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<p>1 Tuesday, 30 October 2018 2 (10.02 am) 3 MR PENNICOTT: Good morning, sir. Good morning, 4 Prof Hansford. 5 I think before we broke last evening, Mr To had 6 indicated that he had finished his examination-in-chief, 7 as a consequence of which it now falls to me to ask 8 Mr Poon some questions. 9 CHAIRMAN: Yes. 10 MR POON CHUK HUNG, JASON (on former oath in Punti) 11 (All answers given via simultaneous interpreter 12 except where otherwise specified) 13 Examination by MR PENNICOTT 14 MR PENNICOTT: Mr Poon, good morning. 15 A. (In English) Good morning. 16 Q. We meet for the first time; you agree with that? 17 A. (In English) I think I meet before in this court. 18 Q. In this court, but not before then; do you agree with 19 that? 20 A. It been clarified. 21 Q. It has been clarified and we will be coming back to it. 22 Mr Poon, you have a BSc in construction management 23 from the South Bank University in London; is that 24 correct? 25 A. Yes.</p>	<p>1 A. Yes. 2 Q. Mr Poon, would you regard yourself as an impulsive sort 3 of person? 4 A. Yes, I have a temper, but I wouldn't say I'm impulsive. 5 Q. Right. So would you agree that you don't shoot from the 6 hip and say the first thing that comes into your head, 7 but you are careful and cautious about what you say? 8 A. It depends on different matters; I would handle them 9 differently. 10 Q. When you give interviews to the media, that's the press, 11 the radio and the television, do you consider carefully 12 whether you are being accurate and truthful in what you 13 say to them? 14 A. Well, yes. When I spoke to the media or the public 15 about this case, my principle has always been to tell 16 the truth. 17 Q. As part of that telling the truth, do you go out of your 18 way to present the full picture and not just part of the 19 picture, of any particular story that you're telling 20 them? 21 A. Firstly, for every word I said, it's bound by the 22 confidentiality agreement. So for everything I said, 23 it's based on information already disclosed. In 24 particular, the MTRC at the time kept telling the media 25 and the public wrong information.</p>
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<p>1 Q. You also have a higher diploma in building technology 2 and management from the Hong Kong Polytechnic; is that 3 correct? 4 A. Yes. 5 Q. In which years did you obtain those two qualifications? 6 A. Couldn't recall. I couldn't recall. It was over 7 20 years ago. 8 Q. Let's start with the first one, the one at the South 9 Bank; approximately what year? 10 A. (In English) South Bank? 11 Q. Yes. 12 A. 1992 or 1994, approximately. 13 Q. And the higher diploma at Hong Kong Polytechnic? 14 A. 1990 or 1992. 15 Q. So that came first? 16 A. Yes. 17 Q. I also understand that you have a master of laws in 18 arbitration and dispute resolution from the City 19 University of Hong Kong? 20 A. Yes. 21 Q. Which you obtained in 2014? 22 A. Yes. 23 Q. So would I be right in thinking that you studied for and 24 obtained that master's degree whilst you were running 25 your business, that is China Technology?</p>	<p>1 Q. Let me just focus on that for the moment. So your 2 position, Mr Poon, is that over the last few months, 3 since about May of this year, as far as you are 4 concerned, you've been telling the truth and the full 5 picture to the media; is that right? 6 A. Yes, I am telling the truth, but it's not the full 7 picture, as you put it. 8 Q. In what sense is it not the full picture? 9 A. For the Hung Hom Station structural problems, it's not 10 just limited to cut threaded bars and it's not just 11 limited to what the public already knows, that they kept 12 changing the drawings and not doing work in accordance 13 with the drawings. There were many other problems. 14 Q. When did you first find out that work wasn't being done 15 in accordance with the drawings, Mr Poon? 16 A. Not following the drawings, the first time I found out, 17 it was at the end of 2015 or thereabouts. At the time, 18 I asked one of the Leighton engineers about why I didn't 19 see any capping beams being done. 20 Q. We'll come to that in a moment. Name the Leighton 21 engineer, please. 22 A. Andy. I can't recall his surname because there were 23 several Andys. The fatter Andy. 24 Q. All right. Fatter? 25 A. (In English) A little bit fatter.</p>

<p style="text-align: right;">Page 5</p> <p>1 Q. Let's see if we can find him. 2 Now, am I right in thinking also, Mr Poon, that over 3 the last few months or so you've been passing 4 information to certain members of LegCo? 5 A. I passed information to LegCo, certain LegCo members? 6 No. Every time I was asked, I did not provide the 7 information on my own volition. 8 Q. Well, okay. You were asked, and you provided it? 9 A. When I was asked, I would answer the questions, and my 10 answers were within the boundaries of the 11 confidentiality agreement. In particular, it was mostly 12 to clarify certain things, particularly about the wrong 13 information disseminated by the MTRCL to the public. 14 Q. When you answered requests for information from the 15 LegCo members, did you pass them documents, photographs, 16 emails, and so forth? What did you actually give them? 17 A. No, I wouldn't. 18 Q. So it was just oral representations that you made to 19 them? 20 A. Yes. 21 Q. Okay. We've talked about the media. We've talked about 22 LegCo members. Mr Poon, when you commit something to 23 writing, in a letter or an email, again, do you give the 24 contents of what you're writing careful thought and 25 consideration?</p>	<p style="text-align: right;">Page 7</p> <p>1 I say or write would cause harm to others. It's rather 2 the other party that's done something wrong, the party 3 is trying to cover up, the party is trying to tell lies, 4 that's why it's adding to its own injury. 5 Q. When you put my name in your witness statement, did you 6 give any thought to the harm, the damage, that might 7 cause? 8 A. Now, on this case, let me explain. I'd like to explain 9 clearly. In my third witness statement -- 10 Q. No, don't explain. Answer my question. Did you give 11 any thought -- 12 A. I didn't consider it. I didn't consider it. 13 Q. -- to the harm or damage you were going to cause by 14 putting my name in your witness statement? 15 A. Before I put your name in the witness statement, on 16 13 June, I did attend a meeting, with the invitation 17 extended to me by MTRCL on the investigation of this SCL 18 scandal, and without informing me, suddenly there was 19 an additional counsel -- 20 Q. Mr Poon -- 21 A. Please let me finish, will you? 22 Q. No, I won't -- 23 A. I'm answering your question. 24 Q. We'll come back to this in a bit more detail in a 25 moment. I just want to know the answer to my question:</p>
<p style="text-align: right;">Page 6</p> <p>1 A. When I write every email, every letter, it's in good 2 faith. So I believe what I write is true. That's 3 always been the case with business emails or personal 4 communication. 5 Q. Right. So the answer to my question is that you do 6 carefully consider what you're putting into writing? 7 A. Yes, of course. 8 Q. Mr Poon, when you carefully consider what you're putting 9 into writing, do you think about the implications of 10 what you are saying in the written word? 11 A. First, when I write an email or a letter, there is 12 a purpose for it, and then the implications in relation 13 to the purpose or the consequences in relation to the 14 purpose may not necessarily be foreseen by the person 15 who writes the letter at the time. 16 Q. Right. So you do give some thought to the implications, 17 but you say that you wouldn't necessarily foresee all 18 the implications that might arise; does that really 19 summarise it? 20 A. Yes, correct. 21 Q. Mr Poon, pushing it a bit further, do you think about or 22 have any concern for the harm and damage you might cause 23 to others for what you say or write? 24 A. What I write or what I say are 100 per cent true. In 25 the law and morally or legally, I can't see that what</p>	<p style="text-align: right;">Page 8</p> <p>1 did you think about, as you put the names on the piece 2 of paper that then became your witness statement, the 3 harm or damage that might be caused if you put anything 4 wrong in that paragraph? 5 A. Now, firstly, I did not know that you would become the 6 counsel of this Commission. Secondly -- secondly -- 7 Q. Stop. Mr Poon, your witness statement is dated 8 3 September. 9 A. Yes. 10 Q. I became counsel to this Commission on 12 July 2018. 11 A. I didn't know about that. 12 Q. You didn't know about it? 13 A. (In English) I know -- I never. 14 Q. So you didn't go on to the Commission's website when it 15 was set up, where it was announced? 16 A. No, I did not. 17 Q. All right. We'll come back to that in a moment. 18 Let me just go on -- we are coming back to paragraph 19 18.6 -- 20 A. Can I ask Mr Ian Pennicott this: is it because of that 21 you can then deliberately target a witness in your line 22 of questions, or in your opening you would target 23 someone and use the term "microscope"? 24 Q. Mr Poon, unfortunately, unlike when you're talking to 25 the media, I get to answer the questions; you don't.</p>

<p style="text-align: right;">Page 9</p> <p>1 You've got to answer them. And I resent the word 2 "target". 3 Now, if you were careful and cautious in what you 4 write -- if you are careful and cautious in what you 5 write -- if you then subsequently get something wrong, 6 there's a mistake, there's an error, which we all 7 commit, if you have given the matter some careful 8 thought and consideration, do you agree that then it's 9 a lot easier to work out where you went wrong? 10 A. Can you repeat your question? 11 Q. Yes. If you shoot from the hip and you just say the 12 first thing that comes into your head, then if you get 13 something wrong, that's because you've just said the 14 first thing that's come into your head. However, if you 15 go through a process of thought and reasoning when you 16 write something out, if you do make a mistake, you can 17 then go back through that process and work out how you 18 got it wrong. Do you understand? 19 A. You have made a lot of assumptions. If your question 20 was that what I wrote or said was wrong and whether 21 I would rethink it, yes, I would. I would make 22 remedies. I would. 23 Q. All right. Okay. Now, just following on from that, 24 just a small example so that I can try to explain more 25 clearly the point I'm driving at, Mr Poon. In your</p>	<p style="text-align: right;">Page 11</p> <p>1 submitted documents to the Commission, they were all 2 submitted in the same bundle in one go. 3 Q. Mr Poon, I don't think there's anything between us on 4 this, on the site organisation chart. I entirely accept 5 it was attached to your very first witness statement. 6 A. But I do have dispute over what you said. 7 Q. I'm not sure why, but anyway. Can I just come back to 8 my question? 9 A. The way you handled the attachment when we first 10 submitted the bundle, there were two organisation 11 charts, and at the same time we also submitted a batch 12 of photos, but you had totally different views over the 13 two matters. There are two different ways of handling 14 them. 15 CHAIRMAN: Sorry, Mr Poon, this is turning into a somewhat 16 confused argument. That doesn't help at all. Counsel 17 for the Commission is asking questions, and I'm sure, if 18 you consider those questions and just answer them as 19 simply as possible, without engaging in a form of 20 gymnastics mentally, then we'll move on, and I will make 21 sure that you are not prejudiced. That's part of the 22 reason for being here, in seeking the truth, to make 23 sure that people are dealt with fairly. But answering 24 a question fairly is the beginning process. Do you 25 understand?</p>
<p style="text-align: right;">Page 10</p> <p>1 witness statement, attached to your witness statement, 2 you have a personnel chart. 3 A. The personnel chart, that's appendix 2 to my bundle. 4 Q. Yes, it's page D224 in the bundle. 5 A. Let me clarify. It's not in my witness statement. 6 Q. It's attached to your witness statement, exhibited to 7 your witness statement. 8 A. Well, then, if you put it that way, it's the same as the 9 D5-something photo, the nature of it, the way it is 10 attached, is exactly the same. 11 Q. Yes. A photograph is obviously something that's taken, 12 a snapshot in time. The site organisation chart, the 13 personnel chart, that's attached to your witness 14 statement, is something that's presumably prepared. My 15 simple question is: did you prepare it, Mr Poon? 16 A. No, no, no, let me clarify this. I need to clarify 17 this. Yesterday, what I heard was, for photos in my 18 bundle, you treated that as new evidence, so it could 19 not be asked about in the examination-in-chief because 20 you didn't consider it to be attached to my witness 21 statement. But I must reiterate that I did submit the 22 two organisation charts, but they were not attached to 23 the witness statement. I must say again, the nature of 24 the two organisation charts is exactly the same as that 25 for the two photos. It was the first time when we</p>	<p style="text-align: right;">Page 12</p> <p>1 WITNESS: Understood. 2 MR PENNICOTT: Mr Poon, there is no hidden agenda here. I'm 3 just trying to explore with you -- 4 A. (In English) I hope so. 5 Q. Mr Poon, it's not in dispute, you have attached to your 6 witness statement, your first witness statement, a site 7 organisation chart. 8 A. Two. 9 Q. Two, indeed. 10 Did you prepare those charts yourself? 11 A. No. 12 Q. Who prepared them? 13 A. My personnel department. My personnel department. 14 Human resources. 15 Q. Okay. Since the documents are attached to your witness 16 statement, did you check the two documents that the 17 personnel or human resources prepared? 18 A. Because when we submitted the first witness statement in 19 the bundle, we were only given a short period of time. 20 We submitted altogether 900 pages of documents. For the 21 two organisation charts, for the first one, it was done 22 on the basis of this project, but then there were some 23 major changes in terms of personnel, and in fact the 24 police, when they interviewed us, I was also asked to 25 provide an organisation chart. And for the second</p>

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<p>1 chart, it's a more updated one, and that was prepared 2 stemming from this exercise. That is, to roughly find 3 out the relevant personnel and write down the relevant 4 periods of time. 5 Q. Because, Mr Poon, we know there is at least one error on 6 the second personnel chart. Perhaps it would be fair to 7 show it to you, at D224, please. 8 A. Yes. 9 Q. Thank you. I think it's the bottom one I'm interested 10 in, Mr Poon. 11 We know that you've got some dates there for 12 Mr Ngai; do you see that? 13 A. Yes. 14 Q. He is described on the chart as "superintendent"? 15 A. Right. 16 Q. And the dates that are there are 5 October 2015 to 17 7 April 2017; do you see that? 18 A. Yes, I see that. 19 Q. And whilst the 5 October date is correct, the 4 April 20 2017 date is incorrect. Were you aware of that? 21 CHAIRMAN: 7 April. 22 MR PENNICOTT: Sorry, 7 April 2017 is incorrect. 23 A. Now I'm aware of it. 24 Q. Yes, because it should be 7 April 2016? 25 A. That's right. That's right. That's a typo.</p>	<p>1 I had with Leighton and the government. On the matter 2 of cutting rebars, especially with a site team, there is 3 no evidence that goes beyond what happened after the 4 middle of 2016 -- sorry, June 2016. 5 Q. Yes, but Mr Ngai having left in April 2016. So he 6 wasn't replaced; is that correct? 7 A. For the post of superintendent, nobody could replace 8 him. 9 Q. Okay. 10 Mr Poon, we also know that you made, I think, 11 correct me if I am wrong, six statements to the police; 12 is that right? 13 A. Correct, six. 14 Q. Presumably, when you gave your statements to the police, 15 you thought very carefully about what you were telling 16 the police and what they were recording in those 17 statements? 18 A. Of course. 19 Q. And also, with regard to the now five witness statements 20 that you've provided to the Commission, you were also 21 equally as careful and cautious about the contents of 22 those statements; would that be fair? 23 A. Except the initial ones, because the initial ones were 24 done in a very hasty manner. There was limited time. 25 Especially, there was a deadline for documents to be</p>
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<p>1 Q. Well, that is a typo, and so the answer to how this 2 error came to be is that somebody in your human 3 resources department committed a typo? 4 A. Well, that's quite obvious, because in terms of the 5 dates and months, there is no mistake, but only one typo 6 in relation to the year. And in relation to the subject 7 matter of the COI, I don't think it's relevant. 8 Q. Well, it's relevant to this extent, Mr Poon. First of 9 all, I think your evidence was, just a moment ago, that 10 you didn't check this because you didn't have time? Was 11 that the effect of your evidence? Just -- is that 12 right? 13 A. Just very roughly I checked it, very rough. 14 Q. Okay, and you didn't spot the error? 15 A. Mmm. 16 Q. But what it does, Mr Poon, on one level, is raise this 17 question. You have Mr Ngai there as the superintendent, 18 so who was the superintendent, I ask you, between, say, 19 1 August 2015 and 5 October, and who was the 20 superintendent from 8 April to the end of the project? 21 Are you able to help us? 22 A. Yes. But the subject matter is such that all the 23 statements are related to what happened until the middle 24 of 2016. As to what happened after the middle of 2016, 25 I didn't talk much about it, except the correspondence</p>	<p>1 submitted to the COI. 2 Q. That sounds to me, Mr Poon, as though you are accepting 3 that we might find some mistakes and errors in certainly 4 your first witness statement. 5 A. I think, for the first one, yes, yes, there were 6 mistakes. 7 Q. Yes, and we'll be trying to identify some of those more 8 important ones shortly, either with me or somebody else, 9 or perhaps more than one person. 10 A. In fact, when I discussed with the lawyer, I considered 11 providing a supplementary witness statement to correct 12 the mistakes at one point. 13 Q. That might have been a sensible course of action, 14 Mr Poon, but you haven't yet, so I'm afraid myself and 15 perhaps others may have to just ask you some questions 16 about those paragraphs. 17 I'm afraid, for the purposes of just getting this 18 point out of the way, Mr Poon, and just in case anybody 19 else wants to ask any -- 20 CHAIRMAN: Sorry, Mr Poon, are you saying that you've 21 identified, in your copious statements, mistakes which 22 are of some materiality, discussed it with your 23 lawyers -- that's your evidence; it's not for me to 24 impinge on lawyer confidentiality -- but you've made 25 a decision, in the light of advice received, that you</p>

<p style="text-align: right;">Page 17</p> <p>1 wouldn't put anything in writing to identify the errors 2 and explain them and correct them, so that we're left 3 with known errors floating in the various statements 4 that you've put forward as being correct? 5 A. In fact, let me explain. For the witness statements, 6 basically they went in parallel with the statements 7 given to the police, and the COI requested us to provide 8 not only statements given to the police but also the 9 statements relating to other personnel of Chinat given 10 to the police for the purpose of criminal investigation, 11 and over this matter there was an internal dispute in my 12 company. 13 For the criminal investigation work of the police, 14 if we disclose the relevant information to the other 15 parties, it wouldn't be fair to the police's 16 investigation. And the police investigation started as 17 early as July, I mean early July 2018. As far as I'm 18 concerned, it was very intensive. At least I would 19 spend one day every week to assist in police 20 investigation. 21 At that time, my schedule got even more compressed. 22 When I found out, in relation to witness statements 23 given to the COI, that there were quite important 24 mistakes made, especially in relation to the month, 25 I would need to correct this mistake, as well as the</p>	<p style="text-align: right;">Page 19</p> <p>1 police, as we mentioned earlier. 2 A. Correct. 3 Q. The first one was on 4 July. 4 A. Correct. 5 Q. I can give you the dates of all the others if you want, 6 but in fact the last one was on 9 August. 7 A. Correct. 8 Q. What happened, Mr Poon, was that in those witness 9 statements that you gave -- and I can assure you I've 10 analysed them -- in your first two witness statements on 11 4 July and 10 July, you mentioned certain names in those 12 statements, and in particular you mentioned Mr But, 13 Mr Chu and Mr Ngai. I think you also mentioned Mr Leung 14 as well; yes? 15 A. Correct. 16 Q. As a consequence of which, of course, the police only 17 naturally then went to interview Mr But, Mr Ngai and 18 Mr Chu, and they also gave police witness statements? 19 A. What I said to the police was that when the police asked 20 who were the management at the site, and about the names 21 you cited -- but I need to go back to the papers to 22 check -- for Mr Leung, the case was quite special. 23 Q. All right. We'll come to Mr Leung in a short while. 24 Anyway, what then happened, Mr Poon, was when the 25 Inquiry got up and running, you were invited to provide</p>
<p style="text-align: right;">Page 18</p> <p>1 same mistake which I identified in the statement given 2 to the police. But in fact even the police was aware of 3 this. 4 In the middle of August 2018, I already refused -- 5 I mean starting from the end of August 2018, I already 6 refused spending one day each week working with the 7 police and assisting them in their criminal 8 investigation, because whenever I make a fresh witness 9 statement, I needed to submit it to the COI as well. 10 Now, in relation to the subject of the 11 investigation, it's actually benefitting them, and that 12 is why I suspended this approach. And after discussing 13 with the lawyer, I would rather clarify the matters 14 during the Inquiry. 15 MR PENNICOTT: Do you wish anything else, sir, or shall 16 I carry on? 17 CHAIRMAN: It will take a little while to digest the meaning 18 of all of that. It's quite complex. 19 MR PENNICOTT: Me too. I'm going to try to press on, if 20 I may. 21 CHAIRMAN: Yes, I think so. 22 MR PENNICOTT: Others can make of it what they will, and 23 perhaps I'll have an opportunity a bit later to have 24 a look at the answer. 25 Mr Poon, you gave six witness statements to the</p>	<p style="text-align: right;">Page 20</p> <p>1 a witness statement from senior management of China 2 Technology, which is you; yes? 3 A. Correct. 4 Q. And what then happened is the solicitors that you had 5 engaged wrote the Commission a letter saying, "Mr Poon 6 is going to give evidence, but also we are going to 7 provide you with witness statements from all of those 8 other personnel that have given police statements." So 9 the Commission didn't ask for it in that sense, but you 10 volunteered that those gentlemen we've been listening to 11 in the last few days would provide statements. 12 I think that's how it happened, is it not, Mr Poon, 13 essentially? 14 A. Not true. Why don't you retrieve the correspondence 15 issued by COI to our firm -- Lo & Lo. 16 Q. Can I ask you, please, to look at bundle D1, page 9. 17 A. Before this letter from Lo & Lo, there was also a letter 18 issued to Chinat for witness statements to be provided. 19 Q. Yes, indeed. If you want to look at that letter, it's 20 the previous letter in the bundle, Mr Poon. 21 What is the point you're seeking to make? 22 A. For all the documents submitted to the COI, I mean all 23 the statements and information submitted, were done on 24 the basis of this eight-page letter. It's based on the 25 request of the letter.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. Yes.</p> <p>2 A. In paragraph 5(b), we were asked to try our best to</p> <p>3 identify all the workers and individuals relevant to the</p> <p>4 Inquiry, who witnessed such events and occasions; isn't</p> <p>5 it right? We were responding to this letter.</p> <p>6 Q. Yes, indeed.</p> <p>7 A. (In English) Thank you.</p> <p>8 Q. What it says, at D3, Mr Poon -- I don't want to split</p> <p>9 hairs with you -- "The director and/or other responsible</p> <p>10 officers of your company", so essentially the request</p> <p>11 was made, if you like, as far as China Technology is</p> <p>12 concerned, to you, and you were asked to spell out and</p> <p>13 identify and deal with all these matters. No problem</p> <p>14 with that. I don't think there's anything between us.</p> <p>15 What then happened and why I put the question the</p> <p>16 way I did was that on 3 September, back to the letter,</p> <p>17 what was served was your first witness statement,</p> <p>18 together with all its exhibits, and I think either with</p> <p>19 it or shortly after a large quantity of documents that</p> <p>20 you made mention of earlier. Okay?</p> <p>21 A. Correct.</p> <p>22 Q. Then what this letter says is:</p> <p>23 "We are also instructed that certain employees and</p> <p>24 an ex-employee of China Technology have witnessed the</p> <p>25 cutting of threaded section of reinforcement steel bars</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Correct.</p> <p>2 Q. Mr Poon, first of all, was that interview conducted in</p> <p>3 English or Cantonese?</p> <p>4 A. English.</p> <p>5 Q. It lasted, I think, reading your evidence, about an hour</p> <p>6 or so; would that be about right?</p> <p>7 A. More or less an hour, yes.</p> <p>8 Q. In paragraph 80, you have identified the people who you</p> <p>9 say were present?</p> <p>10 A. Yes, to the best of my knowledge.</p> <p>11 Q. Right. We can put a tick against point 1, point 2,</p> <p>12 point 3, point 4 and point 5, because you're entirely</p> <p>13 right that they were indeed -- those persons were</p> <p>14 present. Clearly you were there, so point 8 is correct;</p> <p>15 and indeed point 9, there were indeed two other persons,</p> <p>16 a male and a female, which you couldn't identify, and we</p> <p>17 now know who they are. There was a Cheung Chi Keung and</p> <p>18 a Phyllis So Yee Ching. I don't know whether you know</p> <p>19 that?</p> <p>20 A. I cannot verify that even now.</p> <p>21 Q. All right. That's fine. The MTRC have told us.</p> <p>22 However, there's a bit of a problem at</p> <p>23 paragraph 80.6 and 80.7. What I'd like you to do,</p> <p>24 Mr Poon, is explain your process of</p> <p>25 reasoning/deduction/thought as to how my name got in</p>
<p style="text-align: right;">Page 22</p> <p>1 in the course of carrying out the construction works.</p> <p>2 They are Thomas Ngai, Ian But and Li Run Chao. We are</p> <p>3 now seeking their consent to release to us their copy</p> <p>4 statements given to the police during investigation and</p> <p>5 to prepare their witness statements for the purpose of</p> <p>6 the Inquiry."</p> <p>7 So all I'm saying, Mr Poon, and I don't think</p> <p>8 there's anything between us, is that essentially you</p> <p>9 volunteered to identify these gentlemen and they've all</p> <p>10 given witness statements and they've all given evidence?</p> <p>11 A. I agree. I agree that that's the meaning of this</p> <p>12 letter. I have to stress that it's not that we have</p> <p>13 volunteered that certain people would make the</p> <p>14 statements but it's at the request of the COI. In</p> <p>15 paragraph 5(b) of the letter from the COI, it says very</p> <p>16 clearly that this is what they want.</p> <p>17 Q. All right. Let's move on, Mr Poon. I want to go back</p> <p>18 to a topic we touched on earlier. If you could take</p> <p>19 your first witness statement, please.</p> <p>20 A. Yes, I have it.</p> <p>21 Q. Could you please go to paragraph 80.</p> <p>22 A. (Chinese spoken).</p> <p>23 Q. It's at this paragraph, Mr Poon, paragraph 80, where you</p> <p>24 give evidence about the interview that you had at the</p> <p>25 MTRC office in Hung Hom on 13 June 2018.</p>	<p style="text-align: right;">Page 24</p> <p>1 your statement.</p> <p>2 A. (In English) Okay.</p> <p>3 Q. So I'm now giving you an opportunity to do what I think</p> <p>4 you wanted to do a bit earlier.</p> <p>5 A. Although I don't think I speak very good English ...</p> <p>6 (In English) I do apologise to Mr Ian Pennicott.</p> <p>7 Q. It's an apology that is accepted, Mr Poon. Thank you</p> <p>8 very much.</p> <p>9 A. (In English) Thank you. It is my second apology.</p> <p>10 Q. Your solicitors apologised on your behalf before, but</p> <p>11 I'm very pleased to hear it from your own lips, if I may</p> <p>12 say so.</p> <p>13 A. (In English) And I did it in my third witness statement.</p> <p>14 Q. Your second witness statement.</p> <p>15 A. I will switch to Cantonese.</p> <p>16 Q. Anyway, carry on. Can you now explain to us how it came</p> <p>17 to be?</p> <p>18 A. Well, on that day, I was a bit surprised. I was invited</p> <p>19 by MTRC to an investigation. Leighton was not invited.</p> <p>20 I remember we were at the information desk at 9 am.</p> <p>21 I arrived on time on that day. The MTR staff who</p> <p>22 invited me had not arrived, but there was a large group</p> <p>23 of other MTR employees. I knew no one of them.</p> <p>24 Of course we shook hands, we tried to know each other.</p> <p>25 I didn't bring any name card, and I was not given any</p>

