
10 the first witness statement, Mr But.

11 CHAIRMAN: This is the statements made for the purposes of
12 these proceedings?

13 MR SO: For this Commission.

14 For page D912, bundle D2, can I bring you to
15 paragraph 9, Mr But.

16 A. 係。

17 Q. I wonder if this could be translated to Mr But too.

18 I will read that out, paragraph 9:

19 "I recalled that in September 2015 near area C1,
20 I saw 2 to 3 workers of Leighton wearing reflective
21 safety vests using a cutting/grinding machine to cut the
22 threaded rebars of the steel threads. The
23 cutting/grinding machines were red in colour and about
24 30cm times 50cm in size. At that time, I was about
25 8 metres apart from the workers and could see precisely
26 what they were doing. I saw the workers cutting

1 approximately 10 threaded rebars and screwing them into
2 the couplers on the diaphragm wall."

3 Just help us, insofar as we understand, this is one
4 of the incidents you have observed?

5 A. 係，冇錯。

6 Q. Can I bring you to another paragraph of the witness
7 statement, paragraph 24.

8 CHAIRMAN: Sorry, I'm not quite sure what to -- leaving
9 aside the niceties of evidence, which are of course
10 imperative, it doesn't help me, because that's
11 a statement that has been prepared with the assistance,
12 clearly, of somebody who's able to put it into proper
13 order. The witness has now extensively explained what
14 happened, and has said, for example, that he didn't see
15 certain things or can't remember seeing certain things
16 which he has stated in that statement.

17 So I think just to go back to it and say "is that
18 correct" is not assisting me at all.

19 MR SO: I understand, Mr Chairman.

20 CHAIRMAN: I would rather deal with the words from him,
21 given in this Commission, by way of questions put by the
22 various counsel.

23 MR SO: I do understand that, sir. What I am building up to
24 do, I would say the process of building up to do, is
25 part of the evidence that he has given in this
26 Commission regarding two different incidents.

1 Therefore, I wish to clarify whether he meant, in
2 a particular part, what he said in a witness statement
3 was actually contradictory to what he said in this
4 Commission is actually some misunderstanding. So that
5 is trying to clarify those parts.

6 CHAIRMAN: I'm not happy with you doing that by direct
7 reference to these written statements. If you feel that
8 you can bring him to a portion of his evidence where he
9 said one thing and ask him whether or not he wishes to
10 comment on that in the light of other things he may have
11 said, that's different.

12 MR SO: Of course. I do apologise, sir.

13 In that case, can I trouble the officers of the
14 Secretariat to bring Mr But to the transcript at Day 3.

15 I wish to bring you, Mr But, to page 131, at line 8.
16 This is the part of the examination that Mr Pennicott
17 has brought you to when discussing your witness
18 statement yesterday. Do you recall that?

19 A. 記得。

20 Q. At line 8, he was talking about February 2016, as we can
21 see; correct?

22 A. 係。

23 Q. And then he brought you to paragraph 19 of your witness
24 statement; correct?

25 A. 係。

26 Q. Then, when being questioned at line 22, you were asked:

1 "And so was the installation of the rebar going on
2 at that time in those areas when you arrived?"

3 A. 係。

4 Q. And your answer is that:

5 "At that moment, they were not installed, but going
6 forward, the next step, they have to be installed."

7 That's your answer?

8 A. 係。

9 Q. Can I invite you to the next page, page 132. At
10 line 14, the learned chairman has made an enquiry with
11 you, and I quote:

12 "Sorry, I'm still a bit uncertain of your evidence
13 in this regard. Are you saying that when you were
14 working alongside your boss, Mr Ngai, you saw that
15 rebars were being screwed into couplers on the diaphragm
16 walls, or not, or that you don't remember?"

17 And your answer was:

18 "I didn't witness workers screwing the steel bars
19 into the couplers."

20 Can you tell us whether this answer applies
21 generally or whether it refers to February 2016?

22 A. 就住2月份嘅時候嘅講法。

23 Q. Just a little more questions, Mr But. You told this
24 Commission that you were the assistant foreman in China
25 Technology. Could you please tell this Commission who
26 was your direct superior?

1 A. 直屬嘅上司係倪生，然後就到老闆。

2 Q. Right. So between Mr Poon and yourself is Mr Ngai?

3 A. 係。

4 Q. So far as you understand -- tell us if you don't --
5 China Technology is a sub-contractor?

6 A. 冇錯。

7 Q. Do you know who is the contractor?

8 A. 承判商禮頓。

9 Q. And above Leighton, do you know anyone actually awarded
10 the contract to Leighton?

11 A. MTR.

12 Q. So, between you and MTR, just to clarify, is Mr Ngai,
13 Mr Poon and then Leighton and then MTR?

14 A. 係呀，一層一層。

15 Q. Just a last question. Is it your first time giving
16 evidence in court or any judicial proceeding?

17 A. 冇錯，我第一次上法庭。

18 MR SO: I have no other questions, sir.

19 Questioning by THE COMMISSIONERS

20 CHAIRMAN: Sorry, I just want to clear something up now,
21 because with the greatest of respect it has muddied
22 things a little bit in my mind.

23 My understanding of your evidence is that you cannot
24 now recall any occasion when you saw workers cutting the
25 screws off rebars and then putting them -- and then

1 inserting the rebars into couplers. Is that in fact the
2 case?

3 A. 跟番份證供，係有咁樣發生嘅，可能我尋日太過緊張。

4 CHAIRMAN: I'm not interested in the statement. What I'm
5 interested in is for you just to tell me -- I understand
6 your evidence, you saw people using machinery to cut
7 rebars, but my understanding is you've never seen
8 anybody putting these rebars that have been cut into
9 couplers or securing them against couplers. Is that
10 your evidence?

11 A. 唔係，的確係有見過嘅，但係主要其實個記憶就比較模糊，唔似一個紮鐵
12 機咁樣咁深刻記得佢話會發出聲音、係紅色咁樣，同埋尋日緊張，就唔記
13 得咗，所以就答冇。

14 CHAIRMAN: I don't understand you now either, I'm very
15 sorry. With the greatest of respect, to use an English
16 term, you are going around in circles. Do you have
17 a clear memory of seeing any worker either cut off the
18 thread from a rebar and then insert it into a coupler or
19 not, at any time?

20 A. 簡單回答，就有。

21 CHAIRMAN: You did, but you say now that you were too
22 nervous yesterday to actually recall that fact?

23 A. 係，好緊張。

24 CHAIRMAN: And when did you see this? Was this in
25 September, when you were fresh on the site, or was it at

1 a later stage?

2 A. 都係9月份嘅時候匯報--唔係匯報，係和應，應該用番「和應」，唔係匯報。

3 CHAIRMAN: You didn't see -- you saw it in September but at
4 no later time?

5 A. 係呀，係呀，2月嗰陣係冇見過佢扭嘅，就嗰晚夜就消失咗，2月嘅時候。

6 CHAIRMAN: All right. Does anything arise from that that
7 compels anybody?

8 Good. Thank you very much indeed.

9 Thank you, Mr But. Your evidence is complete now.
10 You can go. But remember you may have to be recalled,
11 should there be any need.

12 WITNESS: 唔該晒，唔該晒。

13 CHAIRMAN: Thank you.

14 (The witness was released)

15 It's 1 o'clock. I didn't attempt to engineer that,
16 I can assure you. That's happenstance. Yes, 2.15.

17 Thank you very much.

18 (1.00 pm)

19 (The luncheon adjournment)

20 (2.16 pm)

21 MR PENNICOTT: Sir, I think the next witness is Mr Ngai.

22 Over to Mr So.

23 MR NGAI LAI CHI, THOMAS (affirmed in Puntì)

24 Examination-in-chief by MR SO

25 MR SO: Mr Ngai, may I take you to bundle D2, page D960.

26 This is the witness statement that you have provided to

1 this Commission. Is that so?

2 A. 對。

3 Q. Mr Ngai, may I invite you to go to D963. There is
4 a signature there, under the date. That is your
5 signature?

6 A. 冇錯。

7 Q. This is a witness statement dated the 27th day of
8 September 2018?

9 A. 對。

10 Q. Do you wish to confirm that you would wish to adopt this
11 witness statement as part of your evidence before this
12 Commission?

13 A. 可以。

14 Q. Mr Ngai, I just have a few questions for you. The first
15 question is: can you tell this Commission your current
16 employment status?

17 A. 我而家係半退休嘅狀態，因為我1月份就做咗一個腦部嘅手術。

18 Q. And as a result of the brain surgery, that leads to the
19 current employment status of yours?

20 A. 冇錯，因為做完個手術之後，仲有一部分例如我個記憶就差咗；第二，就係
21 話我耳鳴；第三，就係食嘢係食唔到個味道；第四，就係我隻手舉唔起。

22 Q. Thank you, Mr Ngai.

23 Can I bring you to paragraph 4 of your witness
24 statement. So you were the superintendent of China
25 Technology prior to your current status as partly

1 retired?

2 A. 係，係，冇錯。

3 Q. Thank you.

4 Can I then bring you to paragraph 9 of your witness
5 statement. There you mentioned that:

6 "The threaded rebar on the steel thread were about
7 7 to 8cm long and in silver colour. The two male
8 workers cut about 3 to 4cm of the silver threaded rebar
9 away."

10 Is that so?

11 A. 係，冇錯。

12 Q. If I provide you with photographs of those, would you be
13 able to recognise those?

14 A. 我嘗試下，可以認嘅。

15 Q. May the witness be taken to bundle C1, page C38.

16 Can you tell this Commission what is in the photo?

17 A. 應該就係嗰個鐵螺絲紋部分。

18 MR SO: Thank you very much, Mr Ngai. I have no further
19 questions.

20 Examination by MR PENNICOTT

21 MR PENNICOTT: Mr Ngai, good afternoon. Thank you very much
22 for coming along to give evidence to the Commission.

23 I am counsel for the Commission and I've got some
24 questions for you, and there may be some others who want
25 to ask you some questions as well in a moment.

1 Mr Ngai, you mentioned in an answer to Mr So just
2 a moment ago that you had brain surgery. As
3 I understand it, that took place in January of this
4 year. Is that right?

5 A. 唔係，係今年1月份做嘅。

6 Q. I thought that's what I said.

7 Can I ask you, please, to go, so that everybody is
8 aware of this, into your police witness statement, which
9 you will find -- the Chinese version is at bundle D2,
10 page 937, and the English version is at D2/939.1.

