

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 Puntì)

11 Examination by MR PENNICOTT

12 MR PENNICOTT: Mr Poon, good morning.

13 A. Good morning.

14 Q. We meet for the first time; you agree with that?

15 A. I think I meet before in this court.

16 Q. In this court, but not before then; do you agree with  
17 that?

18 A. It been clarified.

19 Q. It has been clarified and we will be coming back to it.

20 Mr Poon, you have a BSc in construction management  
21 from the South Bank University in London; is that  
22 correct?

23 A. 係。

24 Q. You also have a higher diploma in building technology  
25 and management from the Hong Kong Polytechnic; is that  
26 correct?

1 A. 係。

2 Q. In which years did you obtain those two qualifications?

3 A. 唔記得咗喇，二十幾年前喇。

4 Q. Let's start with the first one, the one at the South  
5 Bank; approximately what year?

6 A. South Bank?

7 Q. Yes.

8 A. 92或者94，係，大約嗰個時間。

9 Q. And the higher diploma at Hong Kong Polytechnic?

10 A. 90或者92，90或者92年。

11 Q. So that came first?

12 A. 係。

13 Q. I also understand that you have a master of laws in  
14 arbitration and dispute resolution from the City  
15 University of Hong Kong?

16 A. 係。

17 Q. Which you obtained in 2014?

18 A. 係。

19 Q. So would I be right in thinking that you studied for and  
20 obtained that master's degree whilst you were running  
21 your business, that is China Technology?

22 A. 係。

23 Q. Mr Poon, would you regard yourself as an impulsive sort  
24 of person?

25 A. 我有temper，但係唔算衝動。

1 Q. Right. So would you agree that you don't shoot from the  
2 hip and say the first thing that comes into your head,  
3 but you are careful and cautious about what you say?

4 A. 睇每一件事唔同嘅情況之下，有唔同嘅處理。

5 Q. When you give interviews to the media, that's the press,  
6 the radio and the television, do you consider carefully  
7 whether you are being accurate and truthful in what you  
8 say to them?

9 A. 呢個一直係我就傳媒，係，或者向公眾交代呢件事嘅宗旨，就係講真話。

10 Q. As part of that telling the truth, do you go out of your  
11 way to present the full picture and not just part of the  
12 picture, of any particular story that you're telling  
13 them?

14 A. 第一，就係我講嘅每一句說話當時都受制呢個保密協議，所以我講嘅每一  
15 段說話都係基於已經被披露嘅資料，尤其是當時港鐵不斷向傳媒同埋向社  
16 會發放一啲錯誤嘅訊息。

17 Q. Let me just focus on that for the moment. So your  
18 position, Mr Poon, is that over the last few months,  
19 since about May of this year, as far as you are  
20 concerned, you've been telling the truth and the full  
21 picture to the media; is that right?

22 A. 我係講真實嘅情況，但係唔係你所講full picture。

23 Q. In what sense is it not the full picture?

24 A. 紅磡站嘅結構問題並不單只於cut螺絲頭，亦都並不單只而家公眾知道佢  
25 哋亂咁改則，唔跟圖施工，仲有好多其他問題。

1 Q. When did you first find out that work wasn't being done  
2 in accordance with the drawings, Mr Poon?

3 A. 唔跟圖則做呢，其實第一次發現係大概喺2015年尾，當時我係問禮頓其中  
4 一個工程師有關點解我見唔到有做capping beam。

5 Q. We'll come to that in a moment. Name the Leighton  
6 engineer, please.

7 A. Andy，我唔記得個姓，因為佢有幾個Andy，肥啲嗰個Andy。

8 Q. All right. Fatter?

9 A. A little bit fatter.

10 Q. Let's see if we can find him.

11 Now, am I right in thinking also, Mr Poon, that over  
12 the last few months or so you've been passing  
13 information to certain members of LegCo?

14 A. 我pass啲資料畀某一啲立法會？唔係，每一次都係我被問嘅，我有主動去畀  
15 資料人啲。

16 Q. Well, okay. You were asked, and you provided it?

17 A. 有人問，我就會答，如果答嘅，基本上都orient喺個保密協議裏面我可以  
18 講嘅，而主要都係澄清尤其是首先由港鐵向公眾發送嘅資料嘅錯誤。

19 Q. When you answered requests for information from the  
20 LegCo members, did you pass them documents, photographs,  
21 emails, and so forth? What did you actually give them?

22 A. 唔會，唔該。

23 Q. So it was just oral representations that you made to  
24 them?

25 A. 係。

1 Q. Okay. We've talked about the media. We've talked about  
2 LegCo members. Mr Poon, when you commit something to  
3 writing, in a letter or an email, again, do you give the  
4 contents of what you're writing careful thought and  
5 consideration?

6 A. 寫每一封電郵，寫每一封信都係in good faith㗎喇，就係相信寫嘅嘢  
7 都係真實，呢個就係一直無論喺business上面嘅email好，喺個人上面  
8 嘅溝通好，都係一樣。

9 Q. Right. So the answer to my question is that you do  
10 carefully consider what you're putting into writing?

11 A. 係，當然。

12 Q. Mr Poon, when you carefully consider what you're putting  
13 into writing, do you think about the implications of  
14 what you are saying in the written word?

15 A. 寫--我首先寫一個e-mail或者寫封信，背後嘅目的，而個目的出嚟嘅  
16 implications或者出嚟嘅consequence都未必一定寫封信嘅人當時  
17 可以預計、完全掌握嘅。

18 Q. Right. So you do give some thought to the implications,  
19 but you say that you wouldn't necessarily foresee all  
20 the implications that might arise; does that really  
21 summarise it?

22 A. 㗎。

23 Q. Mr Poon, pushing it a bit further, do you think about or  
24 have any concern for the harm and damage you might cause  
25 to others for what you say or write?

1 A. 我所講或者所寫嘅嘢都全部係100%真實嘅，喺法理上，喺道德上，我睇唔到  
2 我--因為我所講嘅嘢或者我寫嘅嘢而對對方造成傷害，反而係對方自己佢做  
3 一啲錯嘅事，佢去掩飾、佢去講大話，而增加對自己嘅傷害。

4 Q. When you put my name in your witness statement, did you  
5 give any thought to the harm, the damage, that might  
6 cause?