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1 name card by them, so I can only speak from memory --
2 I'm only speaking from memory. Then MTRC asked me to
3 continue to wait. I waited for some 10 to 20 minutes.
4 Two people from Leighton, Wallace and a Chinese man,
5 walked slowly towards me. I was not happy. I was here
6 to assist in the investigation. I had spent my time,
7 and then I was also asked to spend time to wait for
8 Leighton.
9 Anyway, we went to an MTR office, a meeting room of
10 MTRC. I was also surprised when I entered the meeting
11 room. Apart from some MTR people, there was an expat.
12 The expat -- well, he's quite beefy, fat, and he had
13 difficulty in sitting upright. Then there was a Chinese
14 man beside him. MTRC then introduced those present to
15 me. I clearly heard that there was someone from DVC
16 Chambers. I heard clearly.
17 Then the expat, in explaining his identity, he said
18 he had participated in an investigation of the Express
19 Rail Link. So I was given the impression that that's
20 an expat, and he told me his name but I cannot remember
21 the name.
22 Q. Can I just ask you to pause there. Who mentioned to you
23 or who said that there was someone from DVC Chambers
24 there? Because, Mr Poon, there wasn't, and I'm just
25 rather curious to know why somebody would have said that

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1 when there wasn't anybody from DVC there.
2 A. I definitely heard "DVC", and I also heard the person,
3 in introducing himself, said he had participated in the
4 investigation of the XRL, and he also asked me whether
5 I knew what's a COI, what's a Commission of Inquiry.
6 Q. Come back to my question, please. You have given that
7 long explanation about what happened at the meeting and
8 that's fine, but what I'm really interested in, because
9 quite a lot of us, Mr Poon, with perhaps some
10 justification, if I may say so, are quite interested to
11 know how you think, how you operate, how you conduct
12 yourself, in your business dealings and when you're
13 preparing witness statements, when you're writing
14 letters. We're all quite interested to try to have
15 a better understanding of what makes you tick, Mr Poon.
16 And I'd like to know how you got from the position of
17 a blank sheet of paper, with the names that you got
18 correct in paragraph 80, but more particularly how you
19 managed to get two names, or one name and one
20 description, incorrect.
21 A. This is just my usual practice. When I write something,
22 when I write a paragraph, I will do a background search,
23 if I don't know the background. I remember Wallace, who
24 sat behind me, I found from Leighton website, CPB, I saw
25 his photo and then I knew his title. Preston was not

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1 introduced to me. Brian Downie, Neil Ng -- I identified
2 that person from the MTRC website. Why I couldn't
3 identify the one in 80.9 -- because their appearances do
4 not appear in any MTR web page.
5 When I wrote this, I tried to find Neil Ng, and
6 I also tried to get some information from another one,
7 of the MTRC. I tried to get hold to some transcript of
8 meeting minutes, for the meeting with MTRC, so that
9 I wouldn't have to write these names from memory. But
10 MTRC wouldn't agree. Then I found Wong Wai Ming --
11 I knew Wong Wai Ming, or Philco Wong, I knew him, but
12 then the telephone call lasted ten seconds and he cut me
13 off.
14 Q. What's this got to do with Philco Wong, Mr Poon? I'm
15 now a bit lost. What I'm trying to focus on -- you've
16 explained your process of reasoning as to how you got
17 the names right -- let me try to encapsulate it perhaps
18 in a nutshell. You think you heard the initials DVC or
19 DVC Chambers. You went on the DVC Chambers' website?
20 A. (In English) Yes.
21 Q. You found me?
22 A. I search all the counsel photos.
23 Q. You thought, "Gosh, that looks like him", and that's how
24 my name ended up in there; is that it?
25 A. (In English) Exactly same as what TVB, misunderstood you

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1 and Mr Philip Boulding.
2 Q. Yes, we know that. But that's not the point. So that's
3 your explanation.
4 A. (Chinese spoken) to my good --
5 Q. Did you take a good look at the photograph that's on the
6 website?
7 A. Yes.
8 Q. Yes. So --
9 A. It looks somewhat different now.
10 Q. Indeed.
11 A. That's what happened.
12 Q. So that's your explanation? Right.
13 A. I suggest you update your photo on the website.
14 Q. It was only taken 12 months ago, Mr Poon. As for the
15 photograph that appears on your personnel chart, perhaps
16 you can update yours as well. That's just a joke,
17 Mr Poon.
18 All right, let's move on.
19 A. (Chinese spoken).
20 Q. Mr Poon, at the site, the Hung Hom site, think back to
21 July/August 2015, there was, I understand,
22 a sign-in/sign-out process that Leighton had for this
23 site; is that right?
24 A. Correct.
25 Q. That was a process which, as I understand it, applied to

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<p>1 general labourers, to general operatives, to supervisors 2 and to management such as yourself; is that correct? 3 A. Correct. 4 Q. Okay. So we'll come to that in a moment in a bit more 5 detail. 6 Mr Poon, can I just discuss with you, at this stage, 7 one specific point which I want to raise now, just in 8 case anybody else behind me wishes to ask some questions 9 about it. It's a point that's been introduced quite 10 late -- it's not a criticism but it's a point that has 11 been introduced quite late. 12 First of all, could I ask you, please, to go to your 13 first witness statement at paragraph 26. 14 A. Yes. 15 Q. You say there: 16 "Due to unforeseeable circumstances, Chinat only 17 commenced works in or about late July 2015. Leighton 18 also did not require Chinat to participate in the works 19 of EWL slab construction of area A ..." 20 All right? "Unfortunately", you say, "there were no 21 written records for such arrangements." 22 For my purposes, I'm not worried about not bay 1875, 23 I just want to focus on area A; okay, do you understand? 24 A. (In English) Okay, okay. 25 Q. You then say in paragraph 72 of your witness</p>	<p>1 there's also the OTE. 2 Q. Can we look at the schematic drawing that you provided 3 for us? It's in D2, Mr Poon, page 1102. 4 A. Yes. 5 Q. It's because I've looked at this, Mr Poon, that I am 6 suggesting to you that you are now describing area A as 7 area A1 and area A2 because that's what this shows; do 8 you see that? 9 A. Yes. 10 Q. Is this something, this schematic, that you prepared or 11 at least had some input into? 12 A. I did it myself. That's why it's late. 13 Q. Right. Okay. If one focuses for the moment on 14 area A2 -- 15 A. Yes. 16 Q. -- just looking at this, I appreciate it's a schematic 17 so I'm not taking any clever points on it. It's not to 18 scale, I understand all that. 19 A. (In English) Not to scale. 20 Q. Area A2 appears to be outside of and to the east of the 21 diaphragm wall; is that correct? 22 A. To the east of the diaphragm wall -- well, it's correct 23 to say to the east of the diaphragm wall, but not 24 outside the diaphragm wall. Whether you are talking 25 about the east side or the west side, you cannot say</p>
<p>1 statement -- there's a heading, "Actual pouring of 2 concrete", and you say: 3 "Against, and solely against, such background, 4 Chinat, in or about late July 2015 to late 2016, poured 5 concrete to area A, area B ...", and so forth. 6 So, on the face of your statement, there seems to be 7 an inconsistency; okay? 8 A. Okay. 9 Q. But now, as I understand it, just pressing on, if I may, 10 Mr Poon, in your latest witness statement that we 11 received on Sunday afternoon, you distinguish between 12 area A1, on the one hand, and area A2, on the other; is 13 that right? 14 A. Correct. 15 Q. Now, I deduced from the two statements that what you're 16 talking about in paragraph 26 of your statement is what 17 was excluded was effectively area A1; am I right? 18 A. A1, EWL track slab. 19 Q. Yes, we are only talking at this stage, Mr Poon, about 20 the EWL slab, because that's what you say, it was the 21 EWL slab area A that was excluded, which you are now 22 calling area A1, as I understand it. 23 A. Well, there are not just two slabs there. Quite the 24 opposite. From gridline 19 to gridline 47, there's also 25 a platform slab sitting on top of the track slab, and</p>	<p>1 it's outside the diaphragm wall. You cannot regard that 2 to the west of the diaphragm wall is inside and to the 3 east is outside. 4 Q. Is it connected to the diaphragm wall? 5 A. (In English) Connected, fully connected. 6 Q. But not on the -- you've got the slab, which we know 7 must be connected to the inside of the diaphragm wall. 8 Is this A2 connected to the outside of the diaphragm 9 wall? How does it work? We are genuinely trying to 10 understand this, from our perspective, Mr Poon. 11 A. It's connected. It's connected. 12 (In English) Not isolated. 13 Q. So it's connected on the other side of the diaphragm 14 wall to the slab? 15 A. Yes. 16 Q. So it doesn't actually form part of the EWL slab, does 17 it? 18 A. I would like to say this here. During the works, on my 19 contract, on the drawings, I didn't see that I would use 20 EWL slab to describe any location where we did the 21 works, because for every slab there is a name. It's 22 always been EWL track slab, EWL platform slab, middle 23 slab, NSL track slab and NSL platform slab, OTE 24 structure -- has always been clear, and this is -- 25 OTE -- this is the staircase, and plenum, this is the</p>

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1 staircase of the station.
 2 What I notice for this Commission, before, when my
 3 colleagues came to give evidence, maybe there was
 4 confusion, because if we just use "EWL slab" to describe
 5 it, it's not an accurate description of the names we
 6 used during the construction.
 7 Q. As I understand it, Mr Poon, apart from drawing our
 8 attention to the fact that there's an A1 and an A2 area,
 9 your only other point is that the concreting in A2 was
 10 done in January 2016?
 11 A. Yes, correct.
 12 Q. Okay. Thanks. You can put that away, Mr Poon.
 13 Mr Poon, we've heard quite a bit of evidence from
 14 some of your -- China Technology's employees about lunch
 15 meetings. Just a few general questions first.
 16 When you attended and had these lunch meetings, did
 17 you have any form of notebook or diary that you made any
 18 notes in when these meetings took place? I'm not
 19 suggesting there were formal minutes or anything like
 20 that, but any notebook, anything at all?
 21 A. Yes. There are two types of notes. The first type --
 22 now, in front of me on the desk, there was a notebook.
 23 Whenever there's something to do with the outside or to
 24 do with the contractual areas, I would note it in the
 25 notebook, so these are things to follow up on. Maybe

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1 there is a continuous list of things to follow up on.
 2 But then, for the short-term issues, because we had
 3 lunch meetings almost every day, maybe it's about the
 4 work flow, it's about personnel deployment or -- in our
 5 company, I would say it's human resources, resources,
 6 materials, methods and environment, and then we would
 7 put it on the blackboard, or rather a whiteboard. We
 8 had a whiteboard, two whiteboards together, it's about
 9 10 feet wide, 4 feet high, about.
 10 Q. So far as your notebook is concerned, do you still have
 11 it, for the year 2015?
 12 A. Yes, I do have it. Yes, I should still have it.
 13 I usually keep it in my office.
 14 Q. For the purposes of preparing your evidence for the
 15 Commission of Inquiry, have you gone back to that
 16 notebook and had a look at it and studied it or not?
 17 A. No, actually, I did not, because the notebook is kept at
 18 the site, so it follows my desk at the site office.
 19 Therefore, for this Commission, I looked at materials on
 20 the server in preparing my evidence.
 21 Q. So where do you think this notebook might be now?
 22 A. It should be in my Sheung Shui site office.
 23 Q. Right. You've not thought to go and search for it and
 24 look for it? Is it likely to contain any information
 25 that might be useful to us, Mr Poon, or don't you think

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1 so? I don't want to cause you unnecessary trouble. Is
 2 there anything -- I suppose to put it bluntly, Mr Poon,
 3 is there likely to be any record, any note in that
 4 notebook, about bar cutting?
 5 A. That notebook was mostly a to-do list. That's the
 6 format. It's about managing my own time, my work and my
 7 tasks. So it's just reminders, reminders to myself, and
 8 usually, for those reminders, as to whether I have done
 9 something usually or how much I have done, whether I've
 10 sent out letters or emails, so I study that very
 11 carefully. It's just to alert me to remember to do
 12 certain things. So that's why instead -- so I looked at
 13 our server, the company server, and they would be more
 14 accurate.
 15 Q. Well, you say that, but let's suppose you've got
 16 a notebook, which you say you have, and let's say, for
 17 the sake of example, it's 15 August 2015, mid-August
 18 2015. Let's just hypothesise for the moment, Mr Poon.
 19 Is the notebook likely to have a page that says,
 20 "15 August 2018 lunch meeting", and then some notes? Is
 21 that a possibility, or what is the position?
 22 A. Usually, for all the records I put down, I would put the
 23 date at the top right-hand corner and the relevant works
 24 contract number, and then to the left, where there is
 25 the blank space, I would put my notes. Usually they are

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1 in point form. Usually, it's about subjects. And
 2 sometimes, if I remember, then I do put in a red circle
 3 or highlight it. It's to really benefit my own memory.
 4 So, for things I need to do, let's say if I'm at the
 5 site office, I will check the list to see how much
 6 I have missed. So that's usually my practice.
 7 Q. Okay. Again, for example, Mr Poon, going back to my
 8 hypothesis of 15 August 2015, you had a meeting, would
 9 you record in your notebook who attended the particular
 10 lunchtime meeting in your notebook or would you not do
 11 that?
 12 A. No, no, no. It won't be that detailed. Not for the
 13 lunch meetings. Lunch meetings -- a special feature of
 14 our company, usually we would buy the lunchboxes for all
 15 our white helmeted workers, that includes supervisors,
 16 gangers and foremen and engineers, and sometimes office
 17 staff would also join. So usually, whenever I go, there
 18 would be a lunchbox meeting every day. That's why
 19 I won't make specific records of that.
 20 Q. Okay. We are going to look at one or two lunch meetings
 21 that you refer to in your witness statement in a moment,
 22 but before we do that, can I just ask you a couple of
 23 related questions. Could I ask you, please, to be shown
 24 bundle D1, page 75.
 25 A. Yes.

<p style="text-align: right;">Page 37</p> <p>1 Q. Thank you. What I'm interested in for present purposes, 2 Mr Poon, is a couple of clauses. Now, you may recognise 3 these clauses. They are part of your sub-contract with 4 Leighton. 5 A. Yes, yes, I recognise that. 6 Q. You have also usefully attached the contract, not all of 7 it but most of it, to your witness statement? 8 A. Yes, except for the drawings appended to the contract, 9 there are too many of them, so I didn't attach them. 10 Q. Yes. We have them elsewhere but for present purposes, 11 all I'm interested in is this. 12 Clause 7.1 I just wanted to ask you about. You can 13 see it's headed "Site representative". It says: 14 "At all times whilst actually engaged on the 15 sub-contract works, the Sub-Contractor shall employ 16 a competent and English-speaking site representative 17 approved by the Contractor and duly authorised by the 18 Sub-Contractor in writing." 19 Did you have such a site representative, Mr Poon, 20 and if so who was it? 21 A. Yes, I am; I'm the one. 22 (In English) I am. 23 Q. So you are the site representative? 24 A. Yes. 25 Q. That's fine.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Walkabouts. 2 A. (In English) Yes, site walks. Site patrols. 3 Q. Site walks. Now, you had discussions with Mr Rooney, 4 you say -- he doesn't accept that, of course, and I'm 5 going to leave that to Mr Boulding, if he wants to raise 6 that with you -- but all I want to know is whether you 7 complied with this clause and after that discussion with 8 Mr Rooney you notified Leighton about the discussion 9 with Mr Rooney? 10 A. I think I did comply. For the Monday patrolling, 11 I didn't ask to do it. Leighton instructed me to attend 12 this walkabout. Every Monday I had to attend, I was the 13 only sub-contractor's representative present, because at 14 the time Leighton's performance was really poor. Aidan 15 Rooney kept hammering them. Even their manager did not 16 dare to join the patrol. The project director dared not 17 to join either. 18 Q. Mr Poon -- sorry. 19 A. They had to make a sub-contractor to go. They 20 instructed me to join the patrol. So my understanding 21 was that Leighton knew fully that I was in direct 22 communication with Rooney on the works. That's a fact. 23 Q. That's your answer. Let me just summarise it so I can 24 make sure we understand it. 25 You had a discussion with Mr Rooney of MTRC, you did</p>
<p style="text-align: right;">Page 38</p> <p>1 Then can I just ask you to look at paragraph 7.4, 2 which says: 3 "The Sub-Contractor shall not directly communicate 4 with the Employer ..." 5 That's MTRC, so far as you're concerned, Mr Poon; 6 yes? 7 A. Yes. 8 Q. "... the Employer's representative, the Engineer or 9 Architect without the prior written consent of the 10 Contractor. If the Employer, the Employer's 11 Representative, the Engineer or Architect communicates 12 directly with the Sub-Contractor, that communication, 13 correspondence, meeting or discussion shall be 14 immediately and fully disclosed to the Contractor and 15 all future communication, correspondence, meeting or 16 discussion shall be subject to the prior written consent 17 of the Contractor." 18 Are you aware of that provision in the contract? 19 A. Yes. Yes. 20 Q. You give evidence in your witness statement about some 21 discussions that you say you had with Mr Aidan Rooney in 22 I think September 2015 -- 23 A. Yes. 24 Q. -- at certain Monday morning meetings. 25 A. "Monday morning meeting", that term --</p>	<p style="text-align: right;">Page 40</p> <p>1 not inform Leighton of that discussion because you 2 thought effectively they were already aware that you 3 were speaking to Mr Rooney; is that what it comes to? 4 A. Yes, of course. Leighton forced me to join the patrol. 5 I didn't want to go. Because every Monday I have to 6 spend half a morning to join them in the site patrol. 7 Q. All right. Now, there were, in September 2015, Mr Poon, 8 four Mondays: the 7th, the 14th, the 21st and the 28th. 9 Do you recall which of those Mondays you had your 10 discussion or discussions with Mr Rooney? 11 A. No, I can't remember. It's roughly around that time. 12 I remember, even for the Monday meeting or the Monday 13 site patrol, it's routine, we had to do it every Monday. 14 Sometimes Mr Rooney might be busy, he might reschedule 15 it, but if he's quite eager, maybe he would schedule it 16 to the afternoon or the following day; it might happen 17 some time. Most of the time on Mondays I had to attend 18 the site patrols. That's why on Monday I would clear my 19 schedule; I would definitely be on site. 20 Q. We are going to look at your attendance at site in 21 September in a short while, and bear in mind those four 22 Mondays that I've just mentioned. 23 Mr Poon, could I ask you, please, to go to 24 paragraph 30 of your witness statement. 25 A. Yes, I see it.</p>