11 Mr Ngai, I think you have been given the right page
12 already. I'm reading the English. But let's just look
13 at the last couple of sentences, three sentences, in
14 paragraph 1.

15 It says here:

16 "In early January 2018, I had a brain surgery as
17 there was a blood tumour in my brain, and I rested at
18 home for half a year afterwards. I only resumed work in
19 early July 2018 and continued to be a construction site
20 superintendent at China Technology. This caused my
21 memory to fade, and I may not be able to remember things
22 which took place many years ago."

23 So the Commission recognises that that's the
24 position, Mr Ngai.

25 A. 對，應該係。

26 Q. And you are in reasonably good health now?

1 A. 比較逐漸恢復，但係就都仲係有啲問題。

2 Q. Understood, Mr Ngai.

3 Now, you tell the Commission that you started
4 working at the Hung Hom Station site in October 2015; is
5 that correct?

6 A. 喺，10月。

7 Q. From records that we've been supplied with by Leighton,
8 we understand that you did your induction course, safety
9 induction course, on 2 October 2015. Does that sound
10 about right to you?

11 A. 應該係入職之前做嘅。

12 Q. Right. So is it the situation, Mr Ngai, that workers
13 like yourself turning up at the site, were not allowed
14 to actually go and do any work on the site, until the
15 safety induction had taken place?

16 A. 冇錯，冇錯。

17 Q. And we understand from your evidence that you continued
18 working at the site until 7 April 2016; is that correct?

19 A. 喺，冇錯。

20 Q. I want to focus on the year 2016. You are absolutely
21 sure that 2016 is the correct year? So you were there
22 just for a period of about six months; is that correct?

23 A. 喺，冇錯。

24 Q. I wonder if you could be shown on the screen, please,
25 D1/224. The bottom of the page, 224, that's it,

1 Mr Ngai. This is an actual site organisation chart
2 prepared by Mr Poon and is annexed to his witness
3 statement. Have you seen it before?

4 A. 睇到。

5 Q. Now, you are right slap-bang in the middle of this. You
6 will see the line that comes down from Mr Poon's box, as
7 it were, to you; do you see that?

8 A. 睇到。

9 Q. And in the details it says, "Thomas Ngai,
10 superintendent, 5 October 2015 to 7 April 2017", not
11 2016, Mr Ngai.

12 So is this wrong?

13 A. 呢個錯咗嘅，應該係2016年。

14 Q. I just wanted to make sure that that is the case,
15 Mr Ngai. You can put that away. Thank you very much.

16 Mr Ngai, in paragraph 5.3 of your witness
17 statement -- not your police witness statement but the
18 statement you've given to the Commission; that's at
19 page D2/961 -- you say at 5.3:

20 "Workers of Fang Sheung did not have any specific
21 type of uniform. They wore safety reflective vests
22 incorporating their company's name."

23 A. 有啲就有公司名稱，有啲就有。

24 Q. Right, I see. Because a couple of the Fang Sheung
25 witnesses that we're going to be hearing from next week,

1 I imagine, Mr Ngai, say that they were issued with
2 uniforms by Leighton. Were you aware of that?

3 A. 我唔知道。

4 Q. All right.

5 In paragraph 9 of your witness statement, you say:

6 "On a day in December 2015 at or about 1900 hours,
7 I was at area C of the Hung Hom Station construction
8 site ..."

9 Just pausing there, Mr Ngai, area C, we know, is
10 a very large area. It's broken down into areas C1, C2
11 and C3. Are you able to narrow this down for us as to
12 precisely where you were at that time that you've
13 mentioned? Was it C1, C2, C3, or are you unable to
14 recollect?

15 A. 我有辦法記得喇。

16 Q. You go on to say:

17 "[You] saw two male workers (I forget what uniforms
18 they were wearing at that time) using a grinder/cutter
19 to cut the threaded rebar."

20 Mr Ngai, are you able to describe the
21 grinder/cutter, its colour, how it looked, its
22 configuration? Can you explain? Can you remember?

23 A. 我記得有部分嘅，咁個打磨切割機就好似個柄嗰度就係紅色嘅，就有兩個
24 飛輪咁樣，好細個嘅，大概四百幾長，四百幾、五百長。

25 Q. Could I ask you, please, to be shown a photograph, at

1 bundle D1/228.

2 Is this the sort of cutter or grinder that you saw,
3 Mr Ngai, or is it something different?

4 A. 應該就係呢種。

5 Q. Thank you very much.

6 Mr Ngai, on your six-month stretch at the site, did
7 you see many of these cutters? Just a few? Just one?
8 Have you any recollection of that?

9 A. 我有留意到有幾多個呢啲--呢種嘅切割機。

10 CHAIRMAN: I think the question is not whether you remember
11 exactly how many, but did you see a cutter only on this
12 one occasion that you have spoken about, or did you tend
13 to see them from time to time?

14 A. 根本上我哋中科就唔會有呢種機器嘅，淨係應該我估計亦都淨係紮鐵嘅工人
15 先至會擁有，或者紮鐵嗰間公司先會擁有呢種機器，所以我亦都唔會話成日
16 留意人哋嘅機械。

17 MR PENNICOTT: Did you form any impression, Mr Ngai, as to
18 whether there was just one cutter/grinder or whether
19 there might have been a number? Do you have any
20 impression at all?

21 A. 我唔記得喇已經。

22 Q. Okay.

23 Going back to paragraph 9 of your witness statement,
24 you say that they were -- you saw the grinder/cutter
25 cutting the threaded rebar. You say:

1 "The threaded rebar on the steel thread were about
2 7 to 8 centimetres long and in silver colour. The two
3 male workers cut about 3 to 4 centimetres of the silver
4 threaded rebar away."

5 Now, when you saw this happening, Mr Ngai, how far
6 away from the cutting operation were you; do you recall?

7 A. 喺我印象中，大約應該係五--六、七米嘍喇。

8 Q. And I don't suppose you took a photograph of this?

9 A. 冇影到相。

10 Q. And you say the two male workers cut about 3 to
11 4 centimetres of silver threaded bar away. So
12 approximately about half of the thread; would that be
13 about right?

14 A. 應該就係大約一半嘍喇，因為我喺嗰個六、七米咁遠望過去，都係憑番自己
15 嘅記憶答出嚟--答咗出嚟。

16 Q. Okay. You say that this is the only occasion that you
17 witnessed threaded rebars being cut in your six months
18 on the site?

19 A. 冇錯。

20 Q. Did you ever see anybody, at any time in the six months,
21 take a cut rebar and attempt to screw it into a coupler
22 on the diaphragm wall?

23 A. 冇。

24 MR PENNICOTT: Thank you very much. I have no further
25 questions.

1 CHAIRMAN: Thank you.

2 Cross-examination by MS CHONG

3 MS CHONG: Mr Ngai, I represent Fang Sheung.

4 In paragraph 5.3, you stated that the workers of
5 Fang Sheung did not wear any specific type of uniform.

6 Is it the case that whenever you encountered Fang Sheung
7 workers on the site, they were usually in their own
8 clothing and not in uniform?

9 A. 大部分時間係。

10 Q. What about other times? What kind of clothing were they
11 in?

12 A. 我嘅意思就係話佢哋大部--我大部分時間睇到佢哋都有着到正式嘅制服嘅，
13 淨係有啲甚至乎係淨係着住一件反光衣啫，連T襖都有嘅。

14 Q. Have you ever encountered them in Leighton uniform?

15 A. 呢個我有留意到。

16 Q. So, when you encountered them, either them in their own
17 clothing or in reflective vest incorporating their
18 company name, that is Fang Sheung; is that the case?

19 A. 有部分係有公司名。

20 Q. But some of them do not have any company names, but just
21 their own clothing; was that the case?

22 A. 係，冇錯。

23 Q. That was the reason you formed the opinion that they did
24 not have any specific type of uniform; is that correct?

25 A. 冇錯，冇錯。

1 Q. In your paragraph 6, you said that, regarding the safety
2 helmets, workers of Leighton, MTR would wear safety
3 helmets with their company logo. Logo.

4 A. 呢個我有留意到。

5 Q. Please turn to D1/228, the photo. Take a look at the
6 safety helmet. Now, was that a sticker, "Strive for
7 life", that is the sticker bearing the logo of Leighton?

8 A. 冇錯。

9 Q. And, in your paragraph 6, you stated that workers of
10 MTR/Leighton would wear safety helmets with their logo
11 on.

12 So may I take it that is it the worker in D1/228 was
13 a worker of Leighton, if the helmet indeed bears the
14 logo of Leighton? Just turn to page --

15 A. 呢個唔可以嘅，因為嗰個係上完個安全堂，禮頓嘅安全人員派畀佢哋貼喺個帽
16 度嘅，所有上過安全堂嘅人個帽都應該有呢個標貼--呢個標誌嘅。

17 Q. Yes, but that was after taking the safety course. When
18 was that safety course held? Do you still remember?

19 A. 我唔記得喇，就係因為新人職嘅人有好多嘅，佢每一日或者每日都會有安全
20 課程嘅。

21 CHAIRMAN: I'm not suggesting that it's necessarily correct,
22 but my impression is that you weren't allowed actually
23 on to site in order to work on site until you had taken
24 a safety course.

25 MS CHONG: Yes.

1 But in your paragraph 6, you stated that the safety
2 helmets of Fang Sheung did not bear any logo of the
3 company name. Is that the case?

4 A. 係，冇錯。

5 Q. In paragraph 9 of your witness statement, you saw the
6 workers cutting the rebars on that night, and the
7 workers, you forgot what uniform they were wearing at
8 that time.

9 So, to your impression, at that time, they were
10 indeed wearing uniforms, but you could not remember the
11 company name of the uniform? Was that the case?

12 A. 係，冇錯。

13 Q. So may I suggest to you that it was someone not from
14 Fang Sheung who was cutting the rebars, because
15 Fang Sheung workers did not wear uniforms? That's what
16 you told in your paragraph 5.3. Do you agree?

17 A. 唔係話所有--我記得起呢，就唔係所有泛迅嘅員工都有着制服嘅，我話
18 大部分員工都有着制服嘅，我亦都唔會否定話係泛迅員工去cut定係其他
19 員工去cut嗰個螺絲紋。

20 Q. Yes, but according to what you say here in paragraph 9,
21 it was someone who wore uniform who was cutting the bars
22 on that night.

23 A. 我意思係佢哋着嘅制服，我唔記得咗係邊一個公司。

24 Q. So is it fair to say that you could not tell which
25 company's workers were indeed cutting the rebars on that

1 night?