7 A. 呢件事我想解釋清楚，第一件事，第一，我喺第三份嘅witness statement  
8 上面...

9 Q. No, don't explain. Answer my question. Did you give  
10 any thought --

11 A. 冇考慮過，冇考慮過，我淨係希...

12 Q. -- to the harm or damage you were going to cause by  
13 putting my name in your witness statement?

14 A. 喺擺你嘅名上證人供詞之前，我係的確喺6月13號係參與咗由港鐵邀請  
15 我去調查沙中線呢個醜聞嘅一個調查嘅會議，喺個會議上面，港鐵喺冇  
16 話畀我聽嘅情況之下，無端端多咗一個chamber...

17 Q. Mr Poon --

18 A. 你畀我講埋落去，得唔得？

19 Q. No, I won't --

20 A. 我而家正答緊你嘅問題。

21 Q. We'll come back to this in a bit more detail in a  
22 moment. I just want to know the answer to my question:  
23 did you think about, as you put the names on the piece  
24 of paper that then became your witness statement, the

1           harm or damage that might be caused if you put anything  
2           wrong in that paragraph?

3       A.    第一，我根本就唔知道你將會係呢個chamber--呢個commission嘅  
4           counsel，第一；第二，我寫個名上去嘅時候...

5       Q.    Stop. Mr Poon, your witness statement is dated  
6           3 September.

7       A.    係。

8       Q.    I became counsel to this Commission on 12 July 2018.

9       A.    我並唔知呢件事。

10      Q.    You didn't know about it?

11      A.    I know -- I never.

12      Q.    So you didn't go on to the Commission's website when it  
13           was set up, where it was announced?

14      A.    冇。

15      Q.    All right. We'll come back to that in a moment.

16           Let me just go on -- we are coming back to paragraph  
17           18.6 --

18      A.    我想問Mr Ian Pennicott，你係咪因為咁樣而可以故意針對一個  
19           witness去提問或者喺你opening會針對witness講“microscope”  
20           呢個字呢？

21      Q.    Mr Poon, unfortunately, unlike when you're talking to  
22           the media, I get to answer the questions; you don't.  
23           You've got to answer them. And I resent the word  
24           "target".

25           Now, if you were careful and cautious in what you

1 write -- if you are careful and cautious in what you  
2 write -- if you then subsequently get something wrong,  
3 there's a mistake, there's an error, which we all  
4 commit, if you have given the matter some careful  
5 thought and consideration, do you agree that then it's  
6 a lot easier to work out where you went wrong?

7 A. 你再提問一次。

8 Q. Yes. If you shoot from the hip and you just say the  
9 first thing that comes into your head, then if you get  
10 something wrong, that's because you've just said the  
11 first thing that's come into your head. However, if you  
12 go through a process of thought and reasoning when you  
13 write something out, if you do make a mistake, you can  
14 then go back through that process and work out how you  
15 got it wrong. Do you understand?

16 A. 你做咗好多假設，如果你嘅提問係如果我寫嘅或者係講嘢講錯咗，我會唔會  
17 思考番，我係會嘅，我會唔會做補救，我係會嘅。

18 Q. All right. Okay. Now, just following on from that,  
19 just a small example so that I can try to explain more  
20 clearly the point I'm driving at, Mr Poon. In your  
21 witness statement, attached to your witness statement,  
22 you have a personnel chart.

23 A. 人事圖表係附件嘅我哋bundle裏面。

24 Q. Yes, it's page D224 in the bundle.

25 A. 但係我澄清，唔係嘅我嘅witness statement裏面。



1 Q. It's attached to your witness statement, exhibited to  
2 your witness statement.

3 A. 如果咁樣講，同琴日D5-9幾啲相係一樣，nature、attachment嘅方法  
4 完全一樣。

5 Q. Yes. A photograph is obviously something that's taken,  
6 a snapshot in time. The site organisation chart, the  
7 personnel chart, that's attached to your witness  
8 statement, is something that's presumably prepared. My  
9 simple question is: did you prepare it, Mr Poon?

10 A. 唔係，唔係，唔係，我想澄清清楚先，呢個我覺得需要澄清，琴日我聽到  
11 嘅就係話我喺bundle裏面嘅相片，你哋當成新證據，唔可以喺個主問提  
12 問，因為你唔覺得啲啲係夾附咗喺個witness statement裏面，而我  
13 頭先再重申，我係有人到嗰個--兩個嘅organisation chart，但係就  
14 並冇夾附喺個證人口供上面嘅。我再講，嗰兩個organisation chart  
15 嘅nature同琴日兩張相嘅nature一模一樣，都係喺第一次我哋入文件畀  
16 獨立調查委員會嘅時候一次過入晒嘅bundle嚟嘅。

17 Q. Mr Poon, I don't think there's anything between us on  
18 this, on the site organisation chart. I entirely accept  
19 it was attached to your very first witness statement.

20 A. 但係我對你講嘅嘢冇爭議。

21 Q. I'm not sure why, but anyway. Can I just come back to  
22 my question?

23 A. 你處理喺嗰個夾附喺我哋第一次入bundle上面嘅兩個organisation  
24 chart同埋我哋同一時間入嗰啲獨立調查委員會一批相片，你都完全兩

1 個唔同嘅睇法同埋處理。

2 CHAIRMAN: Sorry, Mr Poon, this is turning into a somewhat  
3 confused argument. That doesn't help at all. Counsel  
4 for the Commission is asking questions, and I'm sure, if  
5 you consider those questions and just answer them as  
6 simply as possible, without engaging in a form of  
7 gymnastics mentally, then we'll move on, and I will make  
8 sure that you are not prejudiced. That's part of the  
9 reason for being here, in seeking the truth, to make  
10 sure that people are dealt with fairly. But answering  
11 a question fairly is the beginning process. Do you  
12 understand?

13 WITNESS: 明白，understand。

14 MR PENNICOTT: Mr Poon, there is no hidden agenda here. I'm  
15 just trying to explore with you --

16 A. I hope so.

17 Q. Mr Poon, it's not in dispute, you have attached to your  
18 witness statement, your first witness statement, a site  
19 organisation chart.

20 A. 兩個組織圖。

21 Q. Two, indeed.

22 Did you prepare those charts yourself?

23 A. 唔係。

24 Q. Who prepared them?

25 A. 係我哋嘅人事部，我哋嘅人事部，Human resources。

1 Q. Okay. Since the documents are attached to your witness  
2 statement, did you check the two documents that the  
3 personnel or human resources prepared?

4 A. 因為本身我哋入第一份口供同理第一個bundle 嘅時候，畀我哋時間好短  
5 嘅，當時我哋入咗total我諗有九百頁文件嘅，而嗰兩個organisation  
6 chart，第一個其實係由嗰個本身工程上面呈審過嘅一個organisation  
7 chart嚟嘅，但係跟住人事變動比較大，我哋喺7月份同警察落口供嗰時，  
8 警察都要求我哋大約粗畫番個人事表畀佢，而嗰個第二個--第二張嗰個  
9 organisation chart，update啲嗰張係跟住造出嚟嘅，係跟--因應  
10 番，大概搵番嗰個相關人員知道嘅時間寫落去嘅。

11 Q. Because, Mr Poon, we know there is at least one error on  
12 the second personnel chart. Perhaps it would be fair to  
13 show it to you, at D224, please.