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<p>1 Q. Unfortunately, Mr Poon, this is a paragraph where 2 I suspect you might be accepting from me that there are 3 a number of errors, and so we'll just take it slowly; 4 okay? 5 A. Yes, I'm waiting. 6 Q. What you say here -- and the first thing I've got to 7 cope with, Mr Poon, is there are three versions of this 8 paragraph: one here, one in your first police witness 9 statement, and one in your second police witness 10 statement, and we may have to look at all three to try 11 to piece it all together. 12 You say: 13 "In mid-August 2015, I and 12 other staff of Chinat 14 had an internal meeting at Chinat's temporary offices in 15 the ... construction site." 16 Was this one of the lunch meetings or was it some 17 other special meeting? 18 A. It should not be a lunch meeting. If it's lunch 19 meeting, I would have written "lunch meeting". I think 20 this meeting is a site meeting where the staff from the 21 office also joined, because the work just only started 22 not long ago. 23 Q. All right. How have you managed to remember that there 24 were 12 people there, in addition to you? 25 A. I counted at the time. Now, apart from staff stationed</p>	<p>1 A. Not correct. Definitely not. 2 Q. Why do you say that? 3 A. Because I saw your cross-examination of my other staff 4 members, and very often you would make use of the 5 training records provided by Leighton or the entrance 6 records in your cross-examination, but you did not 7 consider the credibility of these documents and the 8 reliability of these documents. 9 Q. All right. Mr Poon, you'll appreciate that, as one of 10 the counsel to the Commission, I can only work with the 11 documents that we've been given by all the parties. At 12 the moment, until somebody tells me otherwise, I'm 13 prepared to, as it were, accept the reliability and 14 accuracy of those records. But you are now telling me, 15 are you, that there's something wrong with the Leighton 16 time-in/time-out records -- sign-in/sign-out records? 17 A. Well, you can just check me for one example. You cannot 18 find my sign-in/sign-out records. And also -- 19 Q. I can certainly find yours, no problem. 20 A. (In English) No, not full, not full. 21 Q. We're going to do that in a moment. 22 A. (In English) Not full. 23 Q. I tell you what, Mr Poon -- 24 A. There's still some more -- 25 Q. Wait. Let's forget about the Leighton records.</p>
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<p>1 on site, that is the white helmeted supervisors, and so 2 on, people from the office, from the procurement office, 3 human resources or safety department, they were all 4 there, because it was the start of the work so we had to 5 assign tasks. 6 Q. Right. So this is not a lunch meeting, this was 7 a special sort of one-off, kick-off type meeting with 8 all your staff, essentially? 9 A. (In English) Ad hoc meeting. 10 Q. An ad hoc meeting? 11 A. (Nodded head). 12 Q. I assume there's no record of this meeting anywhere, 13 Mr Poon? 14 A. Correct, none. 15 Q. You go on to say this: 16 "Mr Leung" -- and then we know who that is because 17 he's referred to earlier -- "reported to me orally that 18 he saw in late July 2015" -- so Mr Leung saw in late 19 July 2015 -- "someone cutting the threaded rebars using 20 cutting/grinding machines at bay 2 and bay 4 of 21 area C1." 22 A. Correct. 23 Q. Mr Poon, can I suggest to you that that cannot be right 24 in terms of the date, because Mr Leung did not start on 25 the site until 18 August 2015.</p>	<p>1 A. (In English) Okay. 2 Q. Forget the Leighton records. 3 Have a look at D1/224. We are back to the personnel 4 chart. 5 A. Yes. 6 Q. Find Mr Leung and tell me when he started. 7 A. 18 August 2015 -- 8 Q. Precisely. 9 A. To 3 March 2016. 10 Q. Precisely. 11 A. That's records retrieved from the sign-in/sign-out 12 records by our HR staff. 13 Mr Leung is a special case, as I said, because it 14 was until the stage when the police was called, we never 15 tried to contact Mr Leung. Mr Leung left our company 16 because of embezzlement. 17 Q. So are you saying now that -- let's take this in 18 stages -- the Leighton sign-in/sign-out record for China 19 Technology which they have given to the Commission, and 20 which we have been looking at from time to time with the 21 other witnesses -- first of all, were you, China 22 Technology, given a copy of those documents by Leighton? 23 A. Yes, because we relied on this document as one of the 24 documents for payroll. 25 Q. Okay. Those documents show that Mr Leung did his</p>

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<p>1 induction course on 18 August, and indeed started work 2 in the afternoon of 18 August 2015. 3 A. That's what the documents suggest, but that's not what 4 actually happened. 5 Q. And so when you receive -- sorry, let me just ask you 6 this: when did you first receive the sign-in/sign-out 7 records from Leighton? 8 A. Our personnel department at the end of each month would 9 ask Leighton for the record. Usually the record would 10 be provided at the beginning of the month for the 11 purpose of paying wages. 12 Q. So it was on a rolling basis, on a month-by-month basis, 13 they would submit them to you? 14 A. Sometimes it's half a month, sometimes a month. 15 Initially, it was half a month and then Leighton 16 complained of us giving them too much work and then it 17 changed to once a month. 18 Q. Okay. Presumably, if you are basing your payments, your 19 wages, to your employees on the basis of what Leighton 20 are telling you, if there's some inaccuracy, surely it 21 will be picked up during the course of the payment 22 process, and you will say to Leighton, "Well, sorry, but 23 actually Mr Leung here, you've got him on 18 August, he 24 was there a month earlier" or something? Surely you 25 would pick these errors up during this process? So what</p>	<p>1 18 August 2015, we already made wage witness statements 2 to Leung Kin. I think that would be proved. Because we 3 are not charity. According to Leighton, the record was 4 18 August 2015, but it wouldn't be possible for us to 5 pay him wages before that date. 6 Q. Well, you would have to show that you were paying him 7 wages and you were paying him wages for work on this 8 particular site. 9 A. I could even give you the tax return in relation to him. 10 Q. All right. 11 A. And I would like to supplement. I don't know whether 12 Leighton submitted this -- I mean whether Leighton 13 joined the site safety committee and whether the minutes 14 of the meetings are provided to the Commission, because 15 the minutes clearly show that Leighton had incessantly 16 asked the sub-contractor staff to attend small classes, 17 big classes, et cetera, because Leighton is a very 18 special company. It has really good bargaining power as 19 it is a big contractor, and every employee had to pay 20 Leighton \$400 for attending a class. A foreman of 21 Leighton on average earns \$20,000-\$30,000, but they need 22 to pay \$400 to Leighton for a certificate. That is 23 why -- 24 Q. Mr Poon, you are going well, well outside the ambit of 25 what I've asked you about, significantly.</p>
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<p>1 happened about Mr Leung? 2 A. Well, in fact I think that's a different vision, 3 different viewpoint. Nobody respected Leighton's 4 system. Leighton, on itself, thought it was a reliable 5 system, but even within Leighton, things were in a mess 6 with their staff. In fact the Commission seems to be 7 relying too much on the information provided by 8 Leighton. 9 Q. Mr Poon, I'm here trying to do my best with the 10 materials I've been given. I don't know how you've 11 compiled -- I've got a better idea now but I didn't know 12 how you compiled this site organisation chart. 13 A. (In English) To our best knowledge. 14 Q. Fine. Just bear with me; all right? 15 A. (In English) Okay. 16 Q. I've got the Leighton induction record, I've got the 17 Leighton sign-in/sign-out record, I've got your 18 personnel chart, all of which are consistent in telling 19 me and the Commission that Mr Leung started work on 20 18 August, not at any earlier date, and you now seem to 21 be saying that's all wrong, that he started at some 22 earlier date. Can you point to anything that 23 demonstrates that you're right and what we've got so far 24 is wrong? 25 A. Well, three years ago, in 2015, I mean on or before</p>	<p>1 A. (In English) Sorry. 2 Q. You are making speeches. It's not appropriate, with 3 respect. So let's just try to press on with some other 4 matters. 5 A. (In English) Sorry about this. 6 MR PENNICOTT: Sir, would that be a convenient moment? 7 I see it's just gone 11.30. 8 CHAIRMAN: Certainly. 15 minutes. 9 MR PENNICOTT: Sir, could you give Mr Poon the usual 10 warning, perhaps. 11 CHAIRMAN: Mr Poon, you are now giving your evidence, and 12 for the period of time, which I suspect will be a couple 13 of days, if not longer, that you are in the process of 14 giving your evidence, whether you're at home at night or 15 just having a coffee break like now, you are unable to 16 discuss your evidence with anybody, including your own 17 lawyers. Okay? Once you are in the box, in the witness 18 box, that is, giving your evidence, you must keep your 19 own counsel only. All right? 20 WITNESS: (In English) Understand. 21 CHAIRMAN: Good. 22 MR PENNICOTT: Thank you, sir. 23 (11.31 am) 24 (A short adjournment) 25 (11.49 am)</p>

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1 MR PENNICOTT: Thank you, sir.
2 Mr Poon, we were looking at paragraph 30 of your
3 witness statement, at D19.
4 A. Yes.
5 Q. Could I just ask you, please, to go to your first police
6 witness statement. It's paragraph 7 I want to look at,
7 which you will find at page 756 in the Chinese version
8 and 759.2 in the English version.
9 You will see there, in the first line of the first
10 police witness statement, you say, "In July 2015, when
11 I was having a meeting with staff at the construction
12 site", and so forth.
13 Then if you look at your second police witness
14 statement, at paragraph 3 -- the Chinese version, D1 --
15 sorry, D2/760; English version, D2/765.1 -- you say:
16 "At noontime on a certain day in late July 2015 ..."
17 And then you go on to describe the meeting with
18 12 people and you identify at least four people who you
19 say were there.
20 So the two police statements say the meeting took
21 place, first of all, in July 2015, late July 2015, and
22 your witness statement says mid-August 2015. Which is
23 right, Mr Poon?
24 A. There's no contradiction. Late July and August. Well,
25 July is just the same as late July. I already said the

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1 exact date could not be provided. And in the statement
2 to the COI, it was put as mid-August. It was more
3 accurate.
4 Q. So, when preparing your witness statement, you reflected
5 upon what you had told the police, and as a consequence
6 of that reflection you decided that the meeting must
7 have taken place in mid-August; is that right?
8 A. Could you please repeat the question again?
9 Q. Sure. You told the police on two occasions that the
10 meeting had taken place in, firstly July 2015, secondly
11 late July 2015, at noontime, but in your witness
12 statement you say the same meeting took place in
13 mid-August 2015.
14 A. Yes.
15 Q. So all I'm suggesting to you is you must have, for the
16 purposes of preparing your witness statement for the
17 Commission, reflected upon what you had told the police,
18 concluded that it was incorrect, and put in the date of
19 mid-August 2015. It's a simple process, Mr Poon. It's
20 not difficult. Is that what happened?
21 A. This is what happened. In the statement given to the
22 police and also in the statement given to the
23 Commission, I started to work for that site, and then
24 I was thinking about why the rebar was cut. The
25 statement to the police was given in mid-June or early

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1 June. I did not have the opportunity to read the papers
2 in the server. But when it was time for me to give the
3 statement --
4 MR TO: I think he said July.
5 MR PENNICOTT: It's July, not June.
6 A. When it's time for me to give a statement to the
7 Commission, it was already September. I checked -- at
8 that time, I have checked many documents. I was told by
9 my human resources the attendance record of the relevant
10 people, so I said to the best of my knowledge -- I put
11 that in my statement to the Commission, that it's to the
12 best of my knowledge.
13 Q. All right. Now, back to paragraph 30 of your witness
14 statement.
15 A. (Chinese spoken).
16 Q. You say:
17 "Mr Leung reported to me orally that he saw in late
18 July 2015" -- and I'm not going over that again --
19 "someone cutting the threaded rebars using
20 cutting/grinding machines at bay 2 and bay 4 of
21 area C1."
22 Do you see that? Now, let's deal with bay 4, first,
23 of area C1.
24 A. (In English) Okay.
25 Q. The records that have been submitted to the Commission

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1 by Leighton and by MTRC indicate that the rebar in
2 area C1-4 -- C1, bay 4 -- commenced on 14 September
3 2015.
4 A. Mmm.
5 Q. Can I suggest to you, therefore, that it is unlikely
6 that Mr Leung would have been reporting cutting of rebar
7 in that area at the end of July. Do you agree with
8 that?
9 A. No, I don't agree.
10 Q. And why don't you agree?
11 A. (Chinese spoken).
12 MR PENNICOTT: There's no translation. Can you pause just
13 a moment?
14 INTERPRETER: "I had my suspicions when Mr Leung reported
15 that to me, because I also visited the site myself."
16 MR PENNICOTT: Were you going to say something else,
17 Mr Poon? Because if you were, you can continue.
18 A. (In English) Okay. From the beginning? I resume from
19 the beginning.
20 Q. Do you want me to put the point again? You understand
21 the point I'm making, that in C1-4, the rebar, according
22 to the records, started on 14 September, so I'm
23 suggesting to you it's not likely that Mr Leung could
24 have seen rebar cutting there in July, and you don't
25 accept the point I'm putting to you?

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1 A. Yes.
2 Q. So why do you not accept it?
3 A. Let me answer that question now. The cutting of the
4 coupler doesn't mean that the installation would have to
5 take place at the same location. At the end of July, my
6 impression is that Leighton only did some digging at C1.
7 There was unexcavated area where power supply was
8 already ready. Where the excavation had taken place,
9 there was no power supply yet. So there's nothing that
10 would cause me to disbelieve Mr Leung, because the
11 cutter would require power supply.
12 Q. But what is absolutely clear, Mr Poon, is that even if
13 you're right, that Mr Leung saw cutting in C1-4 in July,
14 neither he or you or anybody else could have seen that
15 cut rebar being screwed into the diaphragm wall in that
16 area at that time.
17 A. I didn't see that in July. That's hearsay. I put it
18 very clearly. I was told so. He did not tell me that
19 the bar was screwed in, no.
20 Q. Okay. That's clear.
21 Now, so far as C1, bay 2, is concerned, which is the
22 other area that you mention, the rebar in that area,
23 according to the records that the Commission has been
24 given, started on 1 August 2015 and continued through to
25 19 August.

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1 Now, that's obviously a lot closer in terms of time
2 to the matters that you're talking about in your meeting
3 in mid-August. Okay?
4 A. (In English) Okay.
5 Q. Right. But again, as I understand it, it's obviously
6 hearsay evidence from Mr Leung --
7 A. (In English) Yes.
8 Q. -- again, so far as area C1-2 is concerned, there's no
9 question of any rebar, cut rebar, having been seen to be
10 screwed into the diaphragm wall in July/August, in that
11 area?
12 A. Let me put it this way. What I meant was, in my
13 statement, I didn't say that after they cut it, they
14 screwed it in. But I couldn't recall whether Mr Leung
15 told me the bars were screwed in. That's why I didn't
16 put it there, in the statement.
17 Q. Right, so it's not in the statement and as I understand
18 it you don't now say, you are not saying now to the
19 Commission, that Mr Leung had told you that he saw it
20 being screwed in, in either C1-2 or C1-4?
21 A. He said at that location, C1-4 location; he did not tell
22 me whether the bars were screwed in at C1-2 or C1-4. He
23 didn't tell me.
24 Q. Thank you very much.
25 CHAIRMAN: Could I ask you this -- I'm aware of your

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1 qualifications, and I'm aware, therefore, you will have
2 knowledge of the formation of reinforced steel, putting
3 it into form -- but you've got two workers now, or
4 rather Mr Leung, you've been told that he's seen that
5 these rebars have been cut at or about the threaded
6 area, I think, in two areas; okay? C1, bay 4 and bay 2,
7 but he doesn't say they have been used to be screwed in
8 anywhere.
9 So what he's reporting is, "I've just seen some
10 people cutting some bars, I don't know why but I've seen
11 them cutting bars." There could be an entirely sensible
12 reason for doing that. I mean, why would you have even
13 taken any notice of that? Is it because cutting of bars
14 was strictly prohibited? Is it because there was some
15 else that led you to be suspicious?
16 A. Actually, initially, even when I first saw it initially,
17 Leighton's people cutting bars, I'm referring
18 particularly to the threaded bar, that is the threaded
19 section of the rebar. They didn't cut it one by one.
20 Now, the bars came in bundles, and when they cut them,
21 they cut bundle by bundle, and initially used a grinder
22 to cut the bars, and when a grinder is used to cut
23 something, there are a lot of sparks. That's why it's
24 eye-catching. For someone with experience, including
25 myself and Leung Kin, we knew it was not normal. It was

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1 not normal.
2 Now, if it's about cutting reinforcement bar,
3 I would have no doubt, because it's about measuring the
4 lapping length. But if it's cutting of the threaded
5 section of the bar, it is most usual.
6 Also, for myself, for the threaded section, after
7 it's been put through heat and after a thermal impact,
8 the rebar would have lost at least 25 per cent of
9 tensile strength. This is a very important issue to me.
10 In Hong Kong, that is not our standard.
11 CHAIRMAN: All right. Are you saying, then, that Mr Leung
12 and these reports you received, you received detail as
13 to the fact that the bars were in bundles, that they
14 were cut with a particular type of machine, et cetera?
15 You entered into a conversation with him about this?
16 A. Now, my conversation with Mr Leung was this. Mr Leung
17 told me that the bars came in bundles. The threaded
18 rebars, they came in bundles. They didn't come one by
19 one. So maybe in one bundle there were several dozens
20 of bars and then they would be lifted to a certain
21 location and left there, and then there would be someone
22 cutting the bundle. But of course in the cutting
23 process it's one by one but they cut bundle by bundle
24 and then the machine they used was a hand-held grinder.
25 It's not until September that we saw a disc cutter.

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1 CHAIRMAN: All right. It's just that unless my memory fails
 2 me, I have received no evidence from the witness himself
 3 as to his memory of anything like this.
 4 A. Mr Chu mentioned a hand-held machine, the green machine,
 5 the one he described.
 6 CHAIRMAN: A hand-held machine, but I'm talking about
 7 bundles, I'm talking about grinders, I'm talking about
 8 why you, as a professional man, would have become
 9 suspicious of what was happening when there was no
 10 insertion of these rebars into the diaphragm wall,
 11 indeed when it appears there wasn't even any building of
 12 slabs at that stage; it was just excavated.
 13 MR PENNICOTT: Yes.
 14 A. No, no, no. Now, first of all, the witness before did
 15 not say that. It's not for me to speak for him, but
 16 from what I heard from outside, the witnesses came here,
 17 they were mostly being hammered by the counsel of
 18 Leighton and MTRCL, but actually at the time there were
 19 many different work processes going on. We were not the
 20 first to go into the site. Pile cap was being done, at
 21 the time they used couplers as well.
 22 CHAIRMAN: All right. I should say, just as a start, I can
 23 assure you, if I thought that they were being hammered,
 24 as you put it, I would have said something. I thought
 25 the questionings that were put to them were quite

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1 proper. All right? So that may have been your
 2 impression or friends may have told you that, but
 3 I don't think it's the actual case. They were asked
 4 questions in a civilised, rational way, and they gave
 5 answers which, to my memory, spoke of nothing about
 6 bundles and spoke of nothing about -- that there was any
 7 particular cause for concern. In fact, in certain
 8 respects, what they appeared to say -- and again I'm
 9 open to correction -- is that because they were getting
 10 on with their own job, they didn't take too much notice.
 11 Now, there's a big difference between not taking too
 12 much notice and thinking, "Wow, what's going on here?
 13 This is looking very odd."
 14 Do you see the point?
 15 A. I could recall this -- I think it was But Ho --
 16 I couldn't recall exactly his Chinese name, But Ho Yin
 17 or But Ho Sau, but in his evidence he said on the floor
 18 there were some ten or so bars already cut. But
 19 of course he didn't mention that there was cutting of
 20 the whole bundle. But he explained what he saw, that
 21 is, after cutting, there were some over ten, not just
 22 one, cut sections on the ground. That was a fact. And
 23 that's what Leighton has been doing wrong all along.
 24 MR PENNICOTT: Mr Poon, can I just try to break this down
 25 a bit. The evidence that you're giving at this

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1 particular juncture appears to be confined to what
 2 Mr Leung told you --
 3 A. (In English) Okay.
 4 Q. -- back in July/August 2015. Am I right?
 5 A. (In English) Yes.
 6 Q. Just pause there.
 7 The point that the learned Chairman is putting to
 8 you is that we've heard from four of your employees, and
 9 none of them have described a process by which
 10 a large -- none of those four have described a process
 11 by which a bundle of threaded rebar turns up on the
 12 site -- if they had said that, I would have been asking
 13 them how many are in a bundle and where precisely was
 14 it, and so forth, but park that -- none of them have
 15 described this bundle, however big it may be, being cut.
 16 That's the point that's being put to you.
 17 And we are all right about that, aren't we? None of
 18 those four witnesses have described that process?
 19 I accept what you say about Mr But ...(unclear words due
 20 to Mr Poon overspeaking)... on the floor but --
 21 A. They didn't use the word "bundle", true.
 22 Q. No, but they have been talking -- each witness, I think
 23 it's fair to say, Mr Poon, has been talking about a bar
 24 here or two bars here, possibly three bars, but nobody
 25 has been talking about a significant bundle of rebar.