2 A. 我有講到話任何一個公司喺度切緊鋼筋，即係冇話指定邊個公司喺度切緊鋼筋。

3 Q. Now, are you aware of two types of rebars being used on
4 the site, namely type A and type B?

5 A. 唔知道。

6 Q. Is it because you had no knowledge about bar
7 reinforcement skills or techniques, so you could not
8 know what kind of rebars were used by other
9 sub-contractors such as bar fixing companies?

10 A. 我自己，第一，紮鐵嗰個工序唔係我哋中科嘅工序，我唔需要去探究佢哋
11 做緊啲咩嘢；第二，我唔係唔識紮鐵，我有紮鐵牌，但係我無需要去管人
12 哋嘅嘢，我自己嘅公司嘅嘢大把嘢做，點解要管人哋嘅嘢？

13 Q. For what you witnessed in December 2015, in paragraph 9,
14 can you tell whether they were cutting type A or type B
15 rebars on that occasion?

16 CHAIRMAN: Sorry --

17 A. 講唔到喎。

18 CHAIRMAN: Again, I might have that wrong. I don't know
19 that they are rebars.

20 COMMISSIONER HANSFORD: I don't understand what you mean by
21 type A rebar and type B rebar.

22 MS CHONG: For type A threaded rebars, they are shorter, the
23 threads, with fewer threads; but for type B, they are
24 longer, in terms of the threads.

25 COMMISSIONER HANSFORD: Thank you.

1 MS CHONG: That's why I --

2 CHAIRMAN: Thank you. I wasn't aware of that.

3 COMMISSIONER HANSFORD: Nor was I.

4 MS CHONG: So my question is whether -- what kind of
5 types -- what types of threaded rebars were being cut
6 according to his observation.

7 COMMISSIONER HANSFORD: Thank you.

8 CHAIRMAN: Thank you. Sorry, could you help us here --
9 perhaps you can; if not, please forgive us -- what is
10 the difference between a type A and a type B rebar?
11 I appreciate the thread is longer on one, but how much
12 longer?

13 MS CHONG: My understanding is that for type B threaded
14 rebars, the threads are two times of those threads in
15 type A, but I --

16 CHAIRMAN: So type B, it's double the length?

17 MS CHONG: Yes. We can take a look at the exhibit.

18 COMMISSIONER HANSFORD: I have in front of me type A and
19 type B couplers. Is that going to the same point? It
20 is.

21 MR LAM: (Unclear words).

22 COMMISSIONER HANSFORD: So that's a type A coupler with its
23 rebar thread.

24 MS CHONG: Yes.

25 COMMISSIONER HANSFORD: I will presumably get there
26 eventually.

1 And that is a type B coupler with its rebar thread.

2 So you are referring to the difference between this and
3 this?

4 MS CHONG: Yes.

5 COMMISSIONER HANSFORD: Thank you.

6 CHAIRMAN: Thank you. The two rebars --

7 COMMISSIONER HANSFORD: Does anybody have a ruler?

8 MS CHONG: We can measure the actual length.

9 CHAIRMAN: The two rebars drawn out of the couplers, one is
10 almost double the length of the other.

11 MR BOULDING: Sir, I don't know whether it helps to point
12 out that in the witness statement of Kobe Wong, there is
13 indeed, at paragraph 28 -- that's B426 -- a lengthy
14 explanation of the difference. I just draw that to the
15 tribunal's attention.

16 CHAIRMAN: Thank you very much. That's helpful.

17 COMMISSIONER HANSFORD: Thank you.

18 CHAIRMAN: I think the difficulty perhaps this witness may
19 have -- I'm not trying to be overprotective of him --
20 but if he wasn't aware there were type A and type B
21 there, it's difficult for him to say whether what was
22 being cut was a type A or a type B.

23 MS CHONG: Mr Chairman, may I just clarify with him whether
24 he was aware of this type A and type B?

25 CHAIRMAN: Certainly.

26 MS CHONG: Because he actually told us he had this bar

1 bending qualification.

2 CHAIRMAN: Yes.

3 MS CHONG: Were you aware of two types of rebars, being
4 type A and type B, being used on that site?

5 A. 我唔知道嘅。

6 Q. So you could not tell whether, on that occasion, in
7 December 2015, what was being cut was type A or type B?
8 Was that the case?

9 A. 係，可以咁講。

10 Q. You had been working on this site for how many months,
11 from October --

12 CHAIRMAN: I think he was there for six months.

13 MS CHONG: For six months, yes.

14 You were there for six months and you worked there
15 full-time; right?

16 A. 冇錯。

17 Q. And that was the only occasion you witnessed about bar
18 cutting; is that the case?

19 A. 係，冇錯。

20 MS CHONG: I have no further questions.

21 CHAIRMAN: Thank you.

22 MR SHIEH: Mr Chairman, may I ask some questions on behalf
23 of Leighton?

24 CHAIRMAN: Of course.

25 Cross-examination by MR SHIEH

1 MR SHIEH: Mr Ngai, do you understand English, written
2 English?

3 A. 大概60到70個per cent可以睇得到。

4 Q. Good. Can I ask you to look at -- so when you signed
5 your witness statement, did you provide a draft yourself
6 or did you provide instructions to some lawyers and they
7 drafted it and you then reviewed the contents? Which
8 one is it?

9 A. 你講嘅係邊一份嘅口供呀? 中文定係英文?

10 Q. Your witness statement that is submitted for the purpose
11 of this Inquiry. If I may ask you to look at bundle D2,
12 page 960.

13 A. 呢份口供就係律師嗰方面係喺我哋警察嘅重案組入面嗰一份口供轉過嚟嘅，
14 所以我去到律師樓嘅時候，佢哋已經做好咗，只係畀我睇同埋讀畀我聽，解
15 釋畀我聽啫。

16 Q. Thank you.

17 Can I draw your attention to paragraph 3 of your
18 witness statement, which is bundle D2, page 961.

19 Can you read that out so it goes on the record:

20 "I have had the opportunity to read the witness
21 statement of Mr Poon dated 3 September ... and the
22 supplemental witness statement of Mr Poon dated
23 14 September ... I agreed that the facts deposed therein
24 are true. I wish to supplement the followings."

25 Can you see that?

1 A. 睇到。

2 Q. You understand what you've said there?

3 A. 係。

4 Q. You have told us that during your six-month stay at the
5 Hung Hom job, you only saw one incident of the threaded
6 end of the rebar being cut; correct?

7 A. 喺。

8 Q. And that was in December 2015; correct?

9 A. 冇錯。

10 Q. Not in September 2015; correct?

11 A. 唔係。

12 Q. In fact, you only started work at the Hung Hom site in
13 October 2015; correct?

14 A. 冇錯。

15 Q. Can I ask you to look at bundle D1, page 10. This is
16 a document called, "Witness statement of Mr Poon Chuk
17 Hung, Jason"; do you see that?

18 A. 睇到。

19 Q. Can you turn to page 22, paragraph 42. Here, Mr Poon
20 said:

21 "In September 2015, Mr Thomas Ngai told me that he
22 still saw staff members of Leighton cutting the threaded
23 rebars and/or pretending they had properly installed the
24 threads into the couplers. Nonetheless, these practices
25 were no longer done in the morning and/or the afternoon.

1 Rather, they were done at night."

2 This is what Mr Poon said, and I've just read it out
3 for you. Do you understand that?

4 A. 我睇到。

5 Q. So Mr Poon could not have been right in saying that you
6 told him about seeing rebar cutting in September 2015;
7 do you agree?

8 A. 冇錯，我睇下可能係潘生記錯咗月份。

9 Q. And Mr Poon said you told him you still saw staff
10 members of Leighton cutting threaded rebars. So Mr Poon
11 made it sound as if you had previously told him that you
12 saw Leighton cutting rebars, and in September you still
13 saw staff members of Leighton cutting rebars. Do you
14 understand the point that he was making?

15 A. 我明白問題，第一，佢話9月呢，可能係潘生搞錯咗，應該係12月我先同
16 佢講嘅。至於話仲有呢，就係因為可能之前潘生喺飯盒會嘅時候提過剪鋼
17 筋呢件事，所以就話畀佢聽，所以我答覆佢嘅就係仲有人去剪緊個鋼筋。

18 Q. This is your speculation as to what Mr Poon has in his
19 mind; yes?

20 A. 而實際上，我係12月先睇到，肯定潘生可能搞錯咗個月份。

21 Q. Okay. Next, can I ask you to look at your police
22 statement. Bundle D2, page -- the Chinese is at 942;
23 the English is 942.3. And the paragraph number I want
24 is paragraph 6.

25 I wish to read the second part of this paragraph to

1 you. You can see, in the Chinese version:

2 "於我工作期間視察"

3 The English version is:

4 "During my work when I inspected the rebars which
5 had already been fixed, I have never seen rebars which
6 were not fully screwed into the couplers on the wall,
7 and I have never seen anyone screw a rebar with
8 a shortened silver threaded head into a coupler on the
9 wall; however, I could not tell whether a rebar which
10 was fully screwed into a coupler had been cut short or
11 not."

12 Do you see that is what you said?

13 A. 係，冇錯。

14 Q. Can I then ask you to look at what Mr Poon said in his
15 witness statement. Bundle D1, page 22. This is the
16 same paragraph we looked at just now.

17 According to Mr Poon, you told him, subject to the
18 date, that you "saw staff members of Leighton ...
19 pretending they had properly installed the threads into
20 the couplers."

21 Do you see that?

22 A. 睇到。

23 Q. So that's not correct; do you agree? You did not tell
24 Mr Poon that you saw people pretend they had properly
25 installed the threads into the couplers?

1 A. 我有咁講過。

2 Q. Thank you. Can you look at your own witness statement:
3 bundle D2, 962, paragraph 8. Here you said:

4 "It is also a practice for me to attend meetings (on
5 behalf of China Tech) in the offices of Leighton every
6 day at or about 4 to 5 pm. Representatives of Leighton,
7 including Mr So Yiu Wai and a representative of
8 Fang Sheung would attend."

9 Do you see that, paragraph 8?

10 A. 睇到。

11 Q. At these meetings, can you confirm, you did not raise
12 any question or complaint about workers cutting the
13 threaded ends of rebar?

14 A. 從來冇提過。

15 Q. Thank you.

16 Can you look at your police statement, bundle D2,
17 page 939. The Chinese is 939, paragraph 8. The English
18 is 939.4, paragraph 8. Here, you are talking about what
19 you did after witnessing the incident of threaded rebar
20 cutting.