14 A. 係。

15 Q. Thank you. I think it's the bottom one I'm interested  
16 in, Mr Poon.

17 We know that you've got some dates there for  
18 Mr Ngai; do you see that?

19 A. 見到。

20 Q. He is described on the chart as "superintendent"?

21 A. 係。

22 Q. And the dates that are there are 5 October 2015 to  
23 7 April 2017; do you see that?

24 A. 係，見到。

1 Q. And whilst the 5 October date is correct, the 4 April  
2 2017 date is incorrect. Were you aware of that?

3 CHAIRMAN: 7 April.

4 MR PENNICOTT: Sorry, 7 April 2017 is incorrect.

5 A. 我而家留意到。

6 Q. Yes, because it should be 7 April 2016?

7 A. 係，呢個係typo。

8 Q. Well, that is a typo, and so the answer to how this  
9 error came to be is that somebody in your human  
10 resources department committed a typo?

11 A. 係，我都幾明顯，因為喺個月份、日子都有錯嘅，喺個年份度淨係6同7  
12 錯咗，而亦都似乎對呢個成個委員會調查嘅一啲subject matter無關。

13 Q. Well, it's relevant to this extent, Mr Poon. First of  
14 all, I think your evidence was, just a moment ago, that  
15 you didn't check this because you didn't have time? Was  
16 that the effect of your evidence? Just -- is that  
17 right?

18 A. 我好--有好粗check，好粗，very rough，好粗。

19 Q. Okay, and you didn't spot the error?

20 A. 唔。

21 Q. But what it does, Mr Poon, on one level, is raise this  
22 question. You have Mr Ngai there as the superintendent,  
23 so who was the superintendent, I ask you, between, say,  
24 1 August 2015 and 5 October, and who was the  
25 superintendent from 8 April to the end of the project?

1 Are you able to help us?

2 A. 可以，但係我哋subject matter其實而家講緊我哋啲啲好似所有口供都係  
3 落到2016年嘅年中，喺年中之後發生嘅事，其實我哋係冇點交代，除咗我自  
4 己個人喺書面上同禮頓或者政府溝通之外，喺剪鋼筋呢件事上面，尤其是呢  
5 班site team上面，佢哋冇證供係超越2016年嘅6月嘅，係咪呢？

6 Q. Yes, but Mr Ngai having left in April 2016. So he  
7 wasn't replaced; is that correct?

8 A. Superintendent呢個位就冇人替代到嘅。

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. 係呀，六份。

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. 當然喇。

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. 除咗最初啲幾份，因為最初啲幾份其實就係好急、好急，時間上好limit。

24 Q. Yes. I see.

25 A. 因為尤其是獨立調查委員會係限期交文件嘅。

1 Q. That sounds to me, Mr Poon, as though you are accepting  
2 that we might find some mistakes and errors in certainly  
3 your first witness statement.

4 A. 我諗第一、第二有呀，有錯漏。

5 Q. Yes, and we'll be trying to identify some of those more  
6 important ones shortly, either with me or somebody else,  
7 or perhaps more than one person.

8 A. 其實我喺同律師討論嘅時候曾經考慮過補一份證人口供改番啲錯漏嘅。

9 Q. That might have been a sensible course of action,  
10 Mr Poon, but you haven't yet, so I'm afraid myself and  
11 perhaps others may have to just ask you some questions  
12 about those paragraphs.

13 I'm afraid, for the purposes of just getting this  
14 point out of the way, Mr Poon, and just in case anybody  
15 else wants to ask any --

16 CHAIRMAN: Sorry, Mr Poon, are you saying that you've  
17 identified, in your copious statements, mistakes which  
18 are of some materiality, discussed it with your  
19 lawyers -- that's your evidence; it's not for me to  
20 impinge on lawyer confidentiality -- but you've made  
21 a decision, in the light of advice received, that you  
22 wouldn't put anything in writing to identify the errors  
23 and explain them and correct them, so that we're left  
24 with known errors floating in the various statements  
25 that you've put forward as being correct?

26 A. 其實我解釋下喇，其實我嘅供詞係基本上同警方嘅供詞平衡嘅，而獨立調查

1 委員會要求我哋係提交不單只我警方嘅供詞，仲提交中科其他有去過警方  
2 協助刑事調查嘅供詞畀獨立調查委員會，喺呢件事上面，我哋公司內部係  
3 有爭議嘅。警方調查嘅刑事案件，我哋將警方調查中嘅一啲資料披露畀對  
4 方，對警方嘅調查其實唔係太公平嘅，而警方調查嘅時候係早喺2018年嘅  
5 7月初開始，對我自己個人嚟講，係好密集嘅，最少我一個禮拜會花一日時  
6 去協助警方調查，亦都令到我當時本身已經好忙嘅schedule更加忙。喺我  
7 見到畀獨立調查委員會嘅口供有一啲我覺得重要，尤其是月份上嘅錯誤，  
8 當我如果淨係改獨立調查委員會嘅口供，我相信我其實同時要向警方同時  
9 要改番我發現喺警方同樣嘅錯誤，但係其實係警方都知嘅。喺2018年嘅8月  
10 中開始，我已經拒絕咗--8月未開始，拒絕咗繼續每一個星期花一日時間同  
11 警方去協助刑事調查，原因就係我每出一份新嘅證人口供，我都要幾乎交界  
12 獨立調查委員會，咁樣對一啲被調查嘅對象其實係有益嘅，所以我係暫停咗  
13 呢個做法，亦都因為咁，同律師討論過之後，我哋寧願喺訊問嘅時候，喺被  
14 盤問嘅時候再澄清番。

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.

1           Mr Poon, you gave six witness statements to the  
2           police, as we mentioned earlier.

3           A.   係。

4           Q.   The first one was on 4 July.

5           A.   係。

6           Q.   I can give you the dates of all the others if you want,  
7           but in fact the last one was on 9 August.

8           A.   係。

9           Q.   What happened, Mr Poon, was that in those witness  
10           statements that you gave -- and I can assure you I've  
11           analysed them -- in your first two witness statements on  
12           4 July and 10 July, you mentioned certain names in those  
13           statements, and in particular you mentioned Mr But,  
14           Mr Chu and Mr Ngai. I think you also mentioned Mr Leung  
15           as well; yes?

16          A.   喺。

17          Q.   As a consequence of which, of course, the police only  
18           naturally then went to interview Mr But, Mr Ngai and  
19           Mr Chu, and they also gave police witness statements?