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1 A. (In English) No, no, no. I think Mr But describing
 2 a relatively large quantity.
 3 Q. I think you are right. He described seeing ten on the
 4 ground or something. I don't think he actually saw
 5 those being cut; he just happened to see a quantity, he
 6 said, on the ground, and indicated, I think, to the
 7 Commission, that when he -- he saw them, but when he
 8 returned the following day, they had disappeared.
 9 I think that's what he said.
 10 A. Mmm.
 11 Q. I think it might be appropriate for you, in the light of
 12 that evidence, Mr Poon -- you've obviously -- we've made
 13 enquiries of China Technology about Mr Leung, and my
 14 understanding is he's no longer employed by you, and
 15 I think I heard you mention the word "embezzlement"
 16 earlier this morning but I may have misheard you.
 17 A. More than, not just that, more than that.
 18 Q. All right. So he is no longer employed by China
 19 Technology. When did he leave you? When did he depart?
 20 A. More than a year ago. More than a year ago.
 21 Q. All right.
 22 CHAIRMAN: Sorry, can I just ask you this, because --
 23 forgive me if I'm coming in at this at sort of very
 24 basic level. I'm not a trained engineer so I'm having
 25 to catch up with this. But it would seem to me, and I'd

<p style="text-align: right;">Page 61</p> <p>1 like your explanation, if that is your answer, that you 2 are saying, on the one hand, that the cutting of these 3 reinforcing -- or the rebars at the threaded end -- is 4 that right? 5 A. Yes. 6 CHAIRMAN: -- took away a great deal of tensile strength 7 from the bar; okay? 8 A. (Nodded head). 9 CHAIRMAN: That's the one issue. 10 The other issue would seem to me that if there is 11 a diaphragm wall and you are looking to screwing these 12 in, then unless the threads are untouched, they are not 13 going to go in the full way, they may not go in at all, 14 and therefore the structural integrity of the join is 15 going to be affected. 16 Now, at that time, from what you heard -- and it's 17 hearsay, I appreciate that -- what concerned you? Was 18 it that just these were bars that now didn't have the 19 tensile strength they should have had, or that they may 20 perhaps, but perhaps not, at some place, at some time, 21 be used to screw into the couplers? 22 A. Let me explain this a bit more. The way I see it, from 23 my angle, it's more than just about cutting threaded 24 rebars. The whole consideration, it's not just about 25 the tensile strength. Here we are talking about the</p>	<p style="text-align: right;">Page 63</p> <p>1 not really that difficult to screw in these threaded 2 bars. 3 It's either that, or your view was because of the 4 lack of tensile strength, for whatever purpose these 5 rebars should eventually be used, they will not be up to 6 the job. 7 What was concerning you, sufficiently -- 8 MR PENNICOTT: At the time. 9 CHAIRMAN: -- at the time? 10 A. At the time, my consideration was we must know how 11 massive the cutting of the rebars was, at the time. 12 Usually, in Hong Kong, in terms of structure, the dead 13 load or live load, the safety factor is 1.4. Say, out 14 of the total, there's a damage of 5 per cent, 15 10 per cent, honestly there wouldn't be a problem. But 16 of course, whether it's allowed under the contract is 17 a separate matter. 18 But my estimate all along, at the time I didn't get 19 it. But of course afterwards I paid attention and in my 20 mind I estimated it was about 5 per cent all along. 21 CHAIRMAN: No, no, what I'm interested in is what concerned 22 you, as Mr Pennicott said, at the time? Because as far 23 as I can see, this information that came to you in 24 July/August was just, "I've seen people not putting into 25 couplers but just cutting these things." Why would you</p>
<p style="text-align: right;">Page 62</p> <p>1 structure of a train station. The track slab is for 2 accommodating train operations. The connection, the 3 most important consideration is not only tensile 4 strength but also ductility. That ductility is what 5 might hurt the structure most. It's about allowing 6 tremor. 7 For the connection between the diaphragm wall and 8 the rebar and the configuration in the middle, the 9 consideration is not just about whether the structure 10 might collapse when it's freestanding. No, it's 11 definitely not about that. Because this structure is 12 a train station, so one of the important considerations 13 is the ductility at the connection point. 14 (Chinese spoken) -- 15 CHAIRMAN: I don't want to go into, as fascinating as it is, 16 a lecture on engineering theory. What I'm more 17 concerned with is: what concerned you at that time? 18 Because, on the one hand, if they are busy cutting these 19 threads, to a layman like myself, it looks like almost 20 a case of mass fraud. That what you're doing is saying, 21 "We don't care what happens, we are just going to take 22 the easy way out and pretend." That's a very dangerous 23 exercise for the people doing it, because it appears by 24 and large to be an exercise which, if you listen to the 25 evidence, providing everything is lined up okay, it's</p>	<p style="text-align: right;">Page 64</p> <p>1 have then said, "Wow, this is something I've got to 2 remember, this is serious, this could be damaging and 3 I must pursue the matter further"? 4 A. My company does bar bending as well. We have about 5 \$60 million worth of bar bending business. It's far 6 more than what this other sub-contractor is doing. If 7 we handle couplers in Hong Kong, we will watch it all 8 the time. The bars must be screwed in 100 per cent 9 under inspection and we have to use a torque. 10 CHAIRMAN: I appreciate that, but we're not talking about 11 couplers here. We're talking about the bars. 12 A. At Hung Hom Station we saw all of a sudden there was no 13 supervision at all, it seems, and we thought it was 14 strange. 15 CHAIRMAN: All right. 16 A. That's why we paid attention to that. 17 CHAIRMAN: These people were doing something away from 18 you -- they were different sub-contractors, this is the 19 point I'm trying to get to -- and you are a busy man. 20 Somebody comes up to you and says, "I've seen them using 21 the machine that brings about sparks, they appear to be 22 cutting these things short", no suggestion they're being 23 put into couplers. You don't know what you are going to 24 do with them. For all you know, there may have been 25 excess and they just wanted to cut them up for whatever</p>

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<p>1 purpose, and yet you decided at that moment this time 2 that it's of sufficient seriousness that you are now 3 going to pursue this issue. Why? 4 A. You know, with me always, when a problem is presented 5 before me, I will address it. I won't evade, I won't 6 ignore it. 7 Here, this paragraph is about Chinat, and I am the 8 management. It was the first time I heard about this 9 incident. It was not my own experience. To me, it was 10 hearsay. But, to me, it was special. I also know that 11 for my company, the scope of works we are responsible 12 for at the Hung Hom Station, if this incident eventually 13 became something serious, then even Chinat might be 14 implicated. From the management point of view, when 15 someone told me about this, I definitely would think 16 this is something that needs to be addressed. 17 CHAIRMAN: All right. 18 MR PENNICOTT: Back to paragraph 30, please, Mr Poon. 19 When Mr Leung made this report to you and you 20 identified two potential areas in your witness 21 statement, do you know whether that cutting was taking 22 place, alleged cutting was taking place, at the lower 23 level in the EWL slab or the upper level, the top level? 24 Because we know the slab has rebar at the top and rebar 25 at the bottom. Do you know whether this was at the top</p>	<p>1 respect, to try to identify, if we can, the sort of 2 areas that you're saying this took place in. 3 Now, C1-4, for example -- and I pointed out to you 4 that in fact the rebar didn't start until 5 mid-September -- that's an area where Leighton and MTRC 6 say, "We changed the design in C1-4, we reduced the 7 concrete level and we had through-bars." 8 So if they're right -- that's why I'm trying to test 9 it, I'm not saying they are right, Mr Poon; I just need 10 to test you about it -- if they are right, then the 11 whole question of threading of rebar, screwing into 12 couplers, simply doesn't arise in that area. Now, it 13 might arise in different areas, I accept that, but in 14 that particular area it doesn't arise. 15 Do you understand the point? 16 A. I understand your question, but I want to supplement. 17 For East West diaphragm wall, they have totally 18 different ways of handling. You were only referring to 19 the eastern diaphragm wall, whereas for the western 20 diaphragm wall it wasn't handled this way. There was 21 screwing of bars into the diaphragm walls on the eastern 22 side. And from the photos, we can see that for a lot of 23 places the through-bars weren't used. 24 But from what I could see, out of the blue, there 25 was an extra lapping -- lap tensile area is prohibited.</p>
<p>Page 66</p> <p>1 or the bottom, the report that you were being given? 2 A. In paragraph 30, that is in the middle or early August, 3 I had no idea. 4 Q. Right. You see, because one of the problems that we've 5 got to think about with your evidence, Mr Poon, and the 6 evidence of the other witnesses, is this -- and you 7 alluded to, I think, this point earlier -- that we now 8 know that in significant areas along the top of the 9 diaphragm wall, the concrete was reduced by about half 10 a metre? 11 A. (In English) Cut-off level. 12 Q. Half a metre. 13 A. (In English) Not only. Not only half a metre. 14 Q. All right. Just bear with me. Reduced by, I say, half 15 a metre, you perhaps say a bit more, but let's just park 16 that one for the moment. 17 Couplers were dispensed with, and through-bars were 18 used. So, in that instance, cutting of bars, screwing 19 into couplers, it's irrelevant, on one view it's 20 irrelevant, because the couplers simply aren't there. 21 They've been dispensed with because of new design from 22 long sections of this diaphragm wall, at the top -- I'm 23 not talking about the bottom level, I'm talking about 24 the top level. 25 So that's why I've been pressing you, Mr Poon, with</p>	<p>Page 68</p> <p>1 Q. You may be able to help us more about this particular 2 topic when we look at some photographs later, Mr Poon. 3 A. (In English) Okay. 4 Q. But this is why we've got to think carefully, why we 5 shouldn't shoot from the hip, why we've got to try to 6 identify where this actually happened, because, as 7 I say, it would appear that apart from perhaps -- and 8 again this all needs to be proved in due course -- if 9 one defines it in terms of diaphragm wall panels, on the 10 East Wall, apart from about 14 of the panels, so 11 Leighton and MTRC say that they adopted a through-bar 12 design. So in relation to those areas, couplers become 13 or the coupler issue becomes redundant. Do you follow 14 the point, at the top level? 15 A. I understand your question, I do. 16 Q. Now, back to paragraph 30, I'm afraid -- I haven't quite 17 finished; this could be the last point but I'm not 18 sure -- the last sentence of paragraph 30, Mr Poon, you 19 say this: 20 "At the same time ..." 21 Now, I assume by that you mean mid-August 2015; is 22 that right? 23 A. Yes. 24 Q. "... Mr Chu also corroborated with what was said by 25 Mr Leung ..."</p>

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1 Now, that is, I suggest to you, incorrect. Do you
 2 agree?
 3 A. Disagree. At that time, I did hear something like this.
 4 Q. Well, the problem with that, Mr Poon -- and you can
 5 comment if you wish -- Mr Chu has told the Commission
 6 that the first incident of cutting rebar that he saw was
 7 in late October 2015.
 8 Now, if that's right, he could not have been
 9 reporting to you about cutting rebar in mid-August. Do
 10 you understand the point?
 11 A. I understand. But Mr Chu didn't tell me he saw it
 12 personally first-hand. Mr Chu is a ganger of a team of
 13 30 workers. What Mr Chu meant was that he was told by
 14 one of his workers. Mr Chu was only responsible for
 15 carpentry works or formwork.
 16 Q. That's not what he told us, Mr Poon. We'll just have to
 17 make of it what we can.
 18 A. Well, that's from my recollection.
 19 Q. Okay.
 20 In paragraph 32 of your statement, you say this:
 21 "I suggested to Mr Leung that he should report the
 22 matter to MTRC for record purposes."
 23 First of all, Mr Poon, why would you leave it to
 24 Mr Leung? If this had been reported to you, surely you,
 25 as the senior management, owner of China Technology, you

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1 would have been the appropriate person, surely, bearing
 2 in mind clause 7.4 that we looked at earlier, to report
 3 the matter to MTRC. So why didn't you do that
 4 immediately after you had been told this in mid-August?
 5 A. That was the first time I heard about it, I didn't see
 6 it personally, and that's also my practice at work.
 7 I would not shoot from the hip unless I witness
 8 something myself.
 9 Q. Right. You go on to say in your witness statement --
 10 let's forget about Mr Leung for the moment:
 11 "Sometime later ... Mr Chu told me that they had
 12 reported the matter to MTRC."
 13 Now, we put that point to Mr Chu, perhaps not just
 14 once but a number of times, and he said quite clearly
 15 that he did not report it to MTRC; he did not see it as
 16 part of his responsibility. So that part of your
 17 evidence is also incorrect, is it not, Mr Poon?
 18 A. To my best knowledge and good understanding relating to
 19 this part of the evidence, it is correct. At that time,
 20 I did hear Mr Chu telling me this. I don't understand
 21 why Mr Chu then said something else to the COI. I do
 22 not want to make any speculation, but as far as I'm
 23 concerned, in preparing this witness statement, that was
 24 my knowledge.
 25 Q. All right.

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1 Now, in paragraph 33 of your witness statement, you
 2 say this:
 3 "In or about August 2015, I visited area C1 of
 4 the ... site for site inspection purposes."
 5 Now, that, with respect, Mr Poon, is pretty vague,
 6 "In or about August 2015". If the Leighton
 7 sign-in/sign-out records are to be believed, you were
 8 there in August on just about every single day, apart
 9 from perhaps the weekends.
 10 A. I even went on weekends, even on weekends.
 11 Q. I think you might have been there on the odd Saturday,
 12 but we can look at that if necessary.
 13 There are two aspects that are quite vague here, if
 14 I may say so, Mr Poon. One is "in August 2015" and the
 15 other is "area C1", which we know is broken down into
 16 five bays.
 17 First of all, can you help us: can you narrow down
 18 the date in August when you say you narrowed down this
 19 site inspection?
 20 A. I really cannot recall. I really can't recall.
 21 Q. And in terms of the area, C1, can you narrow that down
 22 for us in terms of a particular bay or bays?
 23 A. I remember, from my recollection, that the bays that we
 24 were responsible for pouring concrete, they were
 25 completed, and I visited the bays next to them and

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1 that's why I said it was bays 2 and 3.
 2 As for the exact location, I really do not recall.
 3 Q. You go on to say:
 4 "At a position between bay 2 and bay 3,
 5 I witnessed ..."
 6 We are talking about the EWL slab here; yes?
 7 A. Right.
 8 Q. "At a position between bay 2 and bay 3, I witnessed
 9 three male persons wearing reflective safety vests of
 10 Leighton using a grinding machine to cut the threaded
 11 rebars one after another."
 12 Do you see that?
 13 A. Yes, I see that.
 14 Q. So you did not witness this cutting of bundles of rebar
 15 at this time; it was one after the other, was it?
 16 A. Perhaps I didn't write it clearly. In fact, there was
 17 a whole bundle there, but the bars were cut one after
 18 another. For the threaded rebars, they were placed
 19 separately.
 20 Q. Okay. So there was a bundle and they were cut one after
 21 another; that's your evidence? And do you recall how
 22 large the bundle was?
 23 A. About 40 to 50 T40s.
 24 CHAIRMAN: Sorry, what does that mean, 40 to 50 P40s?
 25 MR PENNICOTT: T40s, a type of rebar.

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<p>1 A. (In English) A type of rebar, yes. 2 COMMISSIONER HANSFORD: 40-millimetre diameter. 3 A. (In English) Thank you. 4 MR PENNICOTT: You go on to say in paragraph 33: 5 "The surrounding environment was clear and bright. 6 I was around 30 to 40 metres away from the male persons 7 and can see them clearly without any obstructions 8 whatsoever in front of me." 9 Now, it's very difficult for me to even estimate how 10 far 30 or 40 metres is away from us. 11 A. (In English) Bigger than this room. 12 Q. You are telling me. About three to four times the 13 distance, I would think. We think the dimension corner 14 to corner is about -- between 10 and 11 metres. 15 A. From this wall -- I mean, for the panel, each panel 16 spans 900 and this room is therefore 10 metres wide. 17 Q. It's 10.6, actually. So you were a long way away -- 18 A. (In English) Yes. 19 Q. -- when you saw this going on, were you? 20 A. (In English) Yes, because they are using the (Chinese 21 spoken), grinding machine. 22 Q. What colour was the grinding machine? 23 A. (In English) Can't remember. 24 Q. You say that you approached the persons that were doing 25 this cutting with the grinding machine. Again, we're in</p>	<p>1 imagine, that they might damage the threads as well as 2 cutting them, and make it even more difficult to insert 3 them -- you saw them attempting to insert them and you 4 went up and tried to stop them? 5 A. Right. 6 CHAIRMAN: Okay. And no doubt -- did they say anything to 7 you? 8 A. Ignored me, just ignored me. 9 CHAIRMAN: All right. But that was clearly not merely 10 negligent but, if it had been done on purpose, with no 11 necessity to do it -- and I will explain what I mean 12 about that in a minute -- this was completely wrong 13 practice that was premeditated, and they didn't say 14 anything to you, they didn't try to explain themselves? 15 A. Usually, that's what happens to workers in Hong Kong. 16 Workers, at the work level. 17 CHAIRMAN: You see, when I talk about "necessity", from the 18 little I've learned -- and I'm open to much further 19 education -- I can see a situation when the dynamics of 20 the diaphragm wall and the building of the slab are such 21 that there's force pressures, which may, for example, 22 put the rebar at a slightly wrong angle, and when you 23 try to screw it into the coupler you can't get it in. 24 And then I can see, perhaps, a temptation to think, 25 "I've either got to gouge the coupler out of the wall</p>
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<p>1 August, and let's go back to some of the questions that 2 the chairman was asking you about. What prompted you -- 3 why did you think it was necessary to go to the chaps 4 that were doing this cutting, so you say, and ask them 5 to stop? Why did you think that was necessary? 6 A. First of all, I was told by Mr Leung Kin, I then 7 witnessed it myself. At first, I approached them to 8 take a good look whether they were indeed cutting the 9 rebars, because I could see the sparks a far distance 10 away. Then, when I approached them and I witnessed them 11 cutting the bars, I thought the workers were doing it 12 wrongly. I tried to tell them not to cut it any more. 13 It's only normal. 14 CHAIRMAN: So you've said here, in paragraph 34, that they 15 were cutting in order -- those are my words -- to 16 install them to the couplers on the diaphragm wall. You 17 didn't actually see them putting them into the diaphragm 18 wall. 19 A. That's true. True. 20 CHAIRMAN: You didn't or you did? You didn't see them 21 putting them into the diaphragm wall or you did? 22 A. (In English) Did. I did. I did see it. 23 CHAIRMAN: So then you were close enough to see that the 24 threads had been cut, and there was always a danger, 25 especially if they were using a grinder, I would</p>	<p>1 and fit it back in; you know what I'll do, I'll just cut 2 this little bit of the rebar and then I can get it 3 fitting and I can just put it in" -- I can see that as 4 a possibility, and I haven't heard evidence on it yet, 5 from time to time, if you can't get this done. 6 But you're describing a premeditated form of 7 avoiding any proper linkage of couplers to the bars, 8 premeditated and, with the greatest of respect, almost 9 wholesale, for no purpose. Would that be right? 10 A. Well, "wholesale", I don't quite agree with the word 11 "wholesale". I think it's just 5 per cent. 12 CHAIRMAN: This is not one bar -- 13 A. (Unclear words, overspeaking). 14 CHAIRMAN: -- they are doing it with a number of bars all in 15 one area? 16 A. That's right. 17 CHAIRMAN: I'm just having a real problem with trying to 18 understand: why are they doing that? If you are on 19 a building site and you see somebody take something that 20 is quite precious, I don't know, some electrical 21 equipment, put it in their pocket and walk away, you can 22 come to a conclusion they are stealing it; that's 23 understandable. But here, for me at this moment in 24 time, they are putting in rebars to couplers on 25 a diaphragm wall, which is the job they normally do,</p>

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1 which I understand, provided everything is lined up,
 2 that is aligned properly, it can be done in a matter of
 3 two minutes or so with a couple of workers -- all right,
 4 three minutes, but a very short period of time -- and if
 5 they are caught by somebody like yourself, or even worse
 6 by a senior officer of MTR or Leightons, doing something
 7 like this, and, you know, it's hardly something that's
 8 done in an instant, they could be fired. They could
 9 almost -- if you are doing something like this, it's
 10 almost sabotage.

11 I have a real problem with understanding why people
 12 would wish to do something like that for no purpose,
 13 because people don't act that way, and that's the
 14 difficulty I have. You might say if you are a hooligan
 15 and you are drunk and you are going to break a shop
 16 window, okay, that's built into exuberance, drunkenness,
 17 anger at society. This isn't. These are workmen,
 18 working day by day, being paid a wage, and they are
 19 sabotaging. It makes no sense to me and you have to
 20 forgive me, and I need to be educated there.

21 A. That's why I said it's a planned endeavour.
 22 (Chinese spoken) --

23 CHAIRMAN: Yes, but that's the point. Why plan it? You are
 24 not achieving anything, other than putting the entire
 25 structure in danger, if what you say is right.

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1 A. It's regrettable that the Commission is not going to
 2 look into the northern wall. If you look at it from the
 3 perspective of a third party, then you would buy the
 4 explanation of Leighton. It's easy to screw in. But if
 5 you look at this area, 50, with China Tech and also Wing
 6 & Kwong and Fang Sheung, we have different people,
 7 different management people. But MTRCL admitted to the
 8 Legislative Council on 13 July that at the northern wall
 9 they didn't even bother to screw the bar in. The photos
 10 show this to be the case, and they admitted it. Why?

11 CHAIRMAN: Thank you very much, but to me -- and I'll be
 12 educated on this by others as well, I'm sure -- this is
 13 a very important point, because if there's no purpose
 14 for doing something, people don't do it -- unless, as
 15 I've spoken about, the analogy of a hooligan on
 16 a Saturday night throwing a brick through a window;
 17 that's different.

18 But here we are talking about cold light of day,
 19 sober, obtaining a wage, under supervision --

20 A. (Shook head).

21 CHAIRMAN: Well, all right, "under supervision" in the sense
 22 that somebody might walk around the corner any second --
 23 and yet not just one rebar going into a coupler or being
 24 cut off and then put in because it's out of alignment or
 25 perhaps the threading is damaged, but an actual

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1 deliberate process involving a series of rebars.
 2 Now, are you able to give me any statement as to
 3 why, in your opinion, that would be a reasonable thing
 4 to do in the circumstances, or explicable even?

5 A. Yes. In my statement, and at the investigation carried
 6 out by the MTRC held on 13 July, I think there was
 7 a sentence taken away. The MTRC should have told what
 8 I had told them back then. The MTRC know this. I was
 9 talking about corruption. Leighton -- we have Karl
 10 Speed here --

11 CHAIRMAN: Sorry, is the word "co-optation" or "corruption"?

12 A. (In English) Corruption.
 13 (Via interpreter) Corruption.

14 MR PENNICOTT: It's "corruption".

15 A. Corruption. It's serious, at Leighton.
 16 (Chinese spoken) --

17 CHAIRMAN: All right. Again, you have to forgive me, and
 18 I need to be educated again, but I understand
 19 corruption, I understand money in somebody's back pocket
 20 by cutting corners, but here you've got to bring all the
 21 rebars on to site -- I'm not laughing out of amusement,
 22 I'm laughing out of bewilderment -- you've got to bring
 23 them all on to site, so you are not just saying, "Let's
 24 bring on half and the money goes into somebody else's
 25 pocket because we've now saved half the rebars -- you're

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1 bringing them all on, you're going to the bother of
 2 cutting them, for about three minutes each one, causing
 3 noise, and then only half, or not at all, putting them
 4 into a set of couplers. How do you save money on that
 5 with? It seems to be entirely random and doesn't fit
 6 into anything.

7 A. (In English) Let me explain. First of all, I am this
 8 boss of a sub-contractor. I am the one facing direct
 9 demands, from the management and supervisory staff of
 10 Leighton.

11 CHAIRMAN: Yes.

12 A. (In English) I am, and I was the one -- I think I am the
 13 only one -- rejecting them.

14 CHAIRMAN: Yes?

15 A. (In English) Let me finish by English -- I try to make
 16 a direct language so you can understand.

17 Leightons is operating projects in Hong Kong quite
 18 different and quite unusual from the normal practice of
 19 procurement. They did have a good tendering and
 20 procurement exercise.