21 Can you look at the third line from the end in the
22 Chinese, and fifth line from the end in the English.

23 The Chinese part says:

24 "之後我並冇將上述所見到之事件"

25 In English, it says:

1 "Afterwards, I did not disclose what I saw above in
2 the lunch meetings, but I do not remember whether I told
3 Jason Poon or other foremen about this on other
4 occasions.

5 During my time of working at MTRC Shatin to Central
6 Link, I witnessed only one occasion ..."

7 Do you see that part of your police interview?

8 A. 睇到。

9 Q. Can I ask you to look at your witness statement prepared
10 for the purpose of this Commission of Inquiry, in the
11 same bundle, 962, paragraph 10. You said:

12 "As China Tech was not responsible for works related
13 to the threaded rebars, I did not pay much attention at
14 the time. I also did not take any photographs. I did
15 mention the matter in the lunch meetings and so that
16 Mr Poon can handle and resolve it."

17 Do you see that?

18 A. 睇到。

19 Q. This paragraph is not correct; right?

20 A. 我已經唔記得咗究竟我同潘生喺邊個場合嗰度提番我十--sorry, 當時我睇
21 到cut鐵嘅時候究竟係喺飯會咁, 抑或喺其他場合。

22 Q. But in your police statement, you were pretty definite.
23 You said you did not disclose what you saw in the lunch
24 meetings; yes? So you were definite?

25 A. 因為喺個警方嗰個statement嗰度, 係佢哋一路提出個問題嚟畀我答嘅, 所

1 以可能會有少少分差--分別。

2 Q. So what are you trying to say? The police got it wrong?
3 They should not have written down, "I did not disclose
4 what I saw in the lunch meetings"?

5 A. 係，可能係警方搞錯咗。

6 Q. So what -- are you intending to say now, that you may or
7 may not have told --

8 A. 因為我當時係--我唔記得咗喺邊個場合同潘生講關於我十--見到嘅cut鐵個個
9 事件。

10 Q. But, Mr Ngai, there is a Chinese version of this
11 statement at 939, paragraph 8, and you signed on that
12 page. Can you see "939" in the bottom right-hand
13 corner? Is that your signature?

14 A. 係，冇錯。

15 Q. So you confirmed the accuracy of what you said in the
16 police interview; correct?

17 A. 我想講一講番個背景，即係喺重案組做呢份口供嘅背景，西九龍重案組
18 一個姓李嘅李Sir打過好多次電話畀我，我都有聽到，因為我係唔會聽任
19 何我唔識嘅人嘅電話嘅，咁佢最後就經過可能係中科有部分人想搵我，我
20 先至聽佢個電話，佢當時就話要我去做一份口供，我覺得我唔係--當時我
21 初初返出嚟做嘢嘅時候好忙，一個新嘅地盤好忙，所以我就同佢講，我話
22 我有時間去做呢份口供嘅，但係佢就勸我，話一定要幫幫忙做呢份口供，
23 所以當時我約佢係夜晚七點幾、八點鐘，係佢過嚟屯門一個警崗--一個警
24 署嗰度，特別入嚟同我做呢份口供。當時我放完工之後根本就好劫，我個

1 口供係分兩日做嘅，兩晚，一晚我就係十二點幾鐘先至走，一晚就一點幾
2 鐘先走，其實佢呢個重案組其實應該唔使做咁耐嘅，但係佢哋喺文字上修飾
3 就花咗好多時間，其實我講嘢係可能講咗好少嘅嘢，其實全部都係佢哋喺文
4 字修飾嗰方面花咗好多時間，所以到最後我係真係好劫，到第二日夜晚差唔
5 多1點鐘我先簽呢份嘢，當我簽呢一份嘢嘅時候，我都有咁留心去慢慢逐個逐
6 個字去讀，我信得過警察唔會話挖個坑畀我跳落去嘅，所以我就簽晒佢，我
7 就趕住返去瞓覺喇，第二日我都仲要返工嘅，同埋我自己本身個精神唔係幾
8 好，就係咁。

9 Q. In your experience at the Hung Hom site, are you
10 familiar with certain paperwork or documentation called
11 NCRs, non-conformance reports?

12 A. 我主要就係喺地盤安排工作嘅嘢，關於文面嘅嘢，我哋中科另外有人會去做嘅。

13 MR SHIEH: Thank you very much, Mr Ngai. I have no further
14 questions for you.

15 Cross-examination by MR BOULDING

16 MR BOULDING: Good afternoon, Mr Ngai.

17 A. Thank you.

18 Q. Mr Shieh has already asked you about some of the matters
19 that I was going to discuss with you, but I nevertheless
20 have a few further matters I'd like to raise.

21 You were taken by Mr Shieh to paragraph 3 of your
22 witness statement. It starts at D960. You had that
23 read to you, and you confirmed, did you not, that you
24 understood what you'd said in paragraph 3; correct?

25 A. 我想知道我所講嘅係乜嘢。

1 Q. Well, you say in your witness statement:

2 "I have had the opportunity to read the witness
3 statement of Mr Poon dated 3 September 2018 and the
4 supplemental witness statement of Mr Poon dated
5 14 September 2018."

6 Correct?

7 A. 係，冇錯。

8 Q. Then you go on to say, very importantly for present
9 purposes:

10 "I agreed that the facts deposed therein are true."

11 You're saying that what Mr Poon says in both of his
12 witness statements are true; correct?

13 A. 喺。

14 Q. Just to set the scene, you were kind enough to tell
15 Mr Shieh, by reference to the organisation chart, that
16 you started work at the Hung Hom Station on 5 October
17 2015. That's correct, isn't it?

18 A. 喺。

19 Q. Now, against that background, I wonder whether we can
20 just look at one or two other paragraphs in Mr Poon's
21 first witness statement. I'd invite your attention,
22 please, to page D19. You told Mr Shieh that you
23 understood something like 60-70 per cent of written
24 English, so please could you read to yourself, in the
25 interests of time, from paragraphs 30 through to 34,
26 under the heading, "C1. Incidents in August 2015".

1 Have you read that?

2 A. 而家睇緊。

3 Q. Tell me when you've finished.

4 A. 你想知道啲乜嘢?

5 Q. I'm coming to that.

6 You will see, having read it, that all of those
7 paragraphs -- paragraphs 30 through to 34 -- relate to
8 alleged incidents in August 2015; correct?

9 A. 啱。

10 Q. All incidents occurred at a time before you were even on
11 the site, did they not?

12 A. 冇錯。

13 Q. So you have no way of knowing, do you, whether or not
14 what Mr Poon says about those incidents is correct, do
15 you?

16 A. 我信我老細潘生唔需要講呢啲大話，所以我信佢。

17 Q. You may well believe in Mr Poon and whether or not he is
18 telling lies is a matter that will be investigated over
19 the course of the next day or so. But I will put my
20 question to you again, Mr Ngai. All of those incidents
21 occurred in August 2015. You were not on the site at
22 the time, and you do not know whether or not Mr Poon is
23 correct when he says they occurred; you do not know, do
24 you?

25 A. 我喺第二個地盤，潘生亦都同我提過呢個事，所以我相信呢個事係正確嘅，

1 因為我哋無需要講大話，無需要無端端搞呢個事情出嚟。

2 Q. Well, in your paragraph 3, you say that you've read the
3 statements. You don't say anything about Mr Poon having
4 told you about these events. You simply say, "I agree
5 that the facts deposed to therein are true", and what
6 I am suggesting is that you do not know from your own
7 knowledge, one way or another, whether they are true.
8 That's right, isn't it, Mr Ngai?

9 A. 可以咁講。

10 Q. Thank you very much. You will have got the point by
11 now, but if you would be kind enough to read on in
12 Mr Poon's first witness statement, under the heading,
13 "Reporting the incidents to Leighton in September
14 2015 -- just cast your eyes, please, over paragraphs 35
15 to 41, because Mr Shieh dealt with paragraph 42, but if
16 you would look at paragraphs 35 to 41, please, and then
17 I'm going to ask you another question.

18 A. 可唔可以搵人翻譯咗呢幾段畀我聽--畀我睇？有啲字我唔係好明白。

19 Q. Well, I was hopeful it wasn't going to take this long,
20 Mr Ngai, but if we've got to do that, we've got to do
21 that. I will read them slowly and they will be
22 translated to you:

23 "35. In or about early September 2015, Mr But also
24 reflected to me that similar incidents occurred. He
25 also attempted to stop those doing what they were doing,
26 namely cutting the threaded rebars but, again, to no

1 avail."

2 Do you see that?

3 A. 睇到。

4 Q. Now, that event occurred in or about early September
5 2015, according to Mr Poon, didn't it?

6 A. 係。

7 Q. And that is, what, about a month before you started work
8 on the site; that's correct, isn't it?

9 A. 啱。

10 Q. So you simply do not know one way or another whether or
11 not that part of Mr Poon's statement is true, do you?

12 A. 我信我老細，信潘先生，呢個係真確嘅。

13 Q. But from your own personal knowledge, you do not know
14 whether or not Mr Poon is correct when he makes that
15 statement there, do you? All you can say is that that's
16 possibly what Mr Poon told you and therefore you believe
17 him, but you don't know from your own knowledge, do you?

18 A. 我信潘生講嘅嘢，佢無需要同我講大話，我又未到嗰個地盤。

19 Q. I agree you were not at the site yet, and whether or not
20 there was a need for Mr Poon to lie to you, from your
21 own knowledge you do not know whether or not what he
22 says there is true, do you?

23 A. 但係我後來12月份，我親眼見到cut鐵之後，我更加相信潘生講嘅嘢。

24 Q. Mr Ngai, please do not be evasive. Listen to my
25 questions, please. From your own knowledge, you do not

1 know whether or not, in or about early September 2015,
2 Mr But reflected to Mr Poon that similar incidents had
3 occurred, and that Mr But also attempted to stop those
4 doing what they were doing, namely cutting the threaded
5 rebars but again to no avail -- you do not know from
6 your own personal knowledge whether or not that's true,
7 do you?

8 A. 潘生做呢份佢自己嘅口供紙就係18年，係咪18年嘅？

9 Q. 14 September, I think you will find.

10 A. 係，如果係--因為我親眼睇見過佢哋cut鐵，所以我相信潘先生喺18年9月
11 做呢份statement係真實嘅，that's all。

12 Q. You're being evasive, Mr Ngai. You saw one occurrence,
13 I think in December 2015, that's correct, isn't it, with
14 your own eyes?