20          A.   我同警方提出嘅，即係話警方要求當時究竟有邊個管理人喺地盤，喺嗰段  
21           period裏面，而你頭先講嘅人名當中，我唔記得有啲--我要睇番先知有  
22           冇錯漏，梁先生係零舍一個特別啲嘅。

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



1 a witness statement from senior management of China  
2 Technology, which is you; yes?

3 A. 係。

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. 唔係，不如你攞番獨立調查委員會Lo & Lo律師畀我哋封信。

15 Q. Can I ask you, please, to look at bundle D1, page 9.

16 A. 我指係呢封信之前由Lo & Lo出畀中科公司嘅要求我哋畀證供封信。

17 Q. Yes, indeed. If you want to look at that letter, it's  
18 the previous letter in the bundle, Mr Poon.

19 What is the point you're seeking to make?

20 A. 我哋所有人畀獨立調查委員會嘅證供同埋資料，全部都係基於呢封八頁紙  
21 嘅信所要求嘅。

22 Q. Yes.

23 A. 其實第5(b)段，就叫我哋盡力去identify番所有有關嘅工人同埋個人佢  
24 係睇到呢啲事件，係咪呢？我哋係respond緊呢封信啫。

25 Q. Yes, indeed.

1 A. Thank you.

2 Q. What it says, at D3, Mr Poon -- I don't want to split  
3 hairs with you -- "The director and/or other responsible  
4 officers of your company", so essentially the request  
5 was made, if you like, as far as China Technology is  
6 concerned, to you, and you were asked to spell out and  
7 identify and deal with all these matters. No problem  
8 with that. I don't think there's anything between us.

9 What then happened and why I put the question the  
10 way I did was that on 3 September, back to the letter,  
11 what was served was your first witness statement,  
12 together with all its exhibits, and I think either with  
13 it or shortly after a large quantity of documents that  
14 you made mention of earlier. Okay?

15 A. 係。

16 Q. Then what this letter says is:

17 "We are also instructed that certain employees and  
18 an ex-employee of China Technology have witnessed the  
19 cutting of threaded section of reinforcement steel bars  
20 in the course of carrying out the construction works.  
21 They are Thomas Ngai, Ian But and Li Run Chao. We are  
22 now seeking their consent to release to us their copy  
23 statements given to the police during investigation and  
24 to prepare their witness statements for the purpose of  
25 the Inquiry."

26 So all I'm saying, Mr Poon, and I don't think

1           there's anything between us, is that essentially you  
2           volunteered to identify these gentlemen and they've all  
3           given witness statements and they've all given evidence?

4       A.   基本上嘅意思我同意嘅。不過我想強調，唔係我哋去搵啲人出嚟畀口供，而  
5           係獨立調查委員會要我哋咁幫手。喺獨立調查委員會畀我哋呢封信5(b)段  
6           寫得好清楚。

7       Q.   All right. Let's move on, Mr Poon. I want to go back  
8           to a topic we touched on earlier. If you could take  
9           your first witness statement, please.

10      A.   係，喺度。

11      Q.   Could you please go to paragraph 80.

12      A.   頭先廣東話譯錯咗。

13      Q.   It's at this paragraph, Mr Poon, paragraph 80, where you  
14           give evidence about the interview that you had at the  
15           MTRC office in Hung Hom on 13 June 2018.

16      A.   係。

17      Q.   Mr Poon, first of all, was that interview conducted in  
18           English or Cantonese?

19      A.   英文。

20      Q.   It lasted, I think, reading your evidence, about an hour  
21           or so; would that be about right?

22      A.   個鬆啲鐘，啱，啱，啱。

23      Q.   In paragraph 80, you have identified the people who you  
24           say were present?

25      A.   係呀，以我--to my best knowledge。

1 Q. Right. We can put a tick against point 1, point 2,  
2 point 3, point 4 and point 5, because you're entirely  
3 right that they were indeed -- those persons were  
4 present. Clearly you were there, so point 8 is correct;  
5 and indeed point 9, there were indeed two other persons,  
6 a male and a female, which you couldn't identify, and we  
7 now know who they are. There was a Cheung Chi Keung and  
8 a Phyllis So Yee Ching. I don't know whether you know  
9 that?

10 A. 其實到而家我都有辦法再verify佢哋。

11 Q. All right. That's fine. The MTRC have told us.

12 However, there's a bit of a problem at  
13 paragraph 80.6 and 80.7. What I'd like you to do,  
14 Mr Poon, is explain your process of  
15 reasoning/deduction/thought as to how my name got in  
16 your statement.

17 A. Okay.

18 Q. So I'm now giving you an opportunity to do what I think  
19 you wanted to do a bit earlier.

20 A. 雖然我英文水平唔係好好，I do apologise to Mr Ian Pennicott.

21 Q. It's an apology that is accepted, Mr Poon. Thank you  
22 very much.

23 A. Thank you. It is my second apology.

24 Q. Your solicitors apologised on your behalf before, but  
25 I'm very pleased to hear it from your own lips, if I may  
26 say so.

1 A. And I did it in my third witness statement.

2 Q. Your second witness statement.

3 A. Okay, so 我用番中文喇。

4 Q. Anyway, carry on. Can you now explain to us how it came  
5 to be?

6 A. 其實咁樣嘅，嗰日我一去到其實覺得愕然嘅，因為港鐵直接邀請我去做調查  
7 嘅，當時禮頓並冇參與個邀請嘅，當時我記得約咗喺紅磡站中央個  
8 information desk度，9點喺嗰度等，我準時到達，港鐵約我位同事我有  
9 追佢嘅，當時我都未見到有人嚟，但係港鐵好快就有一群同事嚟，一大班同  
10 事嚟，基本上有一個人我係識嘅，當然我哋會互相握手去認識對方，我記得  
11 係有遞卡片嘅，我亦都有遞--我見人哋冇遞卡片畀我，我都有遞卡片，所以  
12 我所有嘅記憶，我可以話畀你聽其實係憑我記憶記番起。而跟住突然間港鐵  
13 話要求我繼續喺度等，等咗大概十幾、二十分鐘，禮頓有兩位人士，就係  
14 Wallace同埋一位中國人佢哋先慢慢行過嚟，當時其實我有啲不滿嘅，我  
15 嚟協助調查其實已經花緊我時間，點解仲要咁樣等禮頓呢？

16 Anyway, 我哋上咗去紅磡站喺站上面港鐵一個寫字樓嘅會議室，人到會  
17 議室，我係另一個愕然，會議室入面除咗坐咗港鐵另一啲同事之外，仲坐咗  
18 一個外籍人士，個外籍人士係比較少少胖，少少，佢坐咗喺度，坐咗喺張凳  
19 度，佢唔能夠坐直身，要打斜少少，佢隔離有位中國人，跟住我坐低之後，  
20 港鐵就嘗試介紹啲人畀我聽，我好清楚聽到佢哋話from DVC嘅chamber，  
21 好清楚，而且嗰位外籍人士解釋佢自己嘅身分、角色嘅時候，佢話佢曾經參  
22 與高鐵嘅一個獨立調查委員會，呢個就係我--呢個外籍人士畀我除咗佢外貌  
23 上嘅印象之外，就係佢身分上嘅印象，當然佢當時其實有講佢嘅名字畀我聽

1 嘅，但係我真係記唔到。而跟住喺呢個meeting之後...