21 CHAIRMAN: No, no, sorry, you are going -- bear with me
 22 a second. My question is very localised, and my
 23 question is very immediate. I'm not looking at the
 24 greater dynamics. What I'm saying is -- you have to
 25 help me here -- how on earth are you making money for

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<p>1 somebody else's pocket when you're bringing the rebars 2 on to site, then you are cutting them -- 3 A. (In English) Leightons engage direct labours or daywork 4 labour from a third-party sub-contractor, and engaging 5 them on site without any particular purpose, and the 6 superintendents or the foreman is controlling this 7 source of excessive labour, and they would demand the 8 sub-contractor to pay money to do the partial work of 9 the sub-contractor being responsible. That's 10 corruption. 11 MR PENNICOTT: But, Mr Poon, let's just think about this 12 carefully. 13 A. (In English) I am telling the truth. 14 Q. Let's think about this carefully. On site, in 15 a fabrication yard, is a BOSA. 16 A. Mm-hmm. 17 Q. In come the rebar, to BOSA, and BOSA thread the rebar. 18 A. Mm-hmm. 19 Q. That's an operation that's paid for ultimately by MTRC; 20 yes? 21 A. Mmm. 22 Q. So they go to the time and trouble of threading the 23 rebar. The rebar, perhaps in bundles, I don't really 24 know, gets transferred by BOSA onto the site, where it's 25 required, on a bay-by-bay basis. Then you are saying</p>	<p>1 instruct somebody else to cut the rebar. But that is 2 not the situation on Hung Hom. 3 CHAIRMAN: But the point I'm trying to make is -- and this 4 is where I have emphasised on several occasions I'm 5 going to require education -- in my minimalist little 6 engineering brain, I can understand somebody bringing 7 concrete and saying, "I tell you what, I'll put in half 8 the sand that should go in", and somebody gets some 9 money for that, so what you've got is concrete that only 10 has half the sand. But here you've got the bars already 11 done, at full price, already brought onto site, and all 12 these guys have got to do, the day labourers, is screw 13 them in. Okay? Maybe one of them you can't screw in 14 and maybe it's all too much trouble and you cut that 15 one, but that's maybe one out of 100, or out of 200. 16 What I don't understand is why these day 17 labourers -- assuming they are; and that's your 18 statement, it's not my acceptance of it necessarily -- 19 is why these guys should then just busily cut all this 20 down, when there is a chance they will be found by 21 an entirely honest supervisor, and they are not 22 achieving anything? The only way they can be achieving 23 anything is if they are so incompetent in screwing them 24 into couplers, they don't know how to do it, so the 25 order is just to cut them?</p>
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<p>1 that having gone to the trouble of providing the thread 2 to the rebar, somebody cuts it all off. 3 The point the chairman is making, I think, is what's 4 the point? 5 A. (In English) Yes. I reply exactly. 6 Q. What is the advantage of doing that? 7 CHAIRMAN: Yes. Are you saying that these people who are 8 day, casual labourers, don't know what they are doing, 9 so it's easier just to cut them all off? 10 A. (In English) They are just receiving orders, 11 instructions, from the Leighton supervisors. 12 MR PENNICOTT: But why? Can you think of any reason why? 13 A. In area A, A1, I have a very big, big dispute with 14 Leighton management staff on site. They stacked all the 15 rubbish, debris of concrete into the area to be filled 16 with lightweight concrete. 17 Q. Mr Poon, you are going well off the track that we are 18 on, with respect. 19 A. (In English) That explains -- that explains -- 20 Q. Can you please focus on the rebar question? We are not 21 interested yet in the question of concrete. Please 22 focus on the rebar question. 23 A. (In English) If you think the management team or the 24 supervisory team of Leighton on site is that reasonable, 25 that responsible, yes, it is nonsense that somebody will</p>	<p>1 A. (In English) They are getting benefits on inspection. 2 MTR is not always on site supervising the works or rebar 3 fixing. They are not. And they will only inspect until 4 the 3 metre thick slab completed. I observed, and 5 I experienced, their practice of inspection is going to 6 visually inspect the rebar fixing works on the top of a 7 rebar cage 3 metres deep. So what they can only see is 8 if the screw still appears on the exterior area of the 9 couplers. When somebody finds difficulties -- 10 CHAIRMAN: Sorry, bear with me a second. Are you suggesting 11 that this was done uniformly, all this cutting? Because 12 otherwise the whole thing falls down, and then you're 13 really in trouble. So are you suggesting that they were 14 just doing this occasionally? 15 A. (In English) Yes, occasionally. 16 CHAIRMAN: All right. 17 A. (In English) And I have to further emphasise the point 18 that if you think there is some, for example, 19 substantive problematic connection between the threaded 20 bars onto the couplers, the structure will be collapse, 21 no. We have another shear key system working along 22 with -- 23 CHAIRMAN: I am aware of that. 24 A. (In English) And we have columns and shear wall 25 supporting the slab also.</p>

<p style="text-align: right;">Page 85</p> <p>1 CHAIRMAN: All right. Right at this moment in time, on 2 an immediate level -- this is the point I'm trying to 3 make -- while I can understand somebody paying somebody 4 else not to deliver as much sand as they should, and 5 that causes damage to the concrete mix, here I have no 6 comprehension as to what advantage is being obtained by 7 what you're suggesting. And if there's no advantage to 8 be obtained, then what you're suggesting is fairly 9 profound, because you're suggesting a form of 10 articulated, organised sabotage. 11 A. (In English) Correct. 12 CHAIRMAN: And that's a very big leap. It's a profound 13 suggestion. 14 A. Mmm. 15 MR PENNICOTT: And a very serious suggestion. 16 A. (In English) I know. I know. 17 First of all, the benefits or the means of 18 corruption is not just easy, as you think, that you 19 deliver a certain quantity of materials or goods, and 20 you pay something to the one responsible for supervision 21 or making decisions, and they deliver a substandard or 22 less quantity of that particular materials. 23 We are now here, a team of excessive labour is being 24 engaged by Leightons and managed by their superintendent 25 and foremen, always there, from 20 to 40 numbers of</p>	<p style="text-align: right;">Page 87</p> <p>1 A. (In English) Definitely there is advantage for 2 Fang Sheung. 3 CHAIRMAN: What's the advantage for Fang Sheung? 4 A. (In English) To reduce the cost of labour, first. And 5 second, yes, there is no immediate and direct advantage 6 to the corporation of Leightons, but on that level of 7 superintendence, et cetera, they are achieving the time 8 benefits on settling the things, the difficulties that 9 they are encountering on site, with a double benefit on 10 getting something in their pocket. 11 The labour engaged by Leighton directly on site, 12 I mean excessive labour, is not paid by them. It's not 13 paid by the sub-contractor. It's paid by Leightons. 14 CHAIRMAN: All right. 15 A. (In English) And we are at that moment in particular 16 high pressure on the progress. 17 And further, one further information that Leighton 18 might not release to the Commission yet. At that 19 particular moment, Leightons had encountered problems on 20 fixing the threaded bars onto the couplers. Leighton is 21 trying to get its sub-contractor to handle these special 22 works, because at that particular moment Fang Sheung 23 thinks, did opine, they are not responsible to handle 24 that work difficulties. And I got the coupler schedule 25 at that particular moment.</p>
<p style="text-align: right;">Page 86</p> <p>1 people; they always sat in the smoking house. And if 2 a sub-contractor willing to pay that supervisor 3 a certain amount of money, the sub-contractor is not 4 necessary -- 5 Q. But, Mr Poon, the chairman and I are both having the 6 same difficulty. 7 If, on a particular day, the sub-contractor, which 8 we know was Fang Sheung, doing this work, had a bit of 9 difficulty in getting a particular piece of threaded 10 rebar into a coupler, and they thought to themselves, 11 "Let's just slice off the end, make it a bit shorter", 12 and that particular piece of rebar was then fitted with 13 perhaps a shortened thread. That's sort of explicable 14 and understandable, if it's just because we are having 15 difficulty with this particular piece of rebar. 16 A. (In English) It's not Fang Sheung. 17 Q. The problem we've got with your evidence, as we see it, 18 I think, is that even before they've encountered any 19 particular problem in any particular area, at any 20 particular coupler, that it's all being cut before that 21 happens, and there just doesn't seem any explanation as 22 to why they would do it. There's simply no advantage to 23 Fang Sheung, there's no advantage to Leighton, there's 24 no advantage to MTRC. Who is gaining any advantage, and 25 what is it, from this process?</p>	<p style="text-align: right;">Page 88</p> <p>1 (Chinese spoken). To translate in Chinese, 2 "coupler", but "coupler schedule" means the schedule of 3 coupler quantities. 4 CHAIRMAN: All right. 5 A. (In English) I also aware there are third parties 6 outside in the market that Leighton had approached, try 7 to ask them to be engaged specially to deal with the 8 coupler problems. 9 CHAIRMAN: All right. So Leighton had approached people -- 10 A. (In English) Yes. 11 CHAIRMAN: -- because of particular structural difficulties 12 they were facing, who were experts in that field? 13 A. (In English) Not structural but difficulties on 14 installing the threaded bars onto the couplers. 15 MR PENNICOTT: But -- 16 CHAIRMAN: Can I just ask one question -- sorry, 17 I apologise, but just before we go for lunch -- have you 18 ever sat down with anybody who's an executive in 19 Leightons and had a heart-to-heart conversation in which 20 you have received a confession that this type of 21 corruption goes on? 22 A. Yes. Malcolm, Malcolm Plummer. 23 CHAIRMAN: All right. 24 A. (In English) Malcolm Plummer, who is the project 25 director of that particular site until certain time of</p>

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<p>1 August or September of 2016.</p> <p>2 CHAIRMAN: All right. Then one final question, and then</p> <p>3 we'll go for lunch, is: clearly, from what you are</p> <p>4 saying to us, I appreciate a lot of it is</p> <p>5 post-rationalisation -- that's not a criticism, that's</p> <p>6 just a statement -- but it would seem to me that once</p> <p>7 all this had sunk in to you, you would have had a very</p> <p>8 compelling reason to press home action on the part of</p> <p>9 Leighton and the MTR; would that be right?</p> <p>10 A. (In English) Yes.</p> <p>11 CHAIRMAN: Then the next question after lunch will be, "Did</p> <p>12 you do that at or about that time?", I suppose.</p> <p>13 MR PENNICOTT: Yes.</p> <p>14 CHAIRMAN: But there we go. Mr Pennicott, thank you very</p> <p>15 much. It's now five past one. An hour and a quarter.</p> <p>16 MR PENNICOTT: So 20 past, sir.</p> <p>17 CHAIRMAN: Yes, 2.20.</p> <p>18 (1.03 pm)</p> <p>19 (The luncheon adjournment)</p> <p>20 (2.22 pm)</p> <p>21 CHAIRMAN: Sorry, two short questions if I may. The first</p> <p>22 question is this. Would it be correct to say that by</p> <p>23 the middle of this year, the underlying gravity of what</p> <p>24 you had witnessed had become apparent to you, namely</p> <p>25 that it involved corruption on a -- not on a merely</p>	<p>1 That's correct, is it not, Mr Poon?</p> <p>2 A. Correct.</p> <p>3 Q. And you have made five witness statements to this</p> <p>4 Commission, and likewise the word "corruption" does not</p> <p>5 appear in any of those five statements either?</p> <p>6 A. Correct.</p> <p>7 Q. And so, that being the case, Mr Poon, I think I'm</p> <p>8 entitled to ask you why it is that you have waited until</p> <p>9 this morning to use that word. Can you explain</p> <p>10 yourself?</p> <p>11 A. I didn't wait until this morning. I did not wait until</p> <p>12 this morning.</p> <p>13 Q. Well, you did wait until this morning so far as this</p> <p>14 Commission is concerned, with respect.</p> <p>15 A. That's because, in Hong Kong, where there are</p> <p>16 allegations on corruption, the department responsible is</p> <p>17 not the police or the Commission. It is the ICAC.</p> <p>18 There is the ICAC Ordinance.</p> <p>19 Q. So why does that provide you with a reason for not</p> <p>20 mentioning the word "corruption" until this morning?</p> <p>21 I'm sorry, I just don't follow your line of thinking at</p> <p>22 the moment.</p> <p>23 A. There is the Prevention of Bribery Ordinance in</p> <p>24 Hong Kong. After a case has been -- file has been</p> <p>25 opened, it is not possible to reveal anything to a third</p>
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<p>1 isolated basis but almost systematic?</p> <p>2 A. What you said, was it referring to the cutting of bars</p> <p>3 or corruption?</p> <p>4 CHAIRMAN: Yes. The two go together, according to you.</p> <p>5 A. (In English) Okay. Systematic, planned.</p> <p>6 CHAIRMAN: That you were aware of?</p> <p>7 A. Yes.</p> <p>8 CHAIRMAN: Then the second question -- and I just need</p> <p>9 a "yes" or "no" answer and that will assist me -- had</p> <p>10 you reduced any of these allegations in your evidence</p> <p>11 into any of the statements?</p> <p>12 A. No.</p> <p>13 CHAIRMAN: That's fine. Thank you.</p> <p>14 A. The only time was on the 13th, I told MTRC once,</p> <p>15 13 June.</p> <p>16 CHAIRMAN: Okay.</p> <p>17 MR PENNICOTT: Mr Poon, can I just pick up that point, if</p> <p>18 I may, and I think this really is just to put it into</p> <p>19 context. You had the interview on 13 June with MTRC, at</p> <p>20 which you said you made the corruption allegation; yes?</p> <p>21 A. (In English) Yes.</p> <p>22 Q. As I indicated to you this morning, you then made six</p> <p>23 witness statements to the police, between 4 July and</p> <p>24 9 August this year, and the word "corruption" or words</p> <p>25 to that effect do not appear in any of those statements.</p>	<p>1 party. It's not allowed.</p> <p>2 Q. Well, Mr Poon, I am hearing what you say, and it may be</p> <p>3 that there are greater minds in this room than mine --</p> <p>4 no doubt, there are -- but I still don't follow,</p> <p>5 Mr Poon, why it is that you have waited until this</p> <p>6 morning to mention the word?</p> <p>7 A. Now, in this whole case, I've been helping three</p> <p>8 different organisations in their investigation. That</p> <p>9 includes this Commission, the police, and another</p> <p>10 independent department.</p> <p>11 Q. Sorry, which independent department are you referring</p> <p>12 to?</p> <p>13 A. (In English) ICAC.</p> <p>14 Q. Right.</p> <p>15 CHAIRMAN: I would just mention, Mr Pennicott --</p> <p>16 MR PENNICOTT: Yes, sir.</p> <p>17 CHAIRMAN: -- I hesitate to put myself forward as having</p> <p>18 anything other than a sort of Reader's Digest</p> <p>19 understanding of what the ICAC does, but there is some</p> <p>20 provision somewhere about not being able to speak</p> <p>21 publicly about these things at a certain stage,</p> <p>22 I believe, but there's counsel here who will have a far</p> <p>23 better understanding than me.</p> <p>24 MR PENNICOTT: I'm a bit similar to you, sir. ICAC is</p> <p>25 obviously something of an institution that we know</p>

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<p>1 exists in Hong Kong. I've had dealings with them in 2 various guises before, in cases such as short piling and 3 so forth, some years ago. Of course the problem one has 4 is to what extent, in the context of this Commission, 5 one needs to explore, for example, when the ICAC might 6 have first shown an interest, and so forth, because 7 there may be a time point there; I simply don't know. 8 But of course this is a very serious allegation on 9 any view of the matter, and I think, in an exchange that 10 I had with Mr Poon at the outset of his 11 cross-examination earlier this morning, he seemed to 12 suggest that I or perhaps the legal team for the 13 Commission were somehow targeting China Technology. 14 Of course that's simply not the truth, and the 15 reason that China Technology are going first, and the 16 transcript records, Mr Poon, because I've checked it, 17 that what was said on 24 September is that China 18 Technology's evidence would be put under the microscope 19 first -- and I emphasise that -- because everybody else 20 is coming after you, apart from Intrafor. And the 21 reason for you, as it were, being here first is that 22 everybody else then has the opportunity of seeking to 23 address the allegations that you're making. 24 Now, so far as corruption is concerned, it would 25 appear that I perhaps can't take the matter any further.</p>	<p>1 still trying to understand what he was saying. 2 Therefore, any purported explanation as to why threads 3 are being cut is obviously regarded as having some 4 degree of relevance. 5 Without being shy, what Mr Poon is now doing is, in 6 line with what he is doing in other respects, trying to 7 do a "heads I win, tails you lose" situation, because 8 when he wanted to say it this morning, he had absolutely 9 no inhibition in mentioning the C word. So he did not 10 think that any Ordinance concerning confidentiality of 11 ICAC into possible corruption has inhibited him from 12 actually uttering the C word this morning. So query 13 whether or not, irrespective of the nicety of the ICAC 14 Ordinance, whether that was in fact what had "inhibited" 15 him from putting all these matters into a witness 16 statement in the first place. 17 He can't pick and choose and blurt out this morning 18 and say, "Here I am, brave whistleblower, listen, listen 19 out there", and then when pressed, "Oh, gosh, I'm 20 terribly sorry, I'm gagged, not by a confidentiality 21 agreement this time, but by the Ordinance." 22 But those behind me are checking and it may be that 23 there will be some sort of result soon, and that is the 24 precise ambit of any "ban" on ICAC investigation, 25 whether or not one is only prohibited from saying that</p>
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<p>1 Whether anybody else wishes to try to do so, that's 2 a matter for them, but maybe I need to park that from 3 the Commission's point of view at this moment, sir, 4 unless you feel that there is a line, as it were, that 5 we can pursue at this stage. 6 CHAIRMAN: Perhaps our position could be reserved. 7 MR PENNICOTT: Certainly it's going to be reserved. 8 CHAIRMAN: Counsel for the parties of course are free to ask 9 such questions as they think will best defend their 10 clients' interests. 11 MR PENNICOTT: Yes. 12 CHAIRMAN: I don't think at this stage that there's any 13 issue of confidentiality vested in Mr Poon. 14 MR PENNICOTT: No. 15 MR SHIEH: Mr Chairman, can I just venture to suggest the 16 line of questioning put to Mr Poon by Mr Chairman went 17 to the reason why Mr Poon thought that anyone would want 18 to cut the threaded ends in such scale -- 19 CHAIRMAN: Yes. 20 MR SHIEH: -- and not just on isolated instances. 21 CHAIRMAN: Yes. 22 MR SHIEH: Mr Poon then pulled out the word "corruption" for 23 the very first time in this Commission. We have 24 something to say about whether or not the allegation of 25 corruption actually makes any sense, because we are</p>	<p>1 he is being investigated or he is helping 2 an investigation, or whether or not the ICAC Ordinance 3 bans someone in the position of Mr Poon outside the ICAC 4 investigation from whistleblowing at all. 5 So that is something which, in my respectful 6 submission, need not be parked, maybe a five-minute 7 adjournment would solve it, and I hope I may have 8 actually prompted Mr Pennicott to ask the questions 9 which may need to be asked, namely did he feel inhibited 10 or gagged this morning when he uttered the C word so 11 righteously? Irrespective of the niceties, because it 12 may well be that, yes, on a proper construction of the 13 Ordinance, it did ban him, but obviously he did not 14 regard himself as being banned. That is the point. 15 So maybe, if one wants to go along that line, let's 16 pursue maybe a five-minute break to check actually the 17 position of the ICAC Ordinance. 18 I may have some answers here but maybe a five-minute 19 break would deal with it. 20 CHAIRMAN: Yes. 21 MR SHIEH: Because if as a matter of law he is not gagged at 22 all, he would then have to say, "I'm terribly sorry, 23 I was mistaken, I thought I was gagged", which is the 24 next question: this morning, why didn't you think you 25 were gagged?</p>

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1 CHAIRMAN: Yes. All right.
 2 MR SHIEH: I reveal all my hands now, unfortunately, but
 3 I have more in my pocket when it comes to my turn.
 4 CHAIRMAN: Yes.
 5 MR TO: Mr Chairman, if you look at a document called B3082,
 6 this was what Mr Pennicott was talking about the meeting
 7 of 13 June.
 8 CHAIRMAN: Yes.
 9 MR TO: We have got a record in terms of -- audio records of
 10 all the people involved, except four persons. Mr Poon
 11 did mention, for example, he mentioned the C word during
 12 that meeting, but as of today we can't even verify
 13 because we don't even have the record of the -- the
 14 voice records of these.
 15 CHAIRMAN: All right. We have some evidence. This is not
 16 the first time it's been raised. That was the purpose
 17 of my question. I asked for a "yes" or "no" answer,
 18 whereas I thought it was best that I should then step
 19 back from this. I had explored what I wanted to
 20 explore, which is what possible motive could there be to
 21 people carrying out the systematic actions that were
 22 described.
 23 MR PENNICOTT: Yes.
 24 CHAIRMAN: But I'm more than happy to adjourn for five
 25 minutes, Mr Pennicott.

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1 MR PENNICOTT: Sir, I, standing here as counsel for the
 2 Commission, was naturally taking a rather cautious
 3 approach.
 4 CHAIRMAN: The same as myself; I don't want to bring the
 5 Commission into difficulty.
 6 MR PENNICOTT: Without actually knowing the answer, I didn't
 7 want to, as it were, shoot from the hip without knowing
 8 what the answer was, without having a chance to research
 9 the position.
 10 All I wanted to ask, which I did ask, was why did
 11 you leave it until this morning to mention the C word?
 12 Mr Poon has given his explanation as to why it was only
 13 this morning.
 14 Frankly, for my part, I'm prepared to park that for
 15 the moment. I don't think we need to adjourn. We're
 16 not, I'm afraid, going to finish Mr Poon this afternoon
 17 on any view, and if we need to come back to it, we'll
 18 come back to it, either with me or with somebody else.
 19 Unless you think that we ought to bottom this out --
 20 CHAIRMAN: Mr Shieh, would you object to that?
 21 MR SHIEH: I'm perfectly content, but I have made my point,
 22 and that is to say that the reason why Mr Poon had
 23 chosen in this Inquiry to raise it only orally, at
 24 a hearing, is going to be the subject of some
 25 investigation. But if it is thought it may not be worth

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1 the while of adjourning for five minutes, other people
 2 can pick it up, then so be it, because we have
 3 ...(unclear words due to coughing)... as to the details
 4 of corruption as suggested. That is a different point.
 5 CHAIRMAN: Yes, that's a different point, and certainly it's
 6 open to be picked up and I'm sure you will be able to
 7 obtain the necessary advice while Mr Pennicott is
 8 examining the witness a little further.
 9 MR PENNICOTT: Sir, that's right, and also of course I will
 10 look at this again this evening, and if I feel I need to
 11 come back to it -- I don't really want to be pressed
 12 into a five or ten-minute adjournment and then come back
 13 to this. I'd rather take this in a rather more measured
 14 way.
 15 CHAIRMAN: Good.
 16 MR PENNICOTT: And if we come back to it in the morning, we
 17 will, either with me or with somebody else.
 18 CHAIRMAN: Yes.
 19 MR PENNICOTT: Right, now, Mr Poon, let's go back to where
 20 we were. We were discussing -- that's you, Mr Poon, me
 21 and the chairman -- various issues arising out of
 22 paragraphs 33 and 34 of your witness statement, as you
 23 will recall, before lunch.
 24 A. Yes, I recall that.
 25 Q. The chairman's final point to you before lunch was,

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1 "Well, if this was so important, presumably you would
 2 have reported it to MTRC or Leighton"; do you recall
 3 that?
 4 A. Yes.
 5 Q. As it happens, if we go on in your witness statement,
 6 you have a heading, "Reporting the incidents to Leighton
 7 in September 2015"; do you see that?
 8 A. Yes.
 9 Q. What you say here, and let's look at paragraph 35 first,
 10 is that:
 11 "In or about early September 2015, Mr But also
 12 reflected to me that similar incidents occurred. He
 13 also attempted to stop those doing what they were doing,
 14 namely cutting the threaded rebars but, again, to no
 15 avail."
 16 Now, Mr Poon, can I suggest to you that at least the
 17 second sentence of that paragraph is incorrect, because
 18 Mr But has told the Commission that he did not attempt
 19 to stop those cutting the rebar because he did not see
 20 it as his responsibility. So do you accept that that
 21 second sentence is incorrect?
 22 A. To my best knowledge, this statement is correct.
 23 Q. All right. Well, obviously we've heard what Mr But has
 24 said and the Commission will have to decide, if it's
 25 important, who is telling the correct version.