15 A. 2015年12月。

16 Q. That's what I said. That's the one occurrence of rebar
17 cutting that you saw with your own eyes, isn't it,
18 December 2015?

19 A. 係，所以我即係相信--所以我日後，即係到到18年，我就相信潘生做呢份口
20 供係真實嘅。

21 Q. I'll give you one last opportunity, Mr Ngai, but I'm
22 going to submit ultimately that you are a very evasive
23 witness, but I will give you one last opportunity. You
24 do not know from your own knowledge, do you, whether
25 what Mr Poon says about what Mr But reflected to him in

1 September 2015 is true or untrue; that's correct, isn't
2 it?

3 A. 我係唔知，但係我相信潘生嘅講話。

4 Q. I think we finally got there, Mr Ngai.

5 I don't want to take a long time over the matter,
6 but looking through paragraphs 38 to 39 -- and perhaps
7 I can read them quickly because I don't want you to be
8 under any sort of disadvantage at all -- paragraph 38
9 says:

10 "That said, in mid-September 2015, I myself" --
11 that's a reference to Poon -- "saw staff members of
12 Leighton once again, cutting the threaded rebars.

13 39. Between 15 to 20 September 2015, I invited both
14 Mr So and Mr Rodgers for a site inspection. During the
15 inspection, all three of us saw one staff member of
16 Leighton cutting the threaded rebars using a hydraulic
17 disc cutter.

18 40. I immediately approached that person and tried
19 to stop him from cutting the threaded rebars.

20 Nonetheless, Mr So stopped me and asked, rhetorically,
21 'why would it be a problem to cut the threaded rebars?'

22 Mr So, in front of me, asked that staff member to
23 continue with what he was doing, namely cutting the
24 threaded rebars. I (secretly) took out a Huawei mobile
25 phone, which belongs to Chinat, and took 2 photographs
26 and a video clip of approximately 10 odd seconds."

1 41. On 22 September 2015, I, again, saw staff of
2 Leighton cutting the threaded rebars with hydraulic disc
3 cutter. I (secretly) used my ... Huawei mobile phone to
4 take 7 photographs. Amongst those 7 photographs, 2 of
5 which were random photographs I took in order not to
6 alert the staff of Leighton."

7 Then he goes on to produce the photographs.

8 Now, we can see, can we not, Mr Ngai --

9 A. 睇到。

10 Q. I haven't asked you what we can see yet, but we can see,
11 can we not, that all of those events relate to the
12 period September 2015; correct?

13 A. 喎。

14 Q. A time before you were even on the Hung Hom Station
15 site; correct?

16 A. 冇錯。

17 Q. And you'll know what's coming next: what I suggest to
18 you is that you do not know from your own knowledge
19 whether what Mr Poon says about the incidents is true or
20 false, do you?

21 A. 喎。

22 Q. Thank you.

23 A. 但係你唔好忘記就係我喺2015年12月我親眼見到佢哋剪鋼筋，呢個經驗令到
24 我好相信潘生講嘅嘢係真嘅，所以喺2018年9月，我就簽咗呢份--我就睇過
25 呢份嘢，亦都認為係對嘅，如果我從來冇見過人cut鐵嘅話，我就有懷疑潘生

1 係可能講大話，但係我睇過，我親眼睇過有人cut鐵，所以我相信潘生所講嘅
2 嘢係真嘅。

3 Q. I hear what you say, Mr Ngai, and I've got the answer
4 I need from you on the transcript. Thank you very much.
5 I will move on, if I may. But again it's to discuss
6 with you something that Mr Poon says about some of the
7 workers on site.

8 Now, you were asked earlier today, I think by
9 counsel for Fang Sheung, about the uniforms, the various
10 uniforms, if any, that the workers wore on site; do you
11 remember that? Do you remember that line of
12 questioning? It was the young lady in the row in front
13 of me. Do you remember that?

14 A. 記得。

15 Q. And you were questioned to the effect of whether or not
16 Fang Sheung were issued uniforms by Leighton. Do you
17 remember being asked that question?

18 A. 有。

19 Q. And the answer in the transcript was to the effect of,
20 "Most of the time they were in their own clothing, most
21 of the time they had no uniform, not even a T-shirt, and
22 they would only wear a reflective vest." Do you
23 remember giving evidence to that effect?

24 A. 我講過佢哋冇着T恤，但係就冇着反光背心。

25 Q. Right.

1 Now, I wonder whether we can have a look at what
2 your boss, who you believe so much, says in his witness
3 statement. D1/37, paragraph 86.

4 Can you read paragraph 86 to yourself or is it
5 something that I need to have translated for you,
6 Mr Ngai?

7 A. 最好翻譯畀我聽喇。

8 Q. Okay:

9 "Representatives of the MTRC then asked me if I may
10 produce any further information proving that those
11 persons involved in the cutting of the threaded rebars
12 were staff members of Leighton. I told them that staff
13 members of Leighton can easily be identified from staff
14 of [all] other sub-contractors by their uniforms. As
15 staff members of Leighton were all dressed with Leighton
16 T-shirts and reflective vests. On the other hand, staff
17 of Fang Sheung were all rebar fixers and their uniforms
18 were heavily contaminated by sweat and rust in dark
19 brown colour."

20 So you now understand what Mr Poon, your boss, is
21 saying? You understand it, do you, paragraph 86?

22 A. 我諗潘生講嘅係部分泛迅嘅紮鐵工人。

23 Q. Oh, really? Well, if he was referring to some, why
24 didn't he say that in his statement, Mr Ngai?

25 MR PENNICOTT: I'm not sure Mr Ngai can answer that.

26 MR BOULDING: Well, you are speculating, aren't you,

1 Mr Ngai? Mr Poon doesn't say that. What Mr Poon says
2 is that, "On the other hand, staff of Fang Sheung were
3 all rebar fixers and their uniforms" -- his word, not
4 mine -- "their uniforms were heavily contaminated by
5 sweat and rust in dark brown colour."

6 Now, who's right and who is wrong? Did they wear
7 dark brown colour uniforms, which unfortunately were
8 a bit sweaty, a bit rusty, or on the other hand did
9 they, as you say, wear no uniforms at all, just
10 reflective vests?

11 A. 我有講過佢哋全部--冇講過佢哋係--我有講過佢哋全部都唔--sorry。
12 我有講過佢哋全...

13 INTERPRETER: Is the translation coming through now? Okay.

14 MR PENNICOTT: Start from the beginning.

15 A. 我繼續。我有講過佢哋全部都唔着衫，淨係着反光衣，有部分人可能上班嘅
16 時候係有着T恤嘅，但係因為流得太多汗，所以佢哋除咗件T恤，着番一件--
17 光着一件反光衣去工作。我覺得地盤呢啲人着乜嘢衫，我諗唔會影響到你哋
18 呢個委員會去justic呢件事嘅真假。

19 MR BOULDING: I'm not suggesting for a moment that the
20 colour of uniform will affect the outcome of the
21 Commission's decision on its terms of reference.

22 What I'm testing, Mr Ngai -- and let there be no
23 doubt about this -- I'm testing the credibility of your
24 evidence, because you tell the learned Commissioner and
25 Prof Hansford, in paragraphs 3 and 4 of your witness

1 statement, that you deposed to on affirmation, that what
2 Mr Poon, your boss, says is accurate and that you agree
3 with it.

4 And here, Mr Poon is saying "staff of Fang Sheung
5 were all rebar fixers and their uniforms were heavily
6 contaminated by sweat and rust in dark brown colour".
7 Is that something you agree with or disagree with?

8 A. 同意。

9 Q. So you are now agreeing with that?

10 A. 同意。

11 Q. Right. Now, in paragraph 9 of your statement, you deal
12 with the one incident of rebar cutting that you saw
13 during your six or seven months on site, do you not?
14 That's page D962. Correct?

15 A. 係, 冇錯。

16 Q. Thank you. As I understand it, a grinder or a cutter
17 was being used to cut the threaded rebar, and it had
18 a red handle; correct?

19 A. 係。

20 Q. And you told the learned Commissioner, in your earlier
21 evidence today, that you were about 6 or 7 metres away
22 from the cutting when you saw it; do you remember giving
23 that evidence?

24 A. 冇錯。

25 Q. And you also say, in paragraph of your statement, that

1 the threaded rebar on the steel thread were about 7 to
2 8 centimetres long and silver in colour, and that
3 roughly half of that, 6 or 7 centimetres, was cut away.

4 Do you remember giving that evidence?

5 A. 冇錯。

6 Q. Well, what I have to suggest to you, Mr Ngai, is that in
7 circumstances where you would be further away from me
8 than you are now, probably half the distance again, how
9 can you be so sure, in construction site conditions,
10 that it was that amount which was being cut away? You
11 simply couldn't see from that distance, I suggest to
12 you.

13 A. 我其實當時係經過嗰個位置嘅，當時我睇到嘅話，我就睇六、七米--大約
14 六、七米嘅時候望到，我再繼續行呢，就會離佢咁好近，所以再可以睇清
15 楚嗰件事，我唔係話停喺度睇住佢咁去繼續喺度剪，我係有嘢做嘅，我經
16 過嗰個地方嘅咋，我唔係專登停喺度望住佢咁嘅，所以我一路行過嚟嘅時
17 候，就會見到係大約我所講嘅六、七個cm或者係三、四個cm嗰個長度。

18 Q. So, Mr Ngai, you were asked specifically by my learned
19 friend Mr Pennicott how far you were away from the
20 cutting when it happened, and the transcript records
21 that you said 6 to 7 metres away, you said that twice,
22 and you said, "That's my response from memory." You
23 said absolutely nothing about the fact that that
24 distance of 6 to 7 metres, further away from where you
25 are to me now, was reduced because you were apparently

1 walking towards the cutting incident. Is that your
2 evidence now?

3 A. 你哋當時問我大概幾遠睇到，其實我就喺六、七米或者甚至乎8米睇到，但係
4 我繼續行埋去嘅時候，你哋冇問我--冇問到我究竟係企喺度睇吓，抑或係行
5 過睇，所以我只係答你最--我望到嘅時候係六、七米，但係我一路行過去嘅
6 時候就慢慢睇得好清楚，我亦都有停低落嚟，其實我just pass through，
7 我有停低落嚟，所以當--所以我係行得近啲嘅話，我就睇得到大約係cut咗
8 三、四個cm嘅螺絲頭。

9 Q. Well, can I suggest that that would have been the
10 accurate answer that you ought to have given my learned
11 friend Mr Pennicott if indeed that's what really
12 occurred. He was specific. He said, "How far were you
13 away from the cutting when it happened?", and you said
14 6 to 7 metres.