2 Q. Can I just ask you to pause there. Who mentioned to you  
3 or who said that there was someone from DVC Chambers  
4 there? Because, Mr Poon, there wasn't, and I'm just  
5 rather curious to know why somebody would have said that  
6 when there wasn't anybody from DVC there.

7 A. 我強調，我強調，肯定聽到DVC，我肯定聽到，我亦都肯定聽到嗰位人士自己  
8 介紹自己嘅時候係話佢參與高鐵嘅調查，佢仲問我知唔知咩嘢叫獨立調查委員  
9 會。

10 Q. Come back to my question, please. You have given that  
11 long explanation about what happened at the meeting and  
12 that's fine, but what I'm really interested in, because  
13 quite a lot of us, Mr Poon, with perhaps some  
14 justification, if I may say so, are quite interested to  
15 know how you think, how you operate, how you conduct  
16 yourself, in your business dealings and when you're  
17 preparing witness statements, when you're writing  
18 letters. We're all quite interested to try to have  
19 a better understanding of what makes you tick, Mr Poon.  
20 And I'd like to know how you got from the position of  
21 a blank sheet of paper, with the names that you got  
22 correct in paragraph 80, but more particularly how you  
23 managed to get two names, or one name and one  
24 description, incorrect.

25 A. 第一，成個做法，呢個成個做法同我一般做法一樣，我喺每寫一個文字或者

1 每寫一個段落之前，我都會做啲background search，如果我係唔知嘅  
2 話，包括咗Wallace，我記憶佢叫Wallace，其實佢坐咗喺後面，我唔知  
3 佢之前又話Jean Paul（譯音），我唔知嘅，我係從禮頓嘅網頁，喺澳洲，搵到澳  
4 洲CPB個網頁先搵到佢個樣，先至搵到佢title。Preston就係因為佢出  
5 email畀我，所以我擺到佢個名，本來呢個中國人有介紹畀我嘅。地鐵嘅  
6 T M Wong、地鐵嘅Brian Downie、地鐵站嘅Neil Ng，全部都係從地  
7 鐵網頁上面搵到相片而認得個人。

8 點解我認唔到地鐵嘅80.9，點解認唔到呢？就係因為佢網頁上面有佢嘅  
9 樣，我搵唔到佢嘅樣貌，而喺呢個--寫呢個statement之前，其實我搵過  
10 Neil--我想講一講，搵過Neil Ng嘅，亦都搵過另一個約我嘅地鐵嘅人，  
11 我想嘗試擺番當時我喺地鐵畀證據嘅一個謄稿或者meeting minutes  
12 whatsoever嘅records，therefore我唔需要自己咁樣去將呢啲憑記憶  
13 寫番出嚟，但係地鐵唔肯，亦都唔聽電話。我最耐係搵到黃唯銘，黃唯銘係  
14 我認識嘅，但係嗰一刻，黃唯銘，個電話大約響咗十秒嘍，佢cut線，我就  
15 冇再嘗試去從地鐵一個reliable sources度搵番呢啲參與人或者上面嘅  
16 紀錄...

17 Q. What's this got to do with Philco Wong, Mr Poon? I'm  
18 now a bit lost. What I'm trying to focus on -- you've  
19 explained your process of reasoning as to how you got  
20 the names right -- let me try to encapsulate it perhaps  
21 in a nutshell. You think you heard the initials DVC or  
22 DVC Chambers. You went on the DVC Chambers' website?

23 A. Yes.

24 Q. You found me?

1 A. I search all the counsel photos.

2 Q. You thought, "Gosh, that looks like him", and that's how  
3 my name ended up in there; is that it?

4 A. Exactly same as what TVB, misunderstood you and Mr Philip  
5 Boulding.

6 Q. Yes, we know that. But that's not the point. So that's  
7 your explanation.

8 A. 呢個to my good faith, to my good...

9 Q. Did you take a good look at the photograph that's on the  
10 website?

11 A. 係呀。

12 Q. Yes. So --

13 A. 但係同你而家唔係好似樣。

14 Q. Indeed.

15 A. 真㗎，係真事㗎。

16 Q. So that's your explanation? Right.

17 A. 我建議你update番網頁。

18 Q. It was only taken 12 months ago, Mr Poon. As for the  
19 photograph that appears on your personnel chart, perhaps  
20 you can update yours as well. That's just a joke,  
21 Mr Poon.

22 A. 好似我有，我有。

23 Q. All right, let's move on. Mr Poon, at the site, the Hung  
24 Hom site, think back to  
25 July/August 2015, there was, I understand,



1 a sign-in/sign-out process that Leighton had for this  
2 site; is that right?

3 A. 係。

4 Q. That was a process which, as I understand it, applied to  
5 general labourers, to general operatives, to supervisors  
6 and to management such as yourself; is that correct?

7 A. 係呀。

8 Q. Okay. So we'll come to that in a moment in a bit more  
9 detail.

10 Mr Poon, can I just discuss with you, at this stage,  
11 one specific point which I want to raise now, just in  
12 case anybody else behind me wishes to ask some questions  
13 about it. It's a point that's been introduced quite  
14 late -- it's not a criticism but it's a point that has  
15 been introduced quite late.

16 First of all, could I ask you, please, to go to your  
17 first witness statement at paragraph 26.

18 A. 係。

19 Q. You say there:

20 "Due to unforeseeable circumstances, Chinat only  
21 commenced works in or about late July 2015. Leighton  
22 also did not require Chinat to participate in the works  
23 of EWL slab construction of area A ..."

24 All right? "Unfortunately", you say, "there were no  
25 written records for such arrangements."

26 For my purposes, I'm not worried about not bay 1875,

1 I just want to focus on area A; okay, do you understand?

2 A. Okay, okay.

3 Q. You then say in paragraph 72 of your witness  
4 statement -- there's a heading, "Actual pouring of  
5 concrete", and you say:

6 "Against, and solely against, such background,  
7 Chinat, in or about late July 2015 to late 2016, poured  
8 concrete to area A, area B ...", and so forth.