<p style="text-align: right;">Page 101</p> <p>1 Going on, paragraphs 36 and 37 -- you say this: 2 "In September 2015, I reported the incidents in 3 August 2015 to Mr So Yiu Wai ..." 4 And that I think is Gabriel So? 5 A. (In English) Yes, Gabriel So. 6 Q. "... the then superintendent of Leighton, and Mr So's 7 superior Mr Khyle Rodgers, the then senior 8 superintendent of Leighton." 9 A. Correct. 10 Q. The first point there is, Mr Poon, that Leighton -- 11 sorry, Mr So and Mr Rodgers, who will be coming along to 12 give evidence in the next few weeks, say that you got 13 them around the wrong way in terms of superiority; that 14 is Mr So was Mr Rodgers' superior, so you've got this 15 around the wrong way. Were you aware of that? Have you 16 read their witness statements? 17 A. No idea. Not until now. I mean, I still don't believe 18 it, because Mr So all along received instructions from 19 Mr Rodgers. 20 Q. I think they probably know who was superior to whom, 21 Mr Poon. 22 A. (In English) Yes. 23 Q. So this wasn't something you checked; this was something 24 you just had an impression about, is it? 25 A. That's right.</p>	<p style="text-align: right;">Page 103</p> <p>1 I call him Gabriel So. Later on, after I gave the 2 statement, I told that police -- that actually they were 3 father and son working at the construction site, so 4 I quoted the wrong Chinese name, and at this point 5 I still don't remember their Chinese names, I only 6 remember their English names. 7 Q. All right. It's Gabriel, anyway. 8 Now, I'm going to, Mr Poon, leave this, any detail, 9 to Leighton's counsel to put to you about this alleged 10 reporting that took place. But can I just ask you this 11 question, or two questions -- first of all, were they 12 together, the three of you together, when you made this 13 report, or were there separate incidents? 14 A. I remember that it was in a hotel, up above the 15 construction site, with a shopping mall, and we were 16 having a drink at the food court of the shopping mall. 17 Q. Yes, and that's what you say in your police statement. 18 It was the food forum, level M, is what you say in your 19 police statement; is that right? 20 A. Right. 21 Q. So the three of you were having a discussion together; 22 there was not one reporting to Mr So and a separate 23 reporting to Mr Rodgers? The three of you were 24 together; is that right? 25 A. In the same event.</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. All right. 2 Now -- sorry, let me ask you that again: have you 3 read their witness statements, that is the witness 4 statements of Mr So and Mr Rodgers? 5 A. No. 6 Q. You haven't? In that case, you won't know that they 7 both deny that this reporting to them that you relate 8 here took place. They both deny it. So are they both 9 not telling the truth? 10 A. If they deny, they definitely are telling lies. 11 Q. Right. So you are adamant that this reporting to Mr So 12 and Mr Rodgers did take place? 13 A. The only mistake I have made is that Mr So Yiu Wai, 14 regarding the Chinese name, I think I made it wrong. 15 Gabriel So should be the person I approached. This 16 Mr Gabriel So and Mr Khyle Rodgers, I definitely 17 approached them. 18 CHAIRMAN: Sorry, is Mr Gabriel So Mr So Yiu Wai? 19 MR PENNICOTT: Yes. Well, it's the same Mr So. 20 A. No. No. I clarified that in the police statement. 21 CHAIRMAN: All right. So we're not talking about Mr So 22 Yiu Wai, we're talking about Mr Gabriel So? 23 MR PENNICOTT: We are talking about Mr Gabriel So. 24 A. Let me put it this way. I cannot recall their Chinese 25 name. I just remember their English names. For Mr So,</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Okay. Following that reporting, you did not follow it 2 up with anything in writing; no email, no letter, 3 nothing of that nature? 4 A. Correct, I did not. 5 Q. Then, moving on in usual statement, you say in 6 paragraph 38: 7 "That said, in mid-September 2015, I myself again 8 saw staff members of Leighton once again, cutting the 9 threaded rebars." 10 Then, Mr Poon, this is not a criticism, but do we 11 then really need to go to paragraph 40 and say: 12 "I immediately approached that person and tried to 13 stop him ..." 14 Or does paragraph 40 follow from 39, where you say 15 you had an inspection with Mr So and Mr Rodgers? 16 A. That's right. 17 Q. Okay. Let me try again. Paragraph 38: 18 "That said, in mid-September 2015, I myself again 19 saw staff members of Leighton once again, cutting the 20 threaded rebars." 21 Is that a completely separate incident to the one 22 you're referring to in paragraph 40? 23 A. (In English) Yes. 24 Q. Okay. Thank you. So, in mid-September, that took 25 place. Did you take any photographs on that particular</p>

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1 occasion that you are referring to at paragraph 38?
2 A. (In English) No.
3 Q. Then you say:
4 "Between 15 to 20 September 2015, I invited both
5 Mr So and Mr Rodgers for a site inspection."
6 How did you make that invitation, Mr Poon? Did you
7 have their telephone numbers? Did you email them? How
8 did you set up that invitation to a site inspection?
9 A. Seems to be WhatsApp.
10 Q. And you've got a period of 15 to 20 September, and
11 I assume you can't be more precise than that?
12 A. It's just a rough period because the police insisted
13 that I put down a more accurate date.
14 Q. Okay. Well, actually what you told the police was the
15 15th to the 22nd, so you've actually narrowed it down in
16 this statement to the 15th to the 20th.
17 A. Mmm.
18 Q. And you say:
19 "During the inspection, all three of us saw one
20 staff member of Leighton cutting the threaded rebars
21 using a hydraulic disc cutter."
22 Now, pausing there, what, on that occasion, do you
23 say you actually saw? Was it just one bar, two bars,
24 a bundle of bars; what did you see on that occasion when
25 you were with Mr So and Mr Rodgers?

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1 A. Let me give more details. I remember on that day there
2 were reports from our staff members that bars were being
3 cut. I therefore arranged with Gabriel to go out of the
4 site. By going out, the purpose was not to look at the
5 cutting. I remember, on that day, there were some
6 complaints about safety matters in other areas, so
7 I invited him to go out to have a safety check.
8 I remember, out there, we started walking around the
9 area, and then we witnessed that exactly. Gabriel at
10 the time was with Khyle Rodgers.
11 Q. All right. Then you go on to say:
12 "I immediately approached that person and tried to
13 stop him from cutting the threaded rebars. Nonetheless,
14 Mr So stopped me and asked, rhetorically, 'why would it
15 be a problem to cut the threaded rebars?' Mr So, in
16 front of me, asked that staff member to continue with
17 what he was doing, namely cutting the threaded rebars."
18 A. That's right.
19 Q. Can I just go back because I don't think you answered my
20 earlier question: how many rebars are we talking about,
21 Mr Poon?
22 A. As far as I could see, just one or two bars being cut.
23 Q. All right. You say:
24 "I (secretly) took out a Huawei mobile phone, which
25 belongs to Chinat, and took 2 photographs and a video

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1 clip of approximately 10 ... seconds."
2 Do you see that?
3 A. Right.
4 Q. What's happened to those two photographs and the video
5 clip?
6 A. These two -- well, in fact let me explain about the
7 phone. I have many phones.
8 Q. Can you just answer my question first and then go back
9 to it if you want to supplement?
10 A. Well, subsequently, I showed Karl Speed, and then I was
11 asked to delete it.
12 Q. You were asked to delete the two photographs and the
13 video clip; is that what you're telling the Commission?
14 A. Not only those. Not only those.
15 Q. For the moment, let's just focus on these two
16 photographs and this video. That's what you've referred
17 to in the witness statement. I just want to focus on
18 the two photographs and the video clip. You say you
19 were requested to delete them from your phone; is that
20 right?
21 A. Right.
22 Q. Who requested you to delete them?
23 A. Karl Speed.
24 Q. When did he do that?
25 A. 19 September.

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1 Q. Which year?
2 A. (In English) 2017.
3 INTERPRETER: Interpreter corrects: 18 September.
4 A. (In English) 18 September, year 2017.
5 MR PENNICOTT: Thank you. We've got it clear now. It's not
6 your fault, I don't think, Mr Poon, I think it was just
7 interpretation.
8 All right. Well, I'm not going to pursue that with
9 you. If somebody else wants to, no doubt they will.
10 Then, Mr Poon, we come to paragraph 41 of your
11 witness statement, where you introduce the seven
12 photographs that you have attached to the witness
13 statement; yes?
14 A. Yes.
15 Q. You say:
16 "On 22 September 2015, I, again, saw staff of
17 Leighton cutting the threaded rebars with hydraulic disc
18 cutter. I (secretly) used my personal Huawei mobile
19 phone to take 7 photographs."
20 Pausing there -- just give me a moment, Mr Poon --
21 Mr Poon, are you confident, are you sure, that you were
22 at the site on 22 September?
23 A. (In English) Sure.
24 Q. Could I ask you, please, to be shown bundle C8,
25 page 5720. Mr Poon, this is the Leighton check-in time

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1 and check-out time document.
2 A. Mmm.
3 Q. And we are looking at September. I'll show you how
4 I know that in a moment, if you need me to. You
5 personally are the second entry up from the bottom, is
6 that correct, on 5720?
7 A. Correct.
8 Q. And according to this record, you were there, as we can
9 see, for the whole week beginning 7 September --
10 A. Correct.
11 Q. -- the whole week beginning 14 September; do you see
12 that? But there is no entry in respect of yourself
13 between 19 September and 28 September; do you see that?
14 A. Right, I see that.
15 Q. That's why I've asked you whether you are confident and
16 sure that you were at the site, taking these
17 photographs, as you say you did, on 22 September. Are
18 you able to explain why you didn't check in and check
19 out on 22 September?
20 A. Let me reiterate: I don't always sign in or out. For
21 the Leighton card, if you need to clock in, you need to
22 first of all produce the Leighton staff card, you need
23 to tap that card at the turnstile for electronic
24 verification before you have the palm print. If
25 I didn't bring along the card, I couldn't clock in.

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1 Q. Mr Poon, it appears from this record that you
2 consistently, as I've just pointed out to you, clocked
3 in and clocked out for the two weeks beginning on
4 7 September, and then there is a considerable gap of
5 eight or nine days.
6 A. That's right.
7 Q. So what happened? You clock in and clock out
8 consistently, and then there is an eight or nine-day gap
9 where you didn't do so at all.
10 A. Well, I didn't consistently clock in and out. That's
11 not true. Because I didn't need to calculate my own
12 wages, it wasn't really necessary for me to clock in or
13 out.
14 Second, if you take a look at the 29th -- well, am I
15 a ghost or not? Because there's only a record of
16 clocking out but not clocking in. Did I just jump into
17 the site and then jump out of the site at 1946 hours?
18 Q. I don't really worry or want to speculate, Mr Poon, what
19 you did or did not do on 29 September. I'm more
20 interested to know what you were doing on 22 September.
21 Again, I can only work with the records I've got, and
22 I'm, counsel for the Commission, giving you
23 an opportunity, before no doubt somebody else will be
24 cross-examining you on this particular point, to give
25 an explanation as to why this record doesn't show you as

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1 present on 22 September, which seems a rather important
2 point, Mr Poon, given that you say you took these
3 photographs on that particular day.
4 A. That's right. I was identified in the photo.
5 Q. All right.
6 A. I remember that event clearly.
7 Q. All right.
8 A. Someone did try to stop me from taking the photos.
9 Q. So you think we can identify you from the photographs;
10 is that what you are saying?
11 A. You can't see me, but you can see the one who's trying
12 to stop me.
13 Q. Okay. We're going to look at the photographs in
14 a moment, Mr Poon --
15 A. (In English) Okay.
16 Q. -- so perhaps you could point that out as we go through.
17 A. One more thing. I never stay in the site up to
18 midnight. The record of the 7th says I stayed until
19 12.26.
20 Q. Yes.
21 A. Unless I'm a Superman, how come I can return by 7.58 am?
22 Q. Mr Poon, before I close this file and move on to
23 a different point, can I just pick up a point
24 I mentioned to you this morning, which is there are four
25 Mondays in September, 7, 14, 21 and 28, and it was on

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1 one or more of those occasions you said you had your
2 discussion with Mr Rooney. It appears, again, from this
3 record, which is all I've got to work with, that you
4 certainly were there on Monday the 7th and Monday the
5 14th, quite early in the morning, at 7.19 and 7.25
6 respectively. So would I be right in suggesting that if
7 you had your discussions with Mr Rooney, which of course
8 he doesn't accept you did have, it would have been
9 either on the 7th or the 14th; would you accept that?
10 A. Let me say this again. I don't trust these Leighton
11 records, which can be altered. And in respect of the
12 case of Li Run Chao, the Leighton record shows that he
13 only entered the scene on the 12th, but the work permit
14 issued by Leighton shows it's the 11th. Here the record
15 shows that I would arrive early, on a Monday, because
16 I had to get prepared for the site walk, and I'm rarely
17 absent on Mondays.
18 Q. But what this does show -- how important it is, I do not
19 know -- is that you weren't there on Monday, the 21st,
20 or Monday the 28th?
21 A. I am sure I was there. And I don't know why, on the
22 29th, I only had the exit time; there was no time for my
23 entry. So it shows that it's not reliable.
24 COMMISSIONER HANSFORD: Mr Pennicott, do we know why some
25 entries are red and some are black?

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<p>1 MR PENNICOTT: Sir, I've been wondering about that myself. 2 I was going to ask. 3 A. (In English) Late, late. Late and early leave. 4 MR PENNICOTT: The only explanation that someone has 5 suggested it might be is late or early. 6 A. (In English) Late or early. 7 Q. Late if it's the morning, leaving early if it's red in 8 the evening; is that right -- 9 A. (In English) Yes, the second-last -- on the right-hand 10 side, we have the second-last to the third-last columns, 11 showing the minutes that they late or early leave. 12 COMMISSIONER HANSFORD: I'm not sure I necessarily want to 13 pursue this, I'm just interested, but it seems odd to 14 me -- so I can see an 8.10 which is in black, and I can 15 see an 8.01 in red, but maybe this is a red herring. 16 MR PENNICOTT: Yes, sir. Very dry. I suspect that perhaps 17 one of the Leighton witnesses ought to explain, if we 18 need to do it. 19 COMMISSIONER HANSFORD: Thank you. 20 A. (In English) So it is unreliable. 21 MR PENNICOTT: Well, I hear what you say, and Mr Poon, I've 22 just given you the opportunity of looking at that 23 particular document. 24 Now, the photographs. Can we start, please, with 25 D1/226. That's the first photograph, Mr Poon, that you</p>	<p>1 statement. The second sentence says: 2 "I" -- this is on 22 September, paragraph 41 -- 3 "used my personal Huawei mobile phone to take 4 7 photographs", and then you produce the seven 5 photographs, the first one of which we've just been to. 6 That's what it says in your witness statement. 7 If you wish to correct that, please tell us how you 8 would like to correct it. 9 A. It's a second device. I told the police that it was not 10 a Huawei phone, it was the Z2 kept in the site office. 11 Q. So it was the camera that is referred to on this detail; 12 is that right? 13 A. Z2. I don't know what model this is. It's Xperia. 14 Q. The model number -- on page 232.1, it says, "Program 15 name: Camera 360", and then various image details are 16 given. If you flick over the page to 232.2, it's the 17 same photograph but with some more information. It says 18 it's a camera make, Sony, camera model, D5303. So this 19 is where I've got my information from, Mr Poon. 20 A. No recollection of this model. The camera I kept on the 21 site was Xperia Z2. 22 Q. I will leave it to others who have produced this 23 information to try to unravel that particular point, 24 because so far as I can tell, what I'm being told from 25 this information is that it was this Sony camera. You</p>
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<p>1 have exhibited to your statement? 2 A. Yes. 3 Q. Before we look at any more of these photographs, could 4 I please invite you to go to page 232.1. 5 A. (In English) Yes. 6 Q. Where we have some analysis of the details of the 7 instrument, put it that way, that took the photograph. 8 A. (In English) Okay. 9 Q. And all of the photographs that were taken on 10 27 September, according to this material that we have 11 been given, were taken on a Sony camera, model D5303 -- 12 A. (In English) No, Xperia Z2. 13 Q. -- not on a Huawei phone, which is what you say in your 14 witness statement. 15 A. (In English) Yes. 16 Q. Can you explain the position? What is your explanation? 17 A. This instrument is different from my Huawei mobile 18 phone. I already told the police that it was from 19 a second -- another device. We can take a look at the 20 statement given to the police. I explained to the 21 police, when the statement was taken, that at first 22 I took the photos with my Huawei phone, and then I took 23 seven photos with another device, not with my Huawei 24 phone. 25 Q. Mr Poon, all I can do, struggle with, is your witness</p>	<p>1 seem to be disagreeing. 2 A. It may be it's just a camera, the model of a camera -- 3 the lens, rather. Maybe it's just the model of the 4 lens. 5 Q. Okay. But the Xperia is a Sony camera? 6 A. I have only used that model once; I have no recollection 7 of that. 8 Q. All right. Let's go back to the photographs, Mr Poon. 9 226. First of all, can you identify the area of the 10 site where this photograph was taken? 11 A. I cannot remember, not from this photo, but if given 12 time I may be able to check. 13 Q. Let's go back a stage. You made this special visit on 14 22 September, you tell us. Do you recall which area you 15 went to? You were clearly there for a little while, 16 taking photographs. Can you recall which area you 17 visited? 18 A. C2-3, C2-6, and thereabouts. 19 Q. Because I thought you might have said C1-4, because, so 20 far as I can tell from the various records, Mr Poon, the 21 rebar that was going on on 22 September was in 22 area C1-4, but you can't confirm one way or the other 23 whether this is C1-4 or some other area? 24 A. Well, this is a photo about some fact that cannot be 25 refuted, and the date is clear, 22 September,</p>

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<p>1 1818 hours. In the report submitted by the MTRC to the 2 government, it's clearly stated when the rebar works was 3 ongoing at whatever areas, in which area the works were 4 ongoing, we can clearly check the dates. I can do it 5 now, if you want. 6 Q. That's okay. I've suggested to you that if it's any 7 area, that it's likely to be C1-4, because that is where 8 the rebar was being installed on 22 September. You can 9 agree with me, disagree with me, or say you don't know. 10 A. I don't want to guess. I want to check out the fact. 11 Q. All right. 12 What we can see in this photograph, it appears, is 13 what? One worker, using a tool to cut through a bit of 14 rebar? 15 A. Yes. 16 Q. Now, you can't tell us the precise area. Can you tell 17 us at what level the worker is at? Is he at the lower 18 level of the EWL slab or the higher level? 19 A. At the surface of the lower level. 20 Q. Right, the lower level. The surface of the lower level? 21 A. (In English) Yes. 22 Q. Understood. 23 Now, the second photograph, Mr Poon, is a bit of 24 a puzzle. It's at D227 -- 25 CHAIRMAN: Sorry, just for my benefit, this first</p>	<p>1 MR PENNICOTT: Thank you, sir. 2 Chairman, does that help? 3 CHAIRMAN: Yes, it does, thank you. 4 MR PENNICOTT: Thank you. 5 Mr Poon, go back, please, if you would, one page to 6 227. As I said, this is a slight mystery, because what 7 you've told us in your witness statement is you're 8 attaching seven photographs that you took on 9 22 September, but unfortunately, if one looks at the 10 date of this photograph, on 227, it's actually dated 11 4 September; do you see that? 12 A. Yes. 13 Q. And what's your explanation for that? 14 A. It was wrongly attached. This is not the one. 227 is 15 not the one. 16 Q. Okay. So do you wish to say anything about this 17 particular photograph, what we can see on -- what you -- 18 if you took this on 4 December? 19 A. This was taken during another period. 20 Q. Yes, in early September -- 21 A. Yes. 22 Q. -- and I can tell you, if the information is correct, 23 this was taken on a Huawei phone. 24 A. No, maybe not, but I couldn't recall, really. 25 I couldn't recall at all. But again there is a series</p>
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<p>1 photograph, which shows a rebar seemingly being cut, 2 there's no sign of any threading; would you agree? 3 A. This is easy to tell, because threads reflect light, 4 metallic silver in colour, it reflects any light. 5 CHAIRMAN: All right. So you are suggesting that white blur 6 in the middle of the machine is actually a gap in the 7 machine and we can see the thread through the gap which 8 is reflecting light? 9 A. Yes. 10 CHAIRMAN: Thank you. 11 A. Other photos are clearer. 12 MR PENNICOTT: Yes, indeed. Let's skip over the one I was 13 going to. If you go to page 228, is that a close-up -- 14 A. (In English) Yes. 15 Q. -- of what we were looking at on 226? 16 A. Yes. 17 COMMISSIONER HANSFORD: Can I understand, in this 18 photograph, which bar is being cut? 19 A. The one on the wooden plank, the T40 bar placed on the 20 wooden plank. 21 COMMISSIONER HANSFORD: So this is a bar being laid on top 22 of the reinforcement cage that's already been fixed, and 23 the bar that's being laid on top of the cage is the one 24 that's being cut; is that correct? 25 A. Correct.</p>	<p>1 of photos for this. 2 Q. Did you take this photograph, Mr Poon? 3 A. I can't remember. I tried to recall, because I did take 4 many photos, for this particular photo there's not 5 a specific case that would remind me, so I could 6 remember. 7 Q. All right. Do we know which area this is? Can you 8 pinpoint which area this photograph was taken in? 9 A. This area is definitely to the east. You mean 227; 10 right? It's the east diaphragm wall. 11 Q. Yes, but which area, are you able to say? 12 A. It could be C2-3, C2-5 or C2-6. 13 Q. And we certainly know this is at the lower level because 14 we can see the "plus 1.02"; do you agree? 15 A. Yes. 16 Q. Now, we looked at the photograph at D228. My 17 understanding, Mr Poon, is that the photographs at 229 18 and 230 are photographs that you describe in your 19 witness statement as simply random photographs that 20 don't remain help us; is that right? 21 A. Yes. No, no, no, it helps me, because in this photo you 22 can see the person who stopped me. 23 Q. Ah. Good point. 24 A. That's why I definitely recognise this series of photos. 25 Q. So do we look at 229 or do we look at 230? Which one</p>

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1 would you like to look at?
2 A. I couldn't recall the sequence. I think it's the
3 blurred one first. I tell you why I didn't use the
4 phone after that, because for every photo that was taken
5 with this phone is almost always blurred. In the photo,
6 there's actually a person, that's the person in charge
7 of bar bending, Joe.
8 Q. Joe Chung?
9 A. I don't know whether his surname is Cheung or Chung.
10 I just know he's called Joe.
11 CHAIRMAN: And he is the person on the left-hand side of the
12 photograph?
13 A. (In English) Yes.
14 CHAIRMAN: With a yellow helmet?
15 A. (In English) Yes.
16 MR PENNICOTT: And he's from Fang Sheung; is that right?
17 A. Yes, the person in charge for Fang Sheung, Joe.
18 Q. He'll be giving evidence I think either later this week
19 or next.
20 So it's definitely 229 we need to look at.
21 There's a person on the left of 230. If you look at
22 230, Mr Poon. Is that Joe as well?
23 A. Yes, yes, the one on the left again is still him.
24 Q. Okay. This time again we can see, even if we can't
25 identify the area, we know we're at the lower level?