15 I've got to suggest to you that this new invention
16 of walking towards it and seeing it from close-up is
17 something which has occurred to you subsequently, ie
18 today, this afternoon. That's right, isn't it?

19 (Allegedly mis-translated).

20 A. 可以講話係咁。

21 Q. So far as this cutting is concerned, did you ever
22 enquire as to what purpose it was to serve? Did you
23 ever enquire why they were cutting, why they were doing
24 the cutting they were doing?

25 A. 冇。

1 Q. You tell us that you didn't take any photographs. Why
2 was that? Why was that, Mr Ngai?

3 A. 我當時都有準備影相，我just pass through，just pass through，
4 我當時冇諗過要影相嘅，因為我係去緊我哋做嘢嘅地方去吩咐人有啲嘢要改，
5 所以我就冇留低喺度影相。

6 Q. Did you have a camera with you at the time?

7 A. 有，有電話。

8 Q. Had it been as noteworthy as you now apparently regard
9 it, can I suggest that if you really saw it, it would
10 have been the obvious thing to do, to take a picture of
11 it; that's right, isn't it?

12 A. 我都重新講，我當時去我哋--經過去我哋自己嘅位置去催促啲工人去做事嘅，
13 我唔係專登去企喺度去慢慢去睇佢哋，所以我有諗過話要影相。再加上，如果
14 我咁近影人哋嘅相嘅話，我唔知道佢哋會有咩嘢反應，我亦都唔想搞到有咩嘢
15 事情發生。

16 Q. Well, it certainly didn't stop you from taking pictures
17 most of the time.

18 If we can just have a look at your police witness
19 statement, at D2/942.3. That's in English, for my
20 purposes. You will presumably want to go to your
21 Chinese version, which I take to be at D969, and it's
22 paragraph 7 that I'd like to look at. Sorry, 942 is the
23 Chinese version. But once you are at paragraph 7, it
24 says:

25 "During my work every day, I often needed to use my

1 mobile phone to take photos of the work progress, so
2 that I could report to Jason Poon. I would take around
3 20 to 30 photos every day, and each file showed the date
4 and time at which the photo was taken. Every day after
5 work I would upload the photos taken on that day to the
6 company's cloud server on Dropbox, so that Jason Poon
7 could inspect those photos."

8 So what's different about this occasion, Mr Ngai?
9 You are ignoring your own custom, are you not?

10 A. 第一，我哋唔係管紮鐵嘅，紮鐵同中科係一啲關係都有嘅，嗰個唔屬於中科
11 嘅progress，我點解要咁樣去影相呢？我講得好清楚，我係影嘅相係有關
12 我哋自己嘅工程，我哋自己嘅progress，就唔係幫人哋去影相嘅。

13 Q. Let's see what another one of the Chinat witnesses says
14 about that. Perhaps if we could go to -- I'll need the
15 English translation, but it's D2/974. And here, in
16 paragraphs 14 and 15:

17 "In one of the lunch meetings in October 2015,
18 Mr Poon mentioned that he saw someone cutting the
19 threaded rebars. He said he would report the matter to
20 Leighton. He also asked all foremen of Chinat to take
21 photographs and report the matter to him if we saw
22 anyone cutting the threaded rebars. I recalled that
23 around 1 or 2 foremen attending the lunch meeting did
24 mention that they also saw similar incidents. As the
25 matter was so long ago, I could not recollect who
26 actually raised the matter nor could I recall who

1 actually attended the lunch meeting at that time.

2 15. In another lunch meeting in November 2015,
3 Mr Poon again mentioned that cutting threaded rebars
4 were still ongoing. He said he would report the matter
5 to Leighton again for follow-up. He also reminded all
6 foremen of Chinat to take photographs and report the
7 matter to him if we saw anyone cutting the threaded
8 rebars. As the matter was so long ago, I could not
9 recollect who actually attended the lunch meeting[s] at
10 that time."

11 Now, you attended the lunch meetings, didn't you?

12 A. 有。

13 Q. And these lunch meetings -- October, November -- would
14 have taken place when you were on the site, would they
15 not, Mr Ngai?

16 A. 冇錯。

17 Q. So you would have been present, would you not, Mr Ngai?

18 A. 我會在場。

19 Q. And you can see what your boss, the boss you believe
20 in -- you can see what he's telling everyone, can't you?

21 A. 呢樣嘢我唔係好記得喇，因為飯盒會只係大家口頭上咁傾關於地盤嘅進
22 度，至於--亦都有紀錄--即係唔會有minutes去留低嘅，我亦都唔記得
23 咗我老細有講過呢啲說話。

24 Q. How convenient, Mr Ngai. What I've got to suggest is
25 that not only did Mr Poon say this, but in circumstances

1 where you saw your one occurrence the following month,
2 if you really saw that, what you ought to have done was
3 take a photograph of it, as Poon had told you. That's
4 fair comment, isn't it?

5 A. 你可以咁講，但係我係唔記得咗呢件事。

6 MR BOULDING: Thank you, Mr Ngai.

7 MR PENNICOTT: Sir, I imagine it's tea break.

8 CHAIRMAN: Yes, all right.

9 MR PENNICOTT: Sir, before you rise, can I just mention
10 this, that I am told that at transcript [draft]
11 page 111, lines 3 to 6, the question Mr Boulding asked
12 at that reference was incorrectly interpreted and
13 invited the answer that the witness gave. That is, "You
14 can say that's the case", and I think probably
15 Mr Boulding wants to put that question again when we
16 come back, because it does rather create, I would have
17 thought, an incorrect impression.

18 CHAIRMAN: Yes, certainly.

19 MR PENNICOTT: Secondly, I have a ruler, if you are
20 interested.

21 COMMISSIONER HANSFORD: I have found a ruler, and I've
22 measured the thread.

23 MR PENNICOTT: Thank you, sir.

24 CHAIRMAN: Good. Ten minutes. Thank you.

25 (3.53 pm)

26 (A short adjournment)

1 (4.09 pm)

2 MR BOULDING: Sir, I am in your hands as to whether you want
3 me to put that line of questioning again as a result of
4 Mr Pennicott's intervention, or whether you are content
5 that we leave it as it is and argue about it in due
6 course.

7 MR PENNICOTT: Sir, it's just one question and I am told
8 that what happened was that Mr Boulding used the word
9 "invention", quite important in the emphasis, and the
10 word that was translated for "invention" was in fact
11 "supplement". So the question being put by Mr Boulding
12 was, "This is something that you have invented this
13 afternoon", whereas what was translated to the witness
14 was, "This is something you have supplemented this
15 afternoon", which is a rather important difference.

16 CHAIRMAN: Very big difference.

17 MR PENNICOTT: That's what I'm told, sir.

18 CHAIRMAN: Strangely, I have actually -- I wouldn't like to
19 argue the matter later, Mr Boulding, because I think it
20 is, from many years of experience of, although not
21 speaking Cantonese, hearing translations of the way
22 questions are put in this jurisdiction and answers are
23 sometimes given, I am aware of the fact there can
24 sometimes be misunderstandings in this type of area.

25 MR BOULDING: Yes.

26 CHAIRMAN: So it's absolutely for you, of course.

1 MR BOULDING: Perhaps we ought to have been having this
2 discussion without the witness being present, but I will
3 put the questions again. I fear it will need a bit of
4 a run-up.

5 Mr Ngai, we were talking about paragraph 9 of your
6 witness statement, when you were talking about the one
7 occurrence in December 2015 when you saw the rebar being
8 cut.

9 Do you remember us discussing that?

10 A. 其實係12月。

11 Q. I thought I said December. I'm sorry.

12 But you remember us discussing that before we had
13 our tea break, do you?

14 A. 係。

15 Q. I reminded you that when you were questioned by my
16 learned friend Mr Pennicott, he said, "Well, how far
17 away from the incident were you when you saw it?", and
18 the transcript records that you gave evidence to the
19 effect of, "I was about 6 to 7 metres away from the
20 cutting when it happened", and then you said, "They
21 roughly cut off half the thread. I was 6 to 7 metres
22 away, and that's my response from my memory."

23 Do you remember giving evidence to that effect,
24 Mr Ngai?

25 A. 記得。

26 Q. What I suggested to you is that from such a distance,

1 a distance which is substantially further away from you
2 to me, 6 or 7 metres, it would not have been possible
3 for you to have seen, really, what was going on in terms
4 of what was being cut off.

5 Then you said to me, "Ah, Mr Boulding, but I started
6 off 6 or 7 metres away, but I was walking towards it,
7 I was walking past it, and I got closer." Do you
8 remember telling me that?

9 A. 係，冇錯。

10 Q. But you never told Mr Pennicott that, did you, when he
11 asked you how far away you were during the course of his
12 questioning earlier this afternoon? You never mentioned
13 that to Mr Pennicott, did you?

14 A. 佢問我係幾遠見到。

15 Q. Well, what I suggest to you, Mr Ngai, is that it would
16 have been a material fact, material evidence, for you to
17 have told Mr Pennicott, and it was something you made
18 up --

19 MR SO: Sir, I do apologise, I think the translation is not
20 -- in Chinese it's not "實質嘅事實"; he said "關鍵事實" would
21 be a more appropriate translation for that.

22 CHAIRMAN: That does not help me one little bit, I'm afraid.

23 MR SO: I do understand that.

24 CHAIRMAN: That's my weakness, not yours.

25 MR SO: I do apologise. But I would say the interpretation
26 of that would be more accurate in terms of "material".

1 CHAIRMAN: I just don't know what the interpretation should
2 be because I don't speak Cantonese. I apologise.

3 MR SO: I do apologise.

4 MR BOULDING: Well --

5 CHAIRMAN: So let's have that translated again, shall we?

6 MR BOULDING: What I've got to suggest to you, Mr Ngai, is
7 that the elaboration of your evidence, that you were
8 initially 6 to 7 metres away, but then you were walking
9 closer towards it so you could see what was happening,
10 that's something which you have made up for the first
11 time this afternoon. That's what I'm suggesting to you.

12 A. 點會作出嚟嘅? 呢個係事實嚟㗎嘛。

13 MR BOULDING: Thank you very much, sir.

14 MR KHAW: No questions.

15 CHAIRMAN: Thank you.

16 Re-examination by MR SO

17 MR SO: Just one very short re-examination.

18 Just to pick up what my learned friend Mr Boulding
19 has asked you, Mr Ngai -- you told this Commission that
20 you were walking at that time when you saw the cutting;
21 is that correct?