9 So, on the face of your statement, there seems to be  
10 an inconsistency; okay?

11 A. 哦，唔。

12 Q. But now, as I understand it, just pressing on, if I may,  
13 Mr Poon, in your latest witness statement that we  
14 received on Sunday afternoon, you distinguish between  
15 area A1, on the one hand, and area A2, on the other; is  
16 that right?

17 A. 係。

18 Q. Now, I deduced from the two statements that what you're  
19 talking about in paragraph 26 of your statement is what  
20 was excluded was effectively area A1; am I right?

21 A. A1嘅EWL track slab.

22 Q. Yes, we are only talking at this stage, Mr Poon, about  
23 the EWL slab, because that's what you say, it was the  
24 EWL slab area A that was excluded, which you are now  
25 calling area A1, as I understand it.

1 A. 我想呢度畀我講多少少，其實我哋個地盤並唔係單純得兩塊層板嘅，完全唔  
2 係，我哋除咗每一塊track slab上面，其實喺站區，即係大概gridline  
3 19去到gridline 47，我哋仲有一塊platform slab係坐喺個track  
4 slab上面，而喺無論EWL同埋NSL，佢另外仲有一個排風結構OTE。

5 Q. Can we look at the schematic drawing that you provided  
6 for us? It's in D2, Mr Poon, page 1102.

7 A. 係，係。

8 Q. It's because I've looked at this, Mr Poon, that I am  
9 suggesting to you that you are now describing area A as  
10 area A1 and area A2 because that's what this shows; do  
11 you see that?

12 A. 係。

13 Q. Is this something, this schematic, that you prepared or  
14 at least had some input into?

15 A. 我親身做，所以遲咗，唔好意思。

16 Q. Right. Okay. If one focuses for the moment on  
17 area A2 --

18 A. 係。

19 Q. -- just looking at this, I appreciate it's a schematic  
20 so I'm not taking any clever points on it. It's not to  
21 scale, I understand all that.

22 A. Not to scale.

23 Q. Area A2 appears to be outside of and to the east of the  
24 diaphragm wall; is that correct?

25 A. 喺連續牆嘅東面，係講得好準確，“outside”就唔準確，連續牆喺度，

1 無論喺呢一面同埋呢一面，喺東或者西都唔可以叫“outside”，你唔能  
2 夠將連續牆嘅西面睇成inside、東面睇成outside。

3 Q. Is it connected to the diaphragm wall?

4 A. Connected, fully connected.

5 Q. But not on the -- you've got the slab, which we know  
6 must be connected to the inside of the diaphragm wall.

7 Is this A2 connected to the outside of the diaphragm  
8 wall? How does it work? We are genuinely trying to  
9 understand this, from our perspective, Mr Poon.

10 A. 連接嘅，連接嘅，not isolate，連接嘅。

11 Q. So it's connected on the other side of the diaphragm  
12 wall to the slab?

13 A. 係，係。

14 Q. So it doesn't actually form part of the EWL slab, does  
15 it?

16 A. 呢句說話，其實我想--我就真係想再有少少個講法嘅，我睇唔到喺我施工期  
17 間，喺我合約上、喺圖則上面用“EWL slab”去形容我任何一個施工位置  
18 嘅，因為我哋好清楚每一個流板有佢嘅名稱嘅，我哋一直係EWL track  
19 slab、EWL platform slab、middle slab、NSL track slab、NSL  
20 platform slab、OTE structures，好清晰嘅，而呢一個A2佢叫plenum，  
21 P-L-E-N-U-M，staircase，係個站嘅其中一個backup house嚟嘅，如  
22 果我哋--如果呢個獨立調查委員會其實我留意到一點嘅，就係之前我同事嚟到，  
23 可能有啲混淆，因為你淨係用EWL slab去形容，其實唔準確地形容我哋施工時  
24 我哋所用嘅名稱。

1 Q. As I understand it, Mr Poon, apart from drawing our  
2 attention to the fact that there's an A1 and an A2 area,  
3 your only other point is that the concreting in A2 was  
4 done in January 2016?

5 A. 係。

6 Q. Okay. Thanks. You can put that away, Mr Poon.

7 Mr Poon, we've heard quite a bit of evidence from  
8 some of your -- China Technology's employees about lunch  
9 meetings. Just a few general questions first.

10 When you attended and had these lunch meetings, did  
11 you have any form of notebook or diary that you made any  
12 notes in when these meetings took place? I'm not  
13 suggesting there were formal minutes or anything like  
14 that, but any notebook, anything at all?

15 A. 有嘅，有兩種記憶嘅，第一種就係其實我本身個檯有本簿嘅，逢嘢對外，  
16 件事如果commercial有關或者contractual有關，我都會寫喺本簿度，  
17 呢啲係要跟進嘅事項，即係話我可能要長期要跟進嘅嘢嘍嘅，如果係有關  
18 一啲短暫嘅嘅，因為我哋日日開飯盒會嘅，幾乎日日開，因為係一啲施工  
19 嘅流程，因為一啲人員鋪排或者我哋公司成日用人、基、物、法、環，  
20 human resources、prime resources、materials、methods and  
21 environment，我哋就會寫喺個黑板度，我哋有一個白板，大概係--  
22 我哋兩塊組成嘅，大概係10呎闊，大概係4呎高。

23 Q. So far as your notebook is concerned, do you still have  
24 it, for the year 2015?

25 A. 應該仲喺度嘅，仲喺度嘅，我通常啲記事簿收埋喺寫字樓。

1 Q. For the purposes of preparing your evidence for the  
2 Commission of Inquiry, have you gone back to that  
3 notebook and had a look at it and studied it or not?

4 A. 反而就有，呢個記事簿擺喺地盤嘅，即係跟住我地盤個desk走嘅，而我  
5 就主要就睇成個獨立調查委員會嘅調查，我係睇番喺我server上面嘅嘢。

6 Q. So where do you think this notebook might be now?

7 A. 應該喺我上水地盤個寫字樓。

8 Q. Right. You've not thought to go and search for it and  
9 look for it? Is it likely to contain any information  
10 that might be useful to us, Mr Poon, or don't you think  
11 so? I don't want to cause you unnecessary trouble. Is  
12 there anything -- I suppose to put it bluntly, Mr Poon,  
13 is there likely to be any record, any note in that  
14 notebook, about bar cutting?