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1 A. Yes.
2 Q. Because we can see the "plus 1.020" in the distance;
3 yes?
4 A. (In English) 2.82.
5 Q. "Plus 1.020", here.
6 A. (In English) Sorry. I've got this one.
7 Q. And we know the higher level is a figure we have looked
8 at before, with the Intrafor witness, plus 2.82, which
9 is the higher level?
10 A. Mmm.
11 Q. Okay.
12 A. (In English) That is exactly the surface of the EWL
13 track slab.
14 Q. Indeed.
15 Then if we could go, please, to the next photograph,
16 page D231.
17 A. Yes.
18 Q. In your witness statement, Mr Poon, you say that this
19 shows damaged couplers. I think that's what you say.
20 You seem unsure.
21 A. (In English) Let me double-check, please.
22 Q. Yes. Photograph 6 -- I think this is photograph 6;
23 maybe it's not. Yes, this is photograph 6.
24 A. (In English) Okay.
25 Q. You say in your witness statement at 41.3:

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1 "Photograph 6 ... showed damaged couplers at
2 area C1-4 and area C1-5."
3 First of all, how do we know that this is at C1-4
4 and C1-5?
5 A. At the time the police asked me to look at all the bar
6 bending time, so this was first a police statement and
7 now we are just including it in my statement later.
8 Q. Yes, okay, but how did you deduce, how did you reason,
9 that this was in C1-4 or C1-5?
10 A. Because, at the time, it was only at that location there
11 was bar bending going on. At the time -- MTRC report is
12 open, of course, so at the time we referred to that
13 report, there's a table at the end of the report that
14 gives the start and completion time of the bar fixing
15 for every bay.
16 Q. All right. Do you know whether this was at the lower or
17 the higher level?
18 A. Now, this photo is about the middle section and the
19 upper level.
20 Q. These are the couplers, you say, towards the upper
21 level?
22 A. (In English) Yes.
23 Q. And why do you say they are damaged?
24 A. Actually, after, you know, blasting the concrete, and if
25 we --

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1 CHAIRMAN: Sorry, I'm going deaf in my dotage along with
2 everything else and I can barely hear it.
3 Okay, continue, please.
4 A. In fact, in Hong Kong, for all mechanical couplers used
5 in Hong Kong, they are CNC products. CNC stands for
6 computerised pneumatic cutting. In other words, it's
7 precision cutting. So, if there's impact or some minor
8 blasting of the thread, then it cannot be screwed in.
9 Now, we see on this photo, closer to the right,
10 where I'm pointing at, there is one hole you can see.
11 The blasting is such that the edge of the thread is
12 particularly thick (indicating).
13 MR PENNICOTT: The witness is pointing to the fourth coupler
14 circle, distinctively silver, on the photograph to the
15 left of the yellow pipe that is going up the right-hand
16 side. Sorry, fifth. It looks like it's the fifth one;
17 quite right.
18 A. Yes, yellow.
19 Q. Sorry, Mr Poon, you were saying?
20 A. If the coupler head was hit at any point -- that means
21 using this hammer, the electric hammer, that hit it --
22 then definitely, almost definitely, you cannot screw the
23 bar in; it's almost always the case.
24 Q. Mr Poon, just on that point, before we look at the last
25 photograph -- my understanding is that at one point,

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<p>1 China Technology was asked by Leighton to provide 2 a quotation for doing some of this work, to expose the 3 couplers; is that right? 4 A. Well, it should be put this way. Exposing the coupler, 5 for concrete we have poured, if it touches the 6 construction joint, then in our contract there's already 7 a rate based on quantities. If it is not the 8 responsibility of Chinat, and that includes because the 9 couplers have not been exposed properly enough, the 10 couplers are too deep into the concrete, and then we do 11 blast the CJ, we couldn't see it and then we had to dig 12 it out, then that would require a quotation. 13 And before the quotation, I think it was August 14 2015, in fact Leighton asked for a separate quotation 15 from us to work on the diaphragm wall. 16 Q. Mr Poon, pause there, because you may be able to help 17 the Commission on this point. It's not something that 18 you refer to in your witness statement, unfortunately, 19 but it's something that we picked up from one of your 20 police statements; all right? 21 A. Mm-hmm. 22 Q. So let's just have a look at it to make sure 23 I understand what you are saying. It was your fourth 24 police witness statement which you made on 24 July 2018, 25 and if we could look in the Chinese version at D2/822,</p>	<p>1 A. (In English) Yes. 2 Q. This had nothing to do with the removal of the concrete 3 at the top of the diaphragm wall; this was just for the 4 face of the diaphragm wall, is that right? 5 A. That's what I thought at first, but when I started work, 6 because it's daywork, and then I found my workers also 7 hacked the capping zone, the top of the diaphragm wall. 8 9 Q. But you say in this police witness statement that this 10 operation that you carried out lasted a couple of weeks, 11 you fell out with Leighton over it and it didn't 12 continue? 13 A. Yes. 14 Q. So it was a very short-term operation? 15 A. Yes, because someone asked me for money. 16 Q. All right. 17 CHAIRMAN: Sorry, I don't want to chase this down 18 an irrelevant rabbit hole, but are you saying somebody 19 wanted a kickback from you? 20 A. Yes. Yes. Already it's not profitable with that price. 21 MR PENNICOTT: So, when you were, in your couple of weeks, 22 removing the surface of the diaphragm wall to expose the 23 couplers, what tools, what machinery, what were you 24 using to expose the couplers? 25 A. At first, because we were only going to hack at the</p>
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<p>1 English version D2/824.1. 2 A. Yes, I'm there. 3 Q. What you say -- 4 A. Paragraph 4? 5 Q. Yes. At 824.2, paragraph 4, you say: 6 "In the end of July ... at the construction site ... 7 Mr Gary Chow ... verbally indicated to me that, since 8 Leighton had not yet hired another construction company 9 to perform the work of hacking concrete off the surfaces 10 of the east and west retaining walls inside the 11 construction site of Hung Hom Station such that couplers 12 could be exposed, such work was to be done by Chinat 13 instead." 14 I don't want to read it all out, but you then, as 15 I understand it, Mr Poon, gave a quotation; is that 16 right? 17 A. Yes. 18 Q. If we could find that in D2 -- possibly not. 19 A. (In English) D825. 20 Q. Sorry, Mr Poon, D1/825. 21 A. (In English) yes. 22 Q. That's the quotation that you gave; is that right? 23 A. Correct. 24 Q. As I understand it, this was for, if you like, the face 25 of the diaphragm wall that you were quoting for?</p>	<p>1 coupler, so you use the small breaker, you know, this 2 size (indicating), what we call a small breaker. But 3 then Leighton wanted us to hack the upper concrete slab 4 as well, that is the capping zone. So we specially 5 rented a pneumatic breaker machine, and we also bought 6 six breakers to do the work. 7 Q. This is the top of the diaphragm wall. At the moment, 8 I am just trying to focus on the surface, the face of 9 the diaphragm wall, exposing the couplers and how it may 10 be they got damaged. Since you did a couple of weeks' 11 work on this, as I understand it, I thought you might be 12 able to assist as to how it may be that the couplers 13 being exposed could get damaged, because that might be 14 helpful, Mr Poon, amongst all of these other things. 15 A. If we just use the small breaker, it's very difficult to 16 damage the couplers, but if we use big breakers, then 17 it's a totally different matter, because for the big 18 breakers, they are for large areas or much larger scale. 19 Now, for the diaphragm wall where the concrete has been 20 cast, we wanted to break it down to a lower level, but 21 if we want finer work on the couplers, then definitely 22 we have to use the small breaker, because if you use the 23 big breaker, immediately it will cause damage. 24 Q. Indeed, and that's the point I was trying to get at, 25 Mr Poon, that presumably your operatives who were only</p>

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1 doing this work for a couple of weeks, as you say,
2 presumably you would give them instructions to do the
3 work with due care because what you were trying to do
4 was to avoid damaging the couplers, I assume; would that
5 be right?
6 A. Yes, and then I will be held responsible.
7 Q. Yes, quite, and indeed that would apply not just to you
8 but to anyone else who was trying to expose the
9 couplers; to take care and try not to damage them, to do
10 their best not to damage them?
11 A. Yes, but that's not what I saw later.
12 Q. Okay. So back to that photograph. We are back at 231.
13 A. Yes.
14 Q. We can see that this photograph, we know it was taken on
15 22 September. This wasn't an area of wall that you had
16 participated in exposing the couplers? This wasn't, no?
17 A. No, not me.
18 Q. But you say you can see, in this photograph, damaged
19 couplers?
20 A. Yes.
21 Q. All right.
22 Then, over the page, at 232 --
23 A. Yes, I see it.
24 Q. -- you say in your statement that this photograph
25 "showed two persons wearing polo T-shirts of Leighton

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1 attempting to install a thread with cut rebar onto the
2 couplers."
3 Pausing there --
4 A. Yes.
5 Q. -- can you identify the area where this photograph was
6 taken?
7 A. Well, I will have to go back to the table before I dare
8 say, because there is no indication in this photo of the
9 location. I mean I need to look at the bar fixing
10 schedule and check against the time.
11 Q. All right. Agreed that it's at the lower level?
12 A. Yes.
13 Q. How do we know, how do you know, that the bar that they
14 are apparently seeking to install had thread that had
15 been cut?
16 A. Well, it doesn't show in this photo, but for the seven
17 photographs, if you put them together, you would see at
18 the time what I observed during the two to three
19 minutes; that is, somebody was cutting the rebars, the
20 threaded section of the rebar. And then some other
21 people took them and installed them.
22 Q. So you're suggesting that one or more of these bars that
23 we can see in this photograph is in fact one of the bars
24 that you say you saw cutting a minute or two earlier; is
25 that your evidence, Mr Poon?

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1 A. Right. That is, 228, after cutting, some people took
2 them to the area shown in 232 for installation, the same
3 bay.
4 MR PENNICOTT: Okay.
5 Sir, I see it's 3.40. Shall we have 15 minutes?
6 CHAIRMAN: Yes. Thank you very much.
7 (3.42 pm)
8 (A short adjournment)
9 (4.00 pm)
10 MR PENNICOTT: Thank you, sir.
11 Mr Poon, could we please move on to paragraph 42 of
12 your witness statement, at D22.
13 A. (In English) Okay.
14 Q. Here, you say this:
15 "In September 2015, Mr Thomas Ngai told me that he
16 still saw staff members of Leighton cutting ..."
17 CHAIRMAN: Sorry, just a second. We don't seem to have that
18 up yet.
19 MR TO: On the screen.
20 MR PENNICOTT: No screen. Sorry. I wasn't paying attention
21 to the screens.
22 CHAIRMAN: There we are. Thank you.
23 MR PENNICOTT: Mr Poon, have you got that in hard copy as
24 well?
25 A. (In English) I got it.

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1 Q. Thank you very much. You say:
2 "In September 2015, Mr Thomas Ngai told me that he
3 still saw staff members of Leighton cutting the threaded
4 rebars and/or pretending they had properly installed the
5 threads into the couplers. Nonetheless, these practices
6 were no longer done in the morning and/or the afternoon.
7 Rather, they were done at night."
8 That's simply not true, is it, Mr Poon? Mr Thomas
9 Ngai could not have told you that in September.
10 A. (In English) Yes.
11 Q. Mr Thomas Ngai gave evidence last week, and he has told
12 the Commission quite clearly and unequivocally that he
13 saw one incident, and that that was in December 2015.
14 So what you're saying here, Mr Poon, certainly in
15 relation to the time, cannot be and is not right,
16 I suggest to you.
17 A. It should be December. It was wrongly put as September.
18 Q. Right. So there is a typo here. It should say "In
19 December"; is that right?
20 A. The document is prepared in chronological order.
21 Q. All right. Well, that may be right, but in the previous
22 paragraph you were talking about 22 September, the
23 photographs you took, but anyway, leave that on one
24 side.
25 So let's substitute "December":

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1 "In [December] 2015, Mr Thomas Ngai told me that he
2 still saw staff members of Leighton cutting the threaded
3 rebars ...", and so forth.
4 In what circumstances did he tell you that, Mr Poon?
5 A. I can't remember clearly. I would have put it down if
6 I can remember it.
7 Q. You made the same error in your police statement; yes?
8 A. Actually, this error comes from the police statement.
9 Q. Yes, because this witness statement itself has been
10 prepared, in part, based upon what you have told the
11 police in your various statements?
12 A. Correct.
13 Q. All right. You then, in your witness statement, after
14 paragraph 42, jump from what we now know is December
15 2015 to June 2016.
16 A. Correct.
17 Q. So is it right that you give no evidence to this
18 Commission of having seen any cutting of rebar between
19 December -- well, in your case, September 2015 to
20 June -- well, after September 2016 -- sorry, 2015? Let
21 me put that again. It was very unclear, I'm sorry.
22 You don't give any evidence to the Commission,
23 Mr Poon, that you personally saw any rebar being cut
24 after September 2015; is that right?
25 A. I would like to say that it's after December 2015, after

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1 December 2015, Thomas Ngai still told me there were
2 people doing this.
3 Q. My question, Mr Poon, was that you personally did not
4 see any further cutting of rebar after September 2015;
5 is that right?
6 A. Correct.
7 Q. So what we have, so far as your personal knowledge is
8 concerned, Mr Poon, is a situation that I can summarise
9 in this way, to see if you agree with me: you limit your
10 evidence of seeing this cutting to really the period end
11 of July to September 2015 -- I'm talking about you
12 personally, Mr Poon.
13 A. Or you can narrow it further down to mid-August.
14 Q. All right. I'm happy with that. Mid-August to
15 22 September, just that period; yes?
16 A. Yes.
17 Q. All of that confined to the EWL slab?
18 A. Yes.
19 Q. And all confined to area C1?
20 A. C1 and C2.
21 Q. C2. Help me with C2, Mr Poon. Which of the incidents
22 do we need to look at for C2? I'm sorry, I've missed
23 something.
24 A. Maybe we can look at the photo at 227.
25 Q. Yes.

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1 A. I tallied the time with the police in respect of these
2 photos. Some photos are related to C2, the timing of
3 those photos.
4 Q. Mr Poon, I thought we had agreed, although I agree it
5 may not have been as precise and clear as it could be,
6 but I thought we had reached some agreement that all
7 these photographs that you say you took on 22 September
8 was in area C1-4?
9 A. Can we take a look at D6/8?
10 Q. 608?
11 A. (In English) 600 exactly.
12 Q. Ah. Yes. That's the photograph that we were looking at
13 just now but with some annotations on it.
14 A. Yes, I typed those annotations.
15 Q. And whose annotations are they; yours?
16 A. (In English) Yes, mine.
17 Q. I imagine, in the light of my question, you want to look
18 at the box at the bottom, where you say:
19 "A' is standing on the vicinity of the east D-wall
20 at C1-3 or C2-5 or C1-4 and cutting its vertical
21 rebars."
22 A. Correct.
23 Q. What I think I was suggesting to you, Mr Poon, was that
24 the only rebar that was being placed and fixed on
25 22 September -- sorry, you are quite right, this one is

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1 on the 4th -- it certainly wasn't C1-4, because that
2 didn't start until 14 September?
3 A. I checked this with the police. We used the table
4 produced by the MTRC.
5 Q. So C1-4 didn't start until 14 September. What are your
6 other options?
7 Let's see the photograph, please. C1-3. Right.
8 C1-3, the rebar fix was finished on 4 September, the
9 very day you took this photograph. So I suppose, in
10 theory, it could have been C1-3.
11 A. Can we take a look at the MTRC report, D01 --
12 Q. I'm not going to disagree with you because also you say
13 C2-5 -- and this is the point you are making -- C2-5,
14 I accept, the rebar was being fixed between 29 August
15 and 11 September. So I accept it could have been in
16 C2-5 as well.
17 A. I suspect there are some discrepancies in this
18 manipulated information from MTRC. In the report, D1 to
19 D40, you see a table setting out the time of the fixing
20 of bars and concreting, and there were a number of
21 layout plans there. I think the Commission should take
22 a look, but maybe not here. Maybe they have given you
23 different times in different documents or tables.
24 Q. With respect, think -- think before you say things.
25 There is no basis, I suggest to you, that you can make

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1 the allegation that the MTRC material, the documents,
 2 the records, are manipulated.
 3 A. (In English) I have.
 4 Q. You have no basis for saying that.
 5 A. I was saying that there were discrepancies. Maybe not
 6 altered, but there are two different documents and
 7 between the documents, they tell you different things.
 8 Yesterday and the day before yesterday, the Commission
 9 relied on B2900/2903 from the MTRC, and let the world
 10 think that after 12 January there was no rebar fixing.
 11 As someone who knows the construction site well, I would
 12 say that the documents were incomplete.
 13 Q. All right. So going back to my attempted summary, in
 14 terms of the areas, definitely C1-4, and possibly C2-5;
 15 yes? Okay. So that's the extent so far as your
 16 evidence is concerned?
 17 A. I agree. I saw it myself.
 18 Q. As I say, you go forward in your witness statement to
 19 June 2016 at paragraph 43. Then, leaving aside the
 20 paragraph about Mr Rooney which I have asked you about
 21 already, and no doubt the MTRC will ask you anything
 22 else they wish to about those paragraphs, you then turn
 23 to the incidents in late 2016 and early 2017.
 24 A. Yes.
 25 Q. You say -- correctly, it seems to me; you said earlier

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1 correctly -- that Mr Zervaas took over as project
 2 director from Mr Malcolm Plummer in or around
 3 September/October 2016.
 4 A. (In English) Yes.
 5 Q. And I think Mr Zervaas tells us that he indeed took up
 6 the position of project director on 11 October 2016.
 7 A. There was no formal takeover, handover, according to my
 8 perspective.
 9 Q. Okay. You tell us, I think, that you discussed with
 10 Mr Zervaas, you say between September 2016 -- it may be
 11 October but there we are --
 12 A. (In English) They are overlapping.
 13 Q. There's an overlap? All right. We'll see what they say
 14 about that. But let's assume it's September/October
 15 through until January.
 16 You had a discussion with Mr Zervaas of Leighton
 17 about the possibility of drilling and plating steel
 18 dowels in the shear zones between the EWL slab and the
 19 diaphragm wall.
 20 As I understand it, Mr Poon, you say that because,
 21 to your understanding, that would be some sort of
 22 remedial measure to put right, as you saw it, something
 23 that had been done incorrectly; is that right?
 24 A. Yes.
 25 Q. Now, you don't tell us this, Mr Poon, but I'm going to

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1 ask you anyway: did you have any similar discussions
 2 with Mr Plummer?
 3 A. No.
 4 Q. I find that slightly curious, Mr Poon, because
 5 Mr Zervaas is new on the scene, new to the project, in
 6 September/October 2016. Mr Plummer has been the project
 7 director in place throughout the relevant period, so far
 8 as I can work out, yet you don't have any discussions
 9 with him about it. Can you explain why that is, or why
 10 that was?
 11 A. They are very different. Malcolm is more senior in age.
 12 He's someone approaching a stage of retirement. When
 13 I told him anything about the site, he wouldn't descend
 14 to the level of doing something about it. Anthony gave
 15 me the feeling that he would try to resolve the
 16 problems. Very different.
 17 So, when I first talked to Anthony, I felt that he
 18 was more responsive. Therefore, I told him more.
 19 Q. The other thing that sort of puzzles me, Mr Poon, is
 20 that apart from the discussions that you say you had
 21 with Mr So, Gabriel So, and Mr Khyle Rodgers in
 22 September 2015, there's no evidence that you had any
 23 further discussion with anybody from Leighton until you
 24 spoke to Mr Zervaas in September/October 2016. Is that
 25 right? Is my understanding correct?