22 A. 冇錯。

23 Q. So, at the closest with that cutting, that place, how
24 far was that between yourself and the person cutting it,
25 the shortest distance, when you were closest to them?

26 A. 大概3米嘍。

1 MR SO: Thank you. I have no further questions.

2 CHAIRMAN: Good.

3 Thank you very much indeed.

4 WITNESS: Okay.

5 CHAIRMAN: Yes, you are completed. It may be possible to
6 call you back to assist the Commission, I doubt it, but
7 thank you for your help and I wish you the very best of
8 health going forward.

9 WITNESS: Okay. Thank you.

10 MR PENNICOTT: Sir, the next witness is Mr Li. I presume
11 he's here.

12 MR SO: Good afternoon, Mr Li. I saw you have just put on
13 your headphones from the interpreting service.

14 MR LI RUN CHAO (affirmed in Puntì)

15 Examination-in-chief by MR SO

16 Q. Thank you, Mr Li. Can I bring you to bundle D2,
17 page 922. This is the first witness statement you have
18 provided to this Commission; correct?

19 A. 係, 係。

20 Q. Can I bring you to page D927. In that page, you have
21 signed your name under the date?

22 A. 係。

23 Q. This is the witness statement dated the 19th day of
24 September 2018?

25 A. 係。

26 Q. Can I then take you to D951. This is the second witness

1 statement that you have provided to the Commission.

2 A. 係。

3 Q. Can I bring you to the next page, D952. Again, you have
4 signed your name under the date?

5 A. 係。

6 Q. And this is the witness statement dated the 28th day of
7 September 2018?

8 A. 係。

9 Q. Mr Li, do you confirm that you wish to adopt the
10 contents of these two witness statements as part of your
11 evidence?

12 A. 同意。

13 Q. Mr Li, can I bring you to page D928. This is the
14 Chinese version of the police witness statement that you
15 have provided on the 7th day of August 2018.

16 A. 係。

17 Q. As I can see, there was a time next to it. It was
18 0945 hours. That's in the morning; correct?

19 A. 係，係。

20 Q. Was that the time that you first started to give this
21 witness statement, or is it the end of the time of
22 giving the witness statement?

23 A. 呢個係開始嘅時間。

24 Q. Do you recall at what time you finished giving this
25 witness statement?

1 A. 大概係下晝4點。

2 MR SO: Thank you. I have no further questions.

3 Examination by MR PENNICOTT

4 MR PENNICOTT: Good afternoon, Mr Li.

5 A. Hello.

6 Q. I am counsel for the Commission and I've got a few
7 questions to ask you. Thank you for coming to give
8 evidence to the Commission today.

9 You tell us, Mr Li, that you first arrived at the
10 Hung Hom Station on 11 January 2016; is that right?

11 A. 喎。

12 Q. Mr Li, this is very important, so please listen very
13 carefully to my questions. Are you sure, 100 per cent
14 sure, that it was 11 January 2016 that you first started
15 work?

16 A. 係呀，係。

17 Q. How do you know that? What are you relying on? Have
18 you got any particular document that you have referred
19 to? Just your recollection? What is it that leads you
20 to say it was 11 January 2016?

21 A. 因為個日子容易記啲咩，1月11號。

22 Q. Easy for you, perhaps. Why is it easy to remember
23 11 January as opposed to 5 September, which is my
24 birthday so I can remember? Why is 11 January
25 particularly remarkable to you?

1 A. 三個1咁嘛。

2 Q. All right. Did you attend the Leighton safety induction
3 course?

4 A. 有。

5 Q. We have heard from Mr Ngai, the previous witness, that
6 you are not allowed to start work on the site until you
7 have done that safety induction course. First of all,
8 do you agree with that?

9 A. 同意。

10 Q. What date did you take the Leighton safety induction
11 course?

12 A. 呢一日唔記得咗。

13 Q. We have records that have been supplied to us, Mr Li,
14 from Leightons. They tell us, those records, that you
15 did the safety induction course on 12 January 2016. Are
16 you able to dispute that?

17 A. 因為佢禮頓分大堂、細堂，你上完大堂之後，跟住返到地盤先會上細堂咁嘛。

18 Q. That's not an answer to my question. Let's look at, so
19 the Commission can see it, bundle C8, page 5670.

20 Sorry, if you go back, please -- if we flick back to
21 page 5662 -- unfortunately, this is the only page that
22 has the headings on at the top -- and you will see that
23 the safety induction columns start to the immediate
24 right of where you see lots of words in pink
25 highlighting, headed "refresh".

1 If we then go to page 5670, helpfully, Mr Li, your
2 name appears right at the top, the first line; do you
3 see that?

4 A. 我見到。

5 Q. If you go to the column to the right of "refresh", that
6 is why I'm suggesting to you -- I know it's got a line
7 through it; there are lines through lots of dates here
8 and no doubt Leighton will explain why there are lines
9 through it -- but our understanding is you did that
10 safety induction course on 12 January 2016, and
11 therefore, by definition, could not have started work
12 until 13 January, at the earliest. Am I right?

13 A. 1月12號都可以開工。

14 Q. But you didn't, did you? You started on the 13th?

15 A. 係呀。

16 Q. We know that because Mr Jason Poon, your boss, has
17 supplied us with the site organisation chart. Can we
18 have a look at that. That's at D224.

19 Mr Li, you will find your name on the second row
20 from the bottom and the second box in from the right.
21 Do you see your name there, "Li Run Chao" -- do you see
22 that? Have you got that?

23 A. 睇到, 睇到。

24 Q. You are assistant foreman; yes?

25 A. 喺。

1 Q. And this time, unlike with Mr Ngai, Mr Poon's got it
2 right that you started work on 13 January 2016. So do
3 you accept that?

4 A. 係。

5 Q. With that in mind, Mr Li, could we then look at your
6 witness statement.

7 A. 係。

8 Q. In particular, please go to paragraph 8. It's at
9 page D2/924.

10 A. Okay.

11 Q. In paragraph 8 you say:

12 "Since 11 January 2016, I was assigned to work at
13 the upper deck (ie the EWL slab) of area B."

14 In the light of the questions I just asked you and
15 the answers you gave, are you content to change that
16 date to 13 January?

17 A. 會。

18 Q. Now, that may not seem very important to you, Mr Li, but
19 I can assure you it is, for this reason. You say that
20 you were assigned to the upper deck of area B, now you
21 say on 13 January 2016. We know, Mr Li, that the last
22 bay to be concreted in area B, indeed the last area to
23 be concreted in area A, B or C, was bay 4 and bay 5 in
24 area B, that took place on 12 January 2016, the day
25 before you started work. Do you remember that? Was
26 that the situation when you turned up on 13 January?

1 A. 我當時去到嘅係B區，仲紮緊鐵，未落石屎嘅。

2 Q. According to the records we've got -- and we may have to
3 look at the records, Mr Li -- but we know that the rebar
4 in the area to which you were assigned had been
5 completed by about 10 or 11 January and had been
6 inspected, and there are forms to indicate that it was
7 inspected, but more importantly, Mr Li, there are
8 concreting records that show that the area was concreted
9 on 12 January 2016, and that was the last area on the
10 area B slab -- as I say, on the area A, B and C slab --
11 to be concreted.

12 So what you are saying, Mr Li, with respect, can't
13 be right.

14 A. 我唔同意。

15 Q. So where do you say precisely that you saw this rebar
16 fixing going on? Are you sure it was area B and not
17 somewhere else?

18 A. 喺B區，因為我哋以前有一個燒焊位喺嗰個位置嘅。

19 Q. And you specifically say that it was the upper deck, ie
20 the EWL slab. Mr Li, are you not getting confused; are
21 you sure it wasn't the NSL slab perhaps that you were
22 assigned to?

23 A. 係，EWL，東西。

24 Q. Let me just go on in your witness statement to see what
25 else we can -- make of what you are saying. You say --

1 this is paragraph 9:

2 "On a day in January 2016, Mr Poon reported in the
3 lunch meeting that he saw some workers in area B cutting
4 the threaded rebars of the steel threads."

5 Now, Mr Li, presumably the very first lunch meeting
6 that you could have attended was on 13 January; is that
7 right?

8 A. 係。

9 Q. The day after the area B, bay 4-5, had been concreted?

10 A. 當時同我講嗰陣係未落石屎嘅。

11 Q. Well, on 13 January, when you turned up, did you go and
12 have a look?

13 A. 有呀。

14 Q. Was the concrete there on 13 January? All those records
15 that show that it was laid on 12 January, they are all
16 wrong, are they?

17 A. 我返工嗰一日係未落石屎嘅。

18 Q. It had been poured?

19 A. 未落。

20 MR TO: I think it's a mistake.

21 MR PENNICOTT: Another "not"? Okay.

22 Then you say this:

23 "As I and fellow colleagues of Chinat were scheduled
24 to pour concrete that night in area B, Mr Poon asked me
25 to pay attention as to whether any workers were cutting

1 the threaded rebars."

2 So what night are you talking about, Mr Li? Are you
3 talking about the 11th, the 12th, the 13th; which night
4 are you talking about?

5 A. 具體邊一晚我唔記得咗，同埋嗰一日係我哋係落area C嘅，唔係落area B。

6 CHAIRMAN: Sorry, could I ask this: you say that on a day in
7 January 2016, it appears that you attended the training
8 course held by Leighton on 12 January, and presumably
9 that was a full-day course, was it?

10 A. 唔係。

11 CHAIRMAN: How long was it for?

12 A. 半日，半日。

13 CHAIRMAN: All right. Did you go to work at all that day?

14 A. 有。

15 CHAIRMAN: So you finished your course and then you went to
16 work that day. Do you have any recollection of what
17 happened after you finished the course and went to China
18 Technology that day?

19 A. 嗰一日都未有特別，跟住嗰日之後就參加咗個飯盒會。

20 CHAIRMAN: All right. So "after that day", do you mean it
21 wasn't on that day, that is the 12th, it was some day
22 later?

23 A. 係。

24 CHAIRMAN: And to the best of your memory now -- and
25 I appreciate it's difficult to identify a specific

1 day -- was it a few days later, was it maybe a couple of
2 weeks later, a month later, but before the end of
3 January?

4 A. 記憶就係啱啱人啱啱中幾耐。

5 CHAIRMAN: Okay. Let's do it this way. From the best of
6 your recollection, how many days must it have been after
7 you had completed the Leighton safety induction course?