15 A. 嗰本記事簿基本上個形式都係to do list嚟嘅，係對於我--即係我自己個  
16 人即係管理我時間、管理我嘅工作嘅task嘅一啲我自己嘅reminder嚟嘅，  
17 嗰啲reminder，通常呀，我有冇做到又或者我做咗幾多、出咗咩嘢信、咩  
18 嘢email，我有好仔細睇嘅，主要係alert我要記得嗰件事，所以我係睇番  
19 server，即係睇番我哋實際上公司已經係perform咗嘅一啲行為係比較準  
20 確嘅。

21 Q. Well, you say that, but let's suppose you've got  
22 a notebook, which you say you have, and let's say, for  
23 the sake of example, it's 15 August 2015, mid-August  
24 2015. Let's just hypothesise for the moment, Mr Poon.  
25 Is the notebook likely to have a page that says,

1 "15 August 2018 lunch meeting", and then some notes? Is  
2 that a possibility, or what is the position?

3 A. 通常我就會喺--我每一樣嘢都有自己寫紀錄呢，都會喺右上角寫日子，寫有  
4 關嘅工程嘅編號，跟住就會喺佢嘅左邊嘅白嘅地方寫我自己嘅notes，嗰啲  
5 notes都通常point form，主要係寫一啲subjects，有時我如果記--自  
6 己記得嘅，我就會擺紅筆圈番佢或者highlight咗佢，而我對我自己記憶，  
7 對我自己嘅所要做嘅嘢，我有--我如果坐喺個地盤，我就會睇番晒我做漏咗  
8 幾多嘢，通常呢個係我嘅practice嚟。

9 Q. Okay. Again, for example, Mr Poon, going back to my  
10 hypothesis of 15 August 2015, you had a meeting, would  
11 you record in your notebook who attended the particular  
12 lunchtime meeting in your notebook or would you not do  
13 that?

14 A. 唔會，唔會，唔會，冇咁仔細，飯盒會冇咁仔細，飯盒會係我哋公司特色嚟  
15 嘅，基本上我哋會買埋飯，prepare埋lunchbox畀我哋所有白帽，白帽包  
16 括supervisor、ganger同埋科文、engineer，或者有時連寫字樓嘅人都  
17 會落去。個會基本上我去到邊都會開嘅，每日都會開，所以我哋唔會喺嗰度  
18 特別做紀錄。

19 Q. Okay. We are going to look at one or two lunch meetings  
20 that you refer to in your witness statement in a moment,  
21 but before we do that, can I just ask you a couple of  
22 related questions. Could I ask you, please, to be shown  
23 bundle D1, page 75.

24 A. 係。

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. 係，認得，認得，認得。

6 Q. You have also usefully attached the contract, not all of  
7 it but most of it, to your witness statement?

8 A. 係呀，除咗啲附件啲圖則太多，冇夾之外，係。

9 Q. Yes. We have them elsewhere but for present purposes,  
10 all I'm interested in is this.

11 Clause 7.1 I just wanted to ask you about. You can  
12 see it's headed "Site representative". It says:

13 "At all times whilst actually engaged on the  
14 sub-contract works, the Sub-Contractor shall employ  
15 a competent and English-speaking site representative  
16 approved by the Contractor and duly authorised by the  
17 Sub-Contractor in writing."

18 Did you have such a site representative, Mr Poon,  
19 and if so who was it?

20 A. 有呀，我咪係囉。Yes, I am; I'm the one.

21 Q. You were?

22 A. I am.

23 Q. So you are the site representative?

24 A. 係。

25 Q. That's fine.



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.   係。

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.   係，係。

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.   係，係。

24       Q.   -- at certain Monday morning meetings.

25       A.   "Monday morning meeting"呢個字有少少...

1 Q. Walkabouts.

2 A. 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. 我覺得我有遵守㗎㗎，呢個星期一嘅patrolling唔係我主動要求去㗎，係  
11 禮頓instruct我去嘅，每個星期一我都出席嘅，我係唯一個判頭代表出席，  
12 因為禮頓當時performance好差，胡宏利不斷hammer佢哋，佢哋自己嘅  
13 manager都唔夠膽去嗰個咩嘢patrol，project director都唔夠膽去。

14 Q. Mr Poon -- sorry.

15 A. 要孳個判頭上去，係佢哋instruct我去嘅，所以我understand，禮頓應  
16 該係完全知道expect胡宏利要同我直接去就個工程溝通，呢個係事實。

17 Q. That's your answer. Let me just summarise it so I can  
18 make sure we understand it.

19 You had a discussion with Mr Rooney of MTRC, you did  
20 not inform Leighton of that discussion because you  
21 thought effectively they were already aware that you  
22 were speaking to Mr Rooney; is that what it comes to?

23 A. 當然喇，禮頓--其實係禮頓逼我去，我其實唔想去，每個星期一我要嘍  
24 大半朝時間嚟陪胡宏利行。

25 Q. All right. Now, there were, in September 2015, Mr Poon,

1 four Mondays: the 7th, the 14th, the 21st and the 28th.

2 Do you recall which of those Mondays you had your

3 discussion or discussions with Mr Rooney?

4 A. 記唔到，記唔到，大概喺嗰個時候。我記得就算嗰個星期一嘅meeting，  
5 星期一個site patrol其實係routine嘅，每個星期一都要做嘅，有時  
6 胡宏利先生會畀比較忙，佢可能會改時間，不過佢好eager行嘅，佢改時  
7 間可能改咗晏晝，可能改咗第二日，有時會咁嘅情況出現，但係絕大部分  
8 時間嘅星期一都一定要attend，所以我星期一係冇其他schedule，都  
9 一定係地盤。

10 Q. We are going to look at your attendance at site in  
11 September in a short while, and bear in mind those four  
12 Mondays that I've just mentioned.

13 Mr Poon, could I ask you, please, to go to  
14 paragraph 30 of your witness statement.

15 A. 係，睇到。

16 Q. Unfortunately, Mr Poon, this is a paragraph where  
17 I suspect you might be accepting from me that there are  
18 a number of errors, and so we'll just take it slowly;  
19 okay?

20 A. 我等緊，係。

21 Q. What you say here -- and the first thing I've got to  
22 cope with, Mr Poon, is there are three versions of this  
23 paragraph: one here, one in your first police witness  
24 statement, and one in your second police witness  
25 statement, and we may have to look at all three to try

1 to piece it all together.

2 You say:

3 "In mid-August 2015, I and 12 other staff of Chinat  
4 had an internal meeting at Chinat's temporary offices in  
5 the ... construction site."