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1 A. No. But those discussions, the repetitions, no progress
 2 achieved, that's why I didn't put that in my statements.
 3 Otherwise, it would all look like paragraph 43, rather
 4 devoid of content.
 5 Q. Well, those are your words, Mr Poon, not mine, but if
 6 you had discussions with other members of senior
 7 Leighton staff between September 2015 and
 8 September/October 2016, when you met Mr Zervaas, surely
 9 that's something that you ought to have relied upon,
 10 informed us about, so that we could explore it, but you
 11 haven't given us any material to do so.
 12 A. It's not that I don't have anything. You can see the
 13 name, the next page, paragraph 49, the email, then it
 14 was addressed to a certain person.
 15 Q. Mr Poon, you're jumping ahead. Trust me, I'm coming to
 16 the 6 January 2017 email. I'm just trying to again
 17 understand what's going through your mind, Mr Poon.
 18 Between September 2016, So/Rodgers discussion,
 19 September/October, a year passes until you raise the
 20 point with Mr Zervaas; it just seems almost
 21 incredible -- if this is so important, so critical, such
 22 a big public safety matter -- that there's this year's
 23 gap where you do absolutely nothing.
 24 A. For the period you refer to, September 2016 until
 25 October 2016, actually it should start at 2015. When

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<p>1 I first knew about it, my estimate was always that it's 2 just a few per cent. So is it really a major public 3 safety issue? No. In the interim, I came to learn 4 more. I never told the press or anyone about it, and 5 that caused me more concern that there might be 6 a problem. There were Leighton staff who told me, that 7 is after we started work, RDO and BD were hammering 8 Leighton because they did not follow the plans to do 9 work. That's why I kept seeing that there were changes 10 to plans on site. I noticed changes made to drawings. 11 It's just that at the time I misunderstood it to be 12 remedial measures for changing those plans. That's what 13 I thought all along, until -- 14 Q. Well -- sorry. Go on, continue. 15 A. -- until someone told me that's not the case. 16 I couldn't recall when. There were two middle to senior 17 management, actually senior management staff of 18 Leighton, that were chased away in a row, and then 19 I realised it was something major. 20 Q. Mr Poon, are you sure that you haven't got things 21 slightly confused in your own mind? Because we've 22 touched on this a couple of times already today, that 23 Leighton and the MTR certainly did alter the design of 24 the rebar in significant areas of the east diaphragm 25 wall -- we know that; all right? -- by reducing the</p>	<p>1 the other panels of concrete, Intrafor got the level 2 right. 3 From my recollection on site, I did not see any 4 special circumstances, because if there were special 5 circumstances, I would have seen it. I have sharp eyes. 6 It's like just now there were nine panels out of ten. 7 Then just now you said Leighton and MTRC knew about 8 it, it's because they changed the plans for a better 9 design, and so they made the diaphragm walls lower. So, 10 for the couplers originally on top, they were replaced 11 by a continuous bar so there would be better strength 12 and better performance and a better structure. But in 13 reality that's not the case. 14 When we checked with Intrafor -- 15 Q. Well -- 16 A. Can you please allow me to say a bit more? 17 Because this is really one of the bases of the 18 investigation of this Commission. If from the very 19 beginning the assumption is wrong, then we may never get 20 to the facts. But of course -- 21 CHAIRMAN: Yes, all right. Don't explain. Yes. 22 A. First of all, I have seen, for many bays, and even when 23 I went back to check the photos, for the bars at the 24 top, there was not a continuous bar straddling the 25 cantilever position. No, not at all. It's wrong. It's</p>
<p>Page 142</p> <p>1 level of the concrete, exposing some of the rebar that 2 was there; yes? You understand that? You understand 3 what I am talking about? 4 A. Perhaps I know more than you do. 5 Q. I'm sure you do. 6 A. (In English) I did. I did. 7 Q. It depends what subject we're talking about of course, 8 Mr Poon. But anyway, leaving that aside. So we've got 9 this reduction of the concrete level along large 10 sections of the east diaphragm wall. You know what I'm 11 talking about. And I'm just concerned that what you 12 were actually seeing was the removal of some of that 13 rebar at the top that was in the diaphragm wall, the 14 couplers, and so forth, that were no longer necessary 15 because they were having through-bars. I mean, is that 16 what you were witnessing? Is that what you were 17 confusing? 18 A. (In English) No. No. 19 (Via interpreter) Now, Leighton and MTRC have been 20 packaging this story and the Commission has been 21 listening to this story. It's a story. 22 (In English) Fabrication. 23 Q. Sorry, what is a fabrication, Mr Poon? 24 A. Now, Intrafor made it clear; they only poured five 25 panels of concrete that they got the level wrong. For</p>	<p>Page 144</p> <p>1 fabrication. What I saw, instead, for the high tensile 2 shown, there was lapping. 3 Secondly, I even saw gridline 45 to 48, east side, 4 there was someone putting a code in the diaphragm wall 5 and the rebar stopped before the diaphragm wall. I also 6 saw that when the diaphragm wall was chiselled, there 7 was not a proper cut-off level. Of course the cut-off 8 level should be 2.84. 9 If someone reduced it by 600 or 700 to accommodate 10 the seven to 11 layers or five to seven layers of rebar, 11 then it makes sense, but that's not what I saw. It 12 seems the chiselling was random. And for the same 13 panel, the concrete level was different. It's like 14 people sharpening a pencil. If you cut a cross-section, 15 sometimes the diaphragm wall became an A-shape. That's 16 the fact I saw, and that's why, on 22 October, we tried 17 to submit 21,718 photos to the Commission in all. We 18 worked very hard to look at photos. We tried very hard 19 to find the facts, but we found that our company was too 20 small, we didn't have the time to look at each and every 21 photo. 22 Before 22 October, we wanted very much to give 23 another witness statement to explain the whole case 24 clearly, but we found the more we looked, the more we 25 found, the more we became confused, so we dared not</p>

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1 write the statement.
2 Instead, we made an application at the beginning of
3 22 October that for the 21,718 photos, we wanted to give
4 them all to the Commission, so the Commission could look
5 at the photos anytime, and that might help us to look
6 less at the structure thing. But then Leighton or MTRC
7 opposed, they thought it was a waste of time.
8 Now, Leighton submitted 50,000 documents, far more
9 than ours. We handled 130,000 pages in the bundle. How
10 come the Commission would not include our 21,718 photos?
11 It's not even 20 per cent.
12 MR PENNICOTT: Mr Poon, I'll come back to the end of that
13 answer in a moment. Can I just get you to clarify one
14 thing in that long answer. You said that you saw
15 gridline 45 to 48 east side, there was someone putting
16 a "code", it's come out here, code in the diaphragm
17 wall. Did you mean a bend or a U-bar?
18 A. (In English) Okay, bend, bended bar.
19 Q. A bend?
20 A. (In English) Bended bar, L-bar.
21 Q. Okay, an L-shaped bar?
22 A. (In English) Which means the bar is not connected to the
23 diaphragm wall.
24 Q. L-shaped bar, okay.
25 Just coming towards the end of that answer, Mr Poon,

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1 and no doubt the chairman will tell you this -- I'm
2 going to tell you first -- I'm afraid the way it works,
3 Mr Poon, is you can't just say, with respect to us,
4 "Here's 21,000 photographs, make of them what you will,
5 have a look." I'm afraid the position is that we need,
6 I'm afraid, to be guided by yourself and other witnesses
7 to help us. We can't just have 21,000 photographs and
8 say, "Spend a couple of weeks flicking through these
9 photographs and try to figure it out for yourself." We
10 need help.
11 The position is, on I think now three occasions,
12 attempts have been made by China Technology to put in
13 material, put in photographs in particular, and then the
14 application has been withdrawn. So, with respect,
15 Mr Poon, it's a bit unfair to criticise, make
16 criticisms, in the way you have.
17 If you wanted to put in material, then frankly
18 you've had quite a lot of time to do so, quite a bit of
19 opportunity to do so. I appreciate that you maybe are
20 not the biggest company and you are not Leighton and
21 you're not the MTRC.
22 A. (In English) Definitely.
23 Q. You're not MTRC and you're not the government, but
24 nonetheless you, China Technology and you personally,
25 have made a lot of serious allegations, both in the

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1 media, in your witness statements and in your oral
2 evidence today, and what we have to explore is whether
3 those allegations are sustainable, whether they are the
4 truth, and the more material we have to help us in that
5 endeavour, the better, and if you don't give it to us,
6 we can't deal with it. But as I say, there's a proper
7 way of giving it to us, and it isn't just, "Here's
8 21,000 photographs, good luck." That's not the way it
9 works. Do you understand?
10 A. (In English) I understand.
11 (Via interpreter) But yesterday I heard Paul Shieh,
12 senior counsel -- what did he say? -- he questioned me
13 that I was not qualified to comment on the photos. He
14 said it was expertised. I didn't have the money to
15 engage an expert, but I will try again.
16 MR WILKEN: I apologise. It was me who's guilty of that.
17 If he's going to throw a stone, he can at least throw it
18 at the right person.
19 A. (In English) Thank you.
20 MR SHIEH: That's not the fault of me.
21 A. So I will instruct my counsel to submit the
22 21,718 photos to the Commission. Of course I will try
23 my best to prepare a witness statement to cover those
24 photos.
25 CHAIRMAN: Have you accidentally invited us to ...

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1 MR PENNICOTT: No, definitely not.
2 MR SHIEH: And the Commission will understand why I said
3 what I said yesterday.
4 MR PENNICOTT: Yes.
5 A. Of course, I understand this is an inquisitorial
6 proceeding, it is not a criminal proceeding, Mr Paul
7 Shieh, senior counsel.
8 CHAIRMAN: All right. Let us just get back on track, if we
9 can. That's not blaming you, Mr Pennicott. It's just
10 beginning to ramble rather.
11 MR PENNICOTT: It is, sir, yes.
12 All right. Let's just see where we were.
13 Let's move on, Mr Poon. Your discussions with
14 Mr Zervaas started September/October, you say, 2016;
15 yes?
16 A. (In English) Yes.
17 Q. I'm not going to get into the detail of some of this,
18 but Mr Shieh or Mr Wilken may well do. But can I put it
19 like this, in general terms, Mr Poon: that in the latter
20 quarter of 2016, you started discussions with
21 Mr Zervaas, representing Leighton, on a revised
22 milestone schedule and a final account payment schedule;
23 "yes" or "no"?
24 A. It's wrong to use "revised milestone". At the time
25 Leighton owed our company much money. What Zervaas

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<p>1 offered was to give us the money in small sums. They 2 owed us money. The money should have been paid to us 3 a long time ago. It's our payments. 4 Q. All right. Anyway, you ultimately managed to reach some 5 agreement/understanding with Mr Zervaas? 6 A. Yes, because he said MTRC did not pay him, that's why 7 they had to pay us slowly like this. 8 Q. All right. As I say, I'm not getting into the detail -- 9 Mr Shieh will do that, if he wishes to do so. 10 A. This is not within the scope of the Commission. 11 Q. I know that's what you say, but I think Leightons take 12 a rather different view about it, Mr Poon. That's why 13 I'm not going to ask you about it. 14 A. I object to that. 15 Q. If someone else wants to ask you about it, they can. 16 But I am going to ask you about one or two emails that 17 you wrote, because I just need to try to understand what 18 it is you were saying, albeit some time after September 19 2015. 20 Could you please -- and I appreciate you have 21 recited this in your witness statement, but I want to 22 look at the actual document itself -- be shown C12/7923. 23 Do you have that email? 24 A. (In English) I have that. 25 Q. You obviously -- your name appears at the bottom of the</p>	<p>1 deliberately taken, and you refer to that happening 2 between the day shift and the night shift, and, as 3 I understand it, you are talking about the cutting of 4 rebar; is that right? 5 A. And also screwing them into the couplers. 6 Q. All right. 7 Now, when you say "we found plenty of records" -- 8 and you have indicated to me that that means the photos 9 and videos -- we've looked at the seven photographs, two 10 of which we know are simply random photographs, albeit 11 they help you to identify a particular person. That is 12 all, Mr Poon, that you have presented to this 13 Commission. Could I suggest to you that that doesn't 14 amount to "plenty of records"; it amounts to five 15 photographs in one, possibly two, specific areas of the 16 site. 17 A. I have a different understanding. First of all, when 18 I wrote the email, the COI hadn't existed, and my 19 understanding is that regarding the bundle, there are 20 far more than just five photos. It's just that no 21 witness statement to cover these photos and this means 22 that these photos are not submitted. In fact, Leighton 23 requested us to provide electronic copies of the photos, 24 and we provided 41 of them. This is through the COI's 25 email requesting our company to submit them, which we</p>
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<p>1 email? 2 A. Correct. 3 Q. And this is an email that you prepared and it's all your 4 words; is that right? 5 A. Correct. 6 Q. You say: 7 "During our review on progress photos and videos, we 8 found plenty of records concerning malpractice use of 9 coupler in this project ..." 10 Let me just pause there and ask you this. Other 11 than photos and videos, were there any other records, 12 any other materials, emails, letters, memos, site 13 diaries, reports -- were there any other documentary 14 material that you considered before you wrote this 15 email, or was it exclusively the photographs and the 16 videos? 17 A. These are about photos and videos. 18 Q. All right. So is the answer to my question you didn't 19 consider, didn't look at, any other material? 20 A. No. 21 Q. In the first paragraph -- I don't want to really read 22 all of this out, Mr Poon -- it might be read out by 23 others later -- you refer to "the shear face of the EWL 24 track slab", and you made mention of "malpractice 25 activities of Leighton staff" that you say were</p>	<p>1 did, which are documented and contained in the bundle. 2 CHAIRMAN: Sorry, are you saying that in this Dropbox of 3 21,000-odd photographs, amid all the ordinary, mundane 4 photographs taken in the course of work, there are 5 a mother lode of photographs showing rebar cutting 6 and/or screwing or pretending to screw into couplers? 7 A. Well, as to how we review the photos, I am doing the 8 work of review by myself. For photos on Dropbox, to 9 prevent loss, it's contained in the computer. For the 10 other copy, it's with the police. 11 My previous practice was that every week, I would 12 spend time with the police going through them and -- 13 CHAIRMAN: I'm sorry. My concern is just a simple answer: 14 are you suggesting that in addition to the number of 15 photographs that have been put before this Commission 16 purporting to show cutting of rebar and/or misuse of the 17 threaded rebar into couplers, in addition to those few 18 photographs, there's a mother lode, a wellspring of 19 photographs to be found in these Dropbox, but you just 20 haven't had time to go and find them? 21 COMMISSIONER HANSFORD: That should read "there's another 22 load". 23 CHAIRMAN: No, sorry, I meant "mother lode", being a mining 24 term, I think. 25 COMMISSIONER HANSFORD: Thank you.</p>

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1 CHAIRMAN: It's a simple answer. Are you saying there's
 2 a whole lot of photographs --
 3 A. I believe there are still photos not yet made open, but
 4 I cannot count them, how many, because after
 5 18 September we deleted large quantities of materials on
 6 Dropbox. I mean after 18 September 2017 meeting there
 7 was a confidentiality agreement and I personally also
 8 deleted a lot of materials on Dropbox.
 9 As for the 21,718 photos, these are the ones that
 10 remained.
 11 MR PENNICOTT: Mr Poon, the way it happens is this. Let's
 12 just see if we can help the Commission a bit further.
 13 In your first police interview on 4 July this year, you
 14 handed them a USB stick.
 15 A. Yes.
 16 Q. And that, as I understand it, had I think at the time
 17 40,000 photographs on it, but subsequently it was
 18 discovered there were a lot of duplicates and that
 19 reduced down to about 21,000. Am I about right?
 20 A. Right.
 21 Q. Then, subsequently, at a later police interview on
 22 31 July, so some 27 days later, presumably the police
 23 having had to opportunity of looking at your 40,000
 24 photographs, as they were at the time, you went back to
 25 the police station and you gave another statement, and

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1 you were taken through the photographs by the police.
 2 And what happened is all described in your police
 3 witness statement -- English version D831.1; Chinese
 4 version D829 -- and we can see at paragraph 3 of this
 5 statement of 31 July that you start off by saying:
 6 "Inside the USB, there is a folder with the folder
 7 names 'SCL1112' ...", and so forth.
 8 Going a bit further down, you say:
 9 "There are 42 items inside folder '05. Photos'
 10 (screen capture produced as page 1 of attachment 1), and
 11 it contains about 40,000 photos and short videos in
 12 relation to SCL Hung Hom Station Extension construction
 13 work. I personally selected these photos and short
 14 videos (about 40,000 in total) from the Dropbox cloud
 15 storage account of Chinat and downloaded them to the USB
 16 without editing the content of any of these photos and
 17 short videos."
 18 Then if we could then move to paragraph 4, you say:
 19 "The folder '05. Photos' contains a folder with
 20 folder name '2015 07'" -- which I assume is July --
 21 don't look elsewhere, Mr Poon, follow me -- July 2015 --
 22 "which contains 45 items ... Accompanied by the police,
 23 I browsed through the 45 minutes items inside [that
 24 folder] and could not identify any photo in this folder
 25 which is relevant to the matter of suspected cutting of

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1 rebars by someone in SCL project."
 2 A. Right.
 3 Q. So that's the July one out of the way.
 4 You go on to say:
 5 "The folder '05. Photos' contain a folder with
 6 folder name '2015 08'" -- so we are now into August --
 7 "which contains 544 items ... Accompanied by the police,
 8 I browsed through this folder ... This folder ...
 9 contains two items ... which are ..."
 10 And then you identify them.
 11 "The said 2 photos were provided by me to the police
 12 on 10 July 2018 (produced as enclosure 9 and enclosure
 13 10 [to an earlier statement you made])."
 14 Then you say:
 15 "I now use pen to draw a line underneath each of
 16 these 2 items. Aside from those 2 photos, folder '2015
 17 08' contains no other photo which is relevant to the
 18 matter of suspected cutting of rebars by someone in the
 19 SCL project."
 20 So that's August, two photographs.
 21 Then we move to September, in paragraph 6, and it
 22 all becomes a little more complicated, but essentially
 23 what we end up with is a number of photographs that
 24 you've identified in September, slightly more than
 25 you've given the Commission, but nonetheless, in your

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1 witness statement to the Commission, as we have seen
 2 this afternoon, you have just produced the seven
 3 photographs, and that presumably was a judgment that you
 4 took to provide this Commission with those seven
 5 photographs as being directly relevant to the points
 6 that you wanted to make to the Commission.
 7 A. Let me explain. When I prepared the witness statement,
 8 I wanted to make sure that I witnessed something and
 9 knew something first-hand and it's 100 per cent my
 10 experience before I would put it down in my own
 11 statement. That's the reason why I submitted seven
 12 photographs.
 13 Q. So the fact and the point is, Mr Poon, that back in July
 14 you were clearly looking at these photographs, analysing
 15 them, going through them with the police, as we can see,
 16 and taking a measured, considered view about which
 17 photographs were relevant to the bar cutting, and then
 18 you have produced those that you think are relevant, to
 19 you personally?
 20 A. That's right. On the other hand, I located the relevant
 21 bundles and I put all of them in the bundle. They are
 22 not attached to my witness statements, but in the
 23 bundle I have indeed included them.
 24 Q. I appreciate that there are other photographs, Mr Poon,
 25 but the problem is they've not really been explained,

<p style="text-align: right;">Page 157</p> <p>1 and therefore it's a little difficult to ask questions 2 about them. 3 Now, we were looking at the email. Could we go back 4 to the email, if you've got it there. 5 A. (In English) Okay. You can go ahead. 6 Q. Sorry, it's C12/7923. 7 A. I can see the electronic copy. 8 Q. Thank you. 9 Attached to this email to Mr Zervaas, copied to 10 Mr Tam, you send two of the photographs that we have 11 been looking at this afternoon, the one of 18:18 and 12 18:19 of 22 September; yes? 13 A. (Nodded head). 14 Q. So just two of the photographs. 15 A. Right. 16 Q. Then you say this: 17 "We doubt the structural safety and life time of the 18 EWL track slab, especially on the following structurally 19 critical vicinities: 20 1. The 36 numbers of face on transverse 21 construction joints between the pour bays on whole 22 400 metre long EWL track slab." 23 Now, trying to break that down, when you say "the 24 whole 400 metre long EWL track slab", I assume you are 25 limiting yourself to the east diaphragm wall?</p>	<p style="text-align: right;">Page 159</p> <p>1 into totally grossly 36 bays for pouring concrete. 2 CHAIRMAN: Yes. 3 A. (In English) And between each bay of concrete, we have 4 a transverse joint. 5 CHAIRMAN: All right? 6 A. (In English) Which is also connected by couplers and 7 threadings. 8 MR PENNICOTT: So if you would be shown B17/24198. 9 A. Yes. 10 Q. I appreciate, Mr Poon, that this omits the HKC in the 11 diagram, although not in the detail below. And so, as 12 I understand it, what you're talking about is each joint 13 between each bay; is that right? 14 A. (In English) Yes, the joint, the transverse joint, 15 between different colours of bays. 16 Q. Okay. 17 COMMISSIONER HANSFORD: Could I just understand -- so the 18 couplers we're referring to, unlike the previous ones 19 which were couplers coming out of diaphragm walls -- 20 MR PENNICOTT: Yes. 21 COMMISSIONER HANSFORD: -- these are couplers between bay 22 slabs presumably installed by Fang Sheung? 23 MR PENNICOTT: The rebar, yes. 24 COMMISSIONER HANSFORD: The couplers at the east transverse 25 joints?</p>
<p style="text-align: right;">Page 158</p> <p>1 A. (In English) No. No. 2 Q. You are not? 3 A. (In English) No. 4 Q. All right. When you say 400 -- 5 A. (In English) From point 1, no. 6 Q. When you say "400 metres", are you talking about the 7 whole length of area A, HKC, area B, area C, right along 8 the slab; is that what you're saying? 9 A. (In English) Yes, exactly, from gridline 1 to 10 gridline 50. 11 Q. And when you say "transverse construction joints", what 12 do you mean? 13 A. In Chinese, we have a term (Chinese spoken). 14 (In English) Therefore, we have the construction 15 joints. 16 CHAIRMAN: Sorry, I didn't understand that. 17 MR PENNICOTT: Neither did I, sir. I'm also not getting any 18 translation. 19 CHAIRMAN: Yes. What is the meaning of "transverse 20 construction joints"? 21 A. To me? 22 CHAIRMAN: Yes, to you. 23 A. (In English) We have the track slab like rectangular 24 box, from gridline 1 in area 8 and to gridline 50 in 25 area C3, the train is running on it. We are dividing it</p>	<p style="text-align: right;">Page 160</p> <p>1 MR PENNICOTT: Yes. 2 COMMISSIONER HANSFORD: Okay. 3 MR PENNICOTT: That's as I understand it, they were doing 4 all of the rebar, whichever way it was going. 5 COMMISSIONER HANSFORD: So this is not a connection with 6 a diaphragm wall? 7 MR PENNICOTT: Yes, as I understand it, Mr Poon, this is not 8 a connection between a diaphragm wall? 9 A. (In English) Yes. 10 Q. This is a connection between two bays, effectively, that 11 you are talking about? 12 A. (In English) Yes. 13 MR PENNICOTT: Sir, would that be a convenient time to stop? 14 CHAIRMAN: Yes. Thank you very much indeed. 15 MR PENNICOTT: Sir, I don't think I'm going to be perhaps -- 16 well, I've got a few more emails to look at, but perhaps 17 another hour to an hour and a half, I anticipate. 18 CHAIRMAN: Good. Thank you very much. 19 Just a reminder again, Mr Poon, that while you are 20 giving evidence you are not entitled to discuss that 21 evidence with any person. 22 WITNESS: (In English) Understand. 23 CHAIRMAN: Good. 24 (5.00 pm) 25 (The hearing adjourned until 10.00 am the following day)</p>

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