8 A. 一日嘍。

9 CHAIRMAN: All right.

10 MR PENNICOTT: Thank you, sir.

11 Mr Li, I'm going to show you a few documents which
12 I appreciate you may not have seen before, but just so
13 that the Commissioners understand the points that I'm
14 trying to address with you.

15 Could we please see H1/336. Can you see that on the
16 screen, Mr Li? And I think you are being handed a hard
17 copy.

18 Mr Li, as I say, I anticipate that this is not
19 a document you will have seen before. Would I be right
20 about that?

21 A. 啱。

22 Q. What it is, it's -- what happens is when Leighton think
23 that a piece of work is completed and they are ready to
24 move to the next stage, they ask MTR to come and inspect
25 the works, and this is what's called a request for that
26 inspection, just so you understand the context. Do you

1 understand?

2 A. 明白。

3 Q. We can see that this RIS form relates to area B, EWL
4 slab, bay 4, that's B4 and B5. Do you see that under
5 the heading, "Location of work", if you are able to read
6 it, towards the top?

7 A. 我唔清楚B區分bay 4、bay 5嗰啲，我唔清楚。

8 Q. No. You're right about that, as it happens, because B4
9 and B5 in fact got merged and we just now know it as B4,
10 as it happens. But, in any event, these two areas, as
11 they then were, were cast, so far as the concrete is
12 concerned, at the same time, and what this form is
13 showing is that on 5 January 2016, if you see just about
14 a third of the way down on the right-hand side, that
15 date, Leightons are asking for an inspection to be done
16 on 8 January. Do you see that?

17 A. 睇到。

18 Q. There's a box a bit further down, "Part B", which
19 indicates that that inspection, as we understand it,
20 took place on 8 January at about 5 o'clock in the
21 afternoon; do you see that?

22 A. 係。

23 Q. If you go to the next page, to 337, this is another
24 similar form, and the work that Leighton are asking to
25 be inspected this time is a "Pre-pour check (final

1 condition); do you see that?

2 A. 係。

3 Q. They are asking for that to be done on 11 January 2016
4 at 4.30, 1630; can you see that?

5 A. 睇到。

6 Q. And a bit further down, there's a signature which
7 indicates that that inspection took place on 11 January
8 at 10 past 6, 1810; do you see that?

9 A. 係。

10 Q. So that was 11 January.

11 Then, over the page, at 338 -- now, I've not been
12 able to ascertain precisely the time at which the
13 concrete started to be placed, but we can see from the
14 two records, at 338 and 339, that the area B slab, that
15 B4-B5 was concreted on 12 January. Do you see those?
16 I just want to show you those records, Mr Li, so that
17 you understand what it is.

18 CHAIRMAN: Where is the mention of the 12th? Oh, I see it.

19 MR PENNICOTT: At the top of the page, sir, in the middle.

20 CHAIRMAN: The 12th, I have that. And then?

21 COMMISSIONER HANSFORD: Could we just go back one page so
22 I can see some of the detail? Thank you.

23 MR PENNICOTT: Sorry, sir, you are back to 337?

24 COMMISSIONER HANSFORD: Yes. Sorry, it keeps moving on my
25 screen. Could I just have a look at 337 -- no, sorry,
26 it's the concreting record.

1 MR PENNICOTT: Sir, that's 338.

2 COMMISSIONER HANSFORD: That's the one. And then scroll it
3 down, please. Thank you. And further.

4 Thank you very much.

5 MR PENNICOTT: So, Mr Li, these records are why I'm
6 suggesting to you that if you turned up on 13 January,
7 which I think is what you told us earlier, to properly
8 start work, this area would have already been concreted.
9 And frankly, even if you turned up, as I think you might
10 have been suggesting to the chairman, on the afternoon
11 of the 12th, the likelihood is this concreting was going
12 on at the time.

13 But what you wouldn't have seen in this particular
14 area, Mr Li, on whatever scenario is right, is any bar
15 cutting. Can I suggest that that must be the case?

16 A. 但係喺我記憶之中，我返工嗰陣佢係未落石屎喎。

17 Q. I'm told there is another problem with the translation.

18 I was suggesting to you, Mr Li, that if you were
19 assigned to area B on either 12 or 13 January, you could
20 not have witnessed any cutting of rebar in that area at
21 that time. Do you agree?

22 A. 12、13號？

23 Q. I am.

24 A. 同意。

25 Q. If we then go to your witness statement, and let's go to
26 paragraph 10, you say this:

1 "At that night after Mr Poon mentioned the matter at
2 the lunch meeting ..."

3 Now, pause there. Mr Li, help us. What night are
4 you referring to? What date are you referring to at
5 paragraph 10?

6 A. 具體嘅時間我唔記得咗。

7 Q. Mr Li, none of this is making a lot of sense, because
8 you then go on to say:

9 "... I saw five to six workers without upper
10 clothing cutting the threaded rebars in area B."

11 Mr Li, that can't be right, because the last
12 concreting in area B was on 12 January. So, with
13 respect, it cannot be right. If you saw this going on
14 somewhere else, some other area, please tell us, but it
15 can't be area B, Mr Li.

16 A. 我記憶中都係B區之內...

17 Q. It can't be area B at the EWL.

18 A. 我聽唔清楚，可唔可以問多次呀？

19 Q. I'm told again there's another translation problem.
20 I thought it was pretty clear. You say:

21 "At that night" -- and we don't know which night it
22 is because you can't recall -- "I saw five to six
23 workers without upper clothing cutting the threaded
24 rebars in area B."

25 And I'm suggesting to you, Mr Li, that that simply
26 can't be right. That the EWL slab, the last area to be

1 concreted in area B was on 12 January, so what you're
2 saying simply cannot be right.

3 A. 你個area B係bay 4、bay 5，係咪呀？定係講緊全部嘅area B slab？

4 Q. Mr Li, I'm referring to area B, bays 4 and 5, because
5 those were the only ones left to be concreted as at
6 12 January. There was no more concreting to be done in
7 area B after 12 January on the EWL slab.

8 A. 但係我記憶中係真係未。

9 CHAIRMAN: You see, Mr Li, there is a possibility that you
10 saw these steel threads being -- or these rebars being
11 cut, perhaps to be taken somewhere else, and this was
12 out of the way, but your statement says you saw them
13 actually -- that they then screwed them into couplers on
14 the diaphragm wall. So the possibility of them finding
15 a hidden place to do their work can't be the case
16 because you say you saw them actually screwing them into
17 the couplers.

18 MR PENNICOTT: I haven't got to that bit yet.

19 CHAIRMAN: I'm sorry. I'm just trying to -- let me put it
20 this way. The documents that you have been shown are
21 documents that are prepared day by day, as you know, in
22 building anything, on a building site. Okay? They are
23 filled in that day or perhaps the next day or the day
24 after that, and they are ordinary documents and there's
25 no reason for anybody to fabricate the dates and the
26 details. Do you understand?

1 A. 明。

2 CHAIRMAN: So we have these ordinary documents, prepared day
3 by day, in a mundane way, which show that all the
4 concreting was finished by late -- sorry, on 12 January.

5 Now, do you agree, if that's the case, whatever it
6 is you saw, you couldn't have seen in areas B4 and 5 of
7 the EWL slab on 13 January and thereafter; you must be
8 mistaken in your memory?

9 A. 係。

10 MR PENNICOTT: Sir, I see it's 4.57. Would that be
11 an appropriate moment to conclude? I've got a bit more
12 to do yet, I'm afraid, and I dare say there might be
13 a few questions from behind.

14 CHAIRMAN: Can I just ask you one question: who asked you to
15 come and give evidence in this matter?

16 WITNESS: 邊個嚟叫我畀證供? 委員會定--即係委員會。

17 CHAIRMAN: But the Commission would have asked you because
18 they had an indication that you would know something
19 that might be relevant?

20 WITNESS: 係。

21 CHAIRMAN: How would they have known that? Do you know?

22 WITNESS: 可唔可以問多次呀?

23 CHAIRMAN: The Commission would have asked you if you could
24 assist them because they would have believed that you
25 were in a position to assist them, that you would have

1 some knowledge.

2 WITNESS: 係。

3 CHAIRMAN: I appreciate you may not know what was in the
4 mind of the Commission, but from what you can understand
5 of matters, why would the Commission have believed that?

6 WITNESS: 因為會覺得可能我會知道紅磡站入邊發生嘅一啲情況，所以會搵我
7 過嚟。

8 CHAIRMAN: All right. Perhaps we can leave counsel to visit
9 that.

10 MR PENNICOTT: Sir, I will obviously try to track the answer
11 to that question down. I imagine, but I don't know, it
12 might have something to do with the fact that Mr Li gave
13 a statement to the police on the particular topic, but
14 I may be wrong about that. I'm afraid that's another
15 area where I'm going to have to go, because I suspect
16 that the witness statement has been prepared by
17 reference to the police statement.

18 CHAIRMAN: Yes.

19 MR PENNICOTT: And of course the problems I've been trying
20 to outline this afternoon are repeated in the police
21 statement as well.

22 CHAIRMAN: All right.

23 Mr Li, it's now 5 o'clock in the evening, so we are
24 finishing our work today. You, however, are in the
25 middle of giving your evidence, and as you can readily
26 see we have a few problems. The problems need to be

1 worked out in this room, with you and the counsel who
2 appear here. These are not problems that need to be
3 worked out with your colleagues at the company, your
4 bosses, your friends, your relatives, or anybody else;
5 okay? Which means that you are not entitled to discuss
6 this matter with anybody else outside of -- who's not --
7 well, you are not entitled to discuss it with anybody
8 else while you are giving your evidence. Do you
9 understand me?

10 WITNESS: 明白。

11 CHAIRMAN: Let me tell you, you can see from my grey hair
12 that I have been around these courts for a long time,
13 and I can tell you now that nothing is more obvious to
14 a judge or a commissioner than somebody who says one
15 thing late in the afternoon on a Monday and the next
16 morning miraculously is saying something very different
17 on the Tuesday. That is so obvious to a judge that they
18 have been discussing the matter with other people.
19 Okay?

20 WITNESS: 明白。

21 CHAIRMAN: So what I am saying is I'm not doubting your word
22 for one moment. I'm just saying the temptation is often
23 there to discuss things with third parties, but it's
24 very obvious if you do so. Okay?

25 WITNESS: 明白。

1 CHAIRMAN: Good. Thank you so

2 much.

3 WITNESS: 明白。

4 CHAIRMAN: We look forward to seeing you tomorrow morning at

5 10 o'clock.

6 (5.03 pm)

7 (The hearing adjourned until 10.00 am the following day)

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