6 Was this one of the lunch meetings or was it some  
7 other special meeting?

8 A. 應該唔係飯盒會嚟嘅，飯盒會嗰個我寫“lunch meeting”嘅，呢一個  
9 會應該係連埋寫字樓的人落嚟準備開地盤嗰啲會嚟，因為嗰時啱啱開冇幾  
10 耐。

11 Q. All right. How have you managed to remember that there  
12 were 12 people there, in addition to you?

13 A. 嗰時我數過嘅自己，除咗地盤已經派駐落去嘅一啲白帽，即係話啲  
14 supervisor或者科文之外，其實寫字樓無論採購、人事部或者其他人都  
15 落咗去，安全部都落咗去，因為嗰時係主要傾個地盤開嘅時候係點分工。

16 Q. Right. So this is not a lunch meeting, this was  
17 a special sort of one-off, kick-off type meeting with  
18 all your staff, essentially?

19 A. Ad hoc meeting.

20 Q. An ad hoc meeting?

21 A. (Nodded head).

22 Q. I assume there's no record of this meeting anywhere,  
23 Mr Poon?

24 A. 冇。

25 Q. You go on to say this:

1           "Mr Leung" -- and then we know who that is because  
2           he's referred to earlier -- "reported to me orally that  
3           he saw in late July 2015" -- so Mr Leung saw in late  
4           July 2015 -- "someone cutting the threaded rebars using  
5           cutting/grinding machines at bay 2 and bay 4 of  
6           area C1."

7           A. 係。

8           Q. Mr Poon, can I suggest to you that that cannot be right  
9           in terms of the date, because Mr Leung did not start on  
10          the site until 18 August 2015.

11          A. 唔係，絕對唔係。

12          Q. Why do you say that?

13          A. 因為我見到你哋盤問我公司其他員工嘅時候，好多時都會擺禮頓一啲所謂  
14          training紀錄或者一啲入閘紀錄去盤問人，但係你就冇去考慮嗰份文件  
15          嘅可信性、可靠程度。

16          Q. All right. Mr Poon, you'll appreciate that, as one of  
17          the counsel to the Commission, I can only work with the  
18          documents that we've been given by all the parties. At  
19          the moment, until somebody tells me otherwise, I'm  
20          prepared to, as it were, accept the reliability and  
21          accuracy of those records. But you are now telling me,  
22          are you, that there's something wrong with the Leighton  
23          time-in/time-out records -- sign-in/sign-out records?

24          A. 你淨係搵我，已經見唔到我出入閘紀錄喇。仲有，就係我哋公司...

25          Q. I can certainly find yours, no problem.

1 A. No, not full, not full.

2 Q. We're going to do that in a moment.

3 A. Not full.

4 Q. I tell you what, Mr Poon --

5 A. 仲有，仲有，頭先我哋--我記得我哋喺...

6 Q. Wait. Let's forget about the Leighton records.

7 A. Okay.

8 Q. Forget the Leighton records.

9 Have a look at D1/224. We are back to the personnel  
10 chart.

11 A. 係。

12 Q. Find Mr Leung and tell me when he started.

13 A. 2018年8月18號...

14 Q. Precisely.

15 A. ...至2016年3月16號。

16 Q. Precisely.

17 A. 呢個係我哋人事部睇番出入閘紀錄而擺出嚟嘅資料，梁先生點解特別啲--

18 我講特別處理梁先生呢？梁先生同我哋公司已經去到我哋報咗警階段喇，

19 我哋冇嘗試或者我哋都唔會去嘗試去接觸梁先生嘅。梁先生離開我哋公司

20 嘅時候係穿櫃桶底離開嘅。

21 Q. So are you saying now that -- let's take this in

22 stages -- the Leighton sign-in/sign-out record for China

23 Technology which they have given to the Commission, and

24 which we have been looking at from time to time with the

25 other witnesses -- first of all, were you, China

1 Technology, given a copy of those documents by Leighton?

2 A. 有，因為我哋會其中一個依賴出糧、計糧係呢份文件嚟嘅，其中一個。

3 Q. Okay. Those documents show that Mr Leung did his  
4 induction course on 18 August, and indeed started work  
5 in the afternoon of 18 August 2015.

6 A. 文件係咁，實際唔係咁。

7 Q. And so when you receive -- sorry, let me just ask you  
8 this: when did you first receive the sign-in/sign-out  
9 records from Leighton?

10 A. 我哋人事部每一個禮--月尾都會追禮頓畀啲紀錄我哋嘅，通常佢會喺月頭  
11 畀番我哋嘅，因為我哋擺嚟計糧。

12 Q. So it was on a rolling basis, on a month-by-month basis,  
13 they would submit them to you?

14 A. 有時半個月，有時一個月，後起--早前係半個月嘅，但係禮頓因為投訴我哋  
15 擺得太多，令到佢太多嘢做，所以後起就變咗一個月。

16 Q. Okay. Presumably, if you are basing your payments, your  
17 wages, to your employees on the basis of what Leighton  
18 are telling you, if there's some inaccuracy, surely it  
19 will be picked up during the course of the payment  
20 process, and you will say to Leighton, "Well, sorry, but  
21 actually Mr Leung here, you've got him on 18 August, he  
22 was there a month earlier" or something? Surely you  
23 would pick these errors up during this process? So what  
24 happened about Mr Leung?

25 A. 我其實可能個睇法有少少唔係好--我哋嘅睇法，我哋嘅vision都唔同，根

1 本就冇人尊重禮頓呢個打卡制度嘅，禮頓自己以為呢個打卡制度reliable  
2 啫，就住佢自己伙記，都係亂七八糟。其實呢個commission似乎過度去  
3 rely on禮頓畀呢啲咁嘅資料。

4 Q. Mr Poon, I'm here trying to do my best with the  
5 materials I've been given. I don't know how you've  
6 compiled -- I've got a better idea now but I didn't know  
7 how you compiled this site organisation chart.

8 A. To our best knowledge.

9 Q. Fine. Just bear with me; all right?

10 A. Okay.

11 Q. I've got the Leighton induction record, I've got the  
12 Leighton sign-in/sign-out record, I've got your  
13 personnel chart, all of which are consistent in telling  
14 me and the Commission that Mr Leung started work on  
15 18 August, not at any earlier date, and you now seem to  
16 be saying that's all wrong, that he started at some  
17 earlier date. Can you point to anything that  
18 demonstrates that you're right and what we've got so far  
19 is wrong?

20 A. 如果我哋喺三年前，即係2月--2015年8月18號或之前，我哋有出糧畀梁健，  
21 咁已經證明到喇，如果唔係，我哋冇理由咁--唔係善堂咁嘛，禮頓打卡紀錄  
22 係8月18號2015年，我哋喺之前已經出糧畀佢，唔會，係咪呀？

23 Q. Well, you would have to show that you were paying him  
24 wages and you were paying him wages for work on this  
25 particular site.



1 A. 我出埋佢咁嘅報稅紀錄畀你都得。

2 Q. All right.

3 A. 同埋我有一點補充嘅，其實我唔知禮頓有冇人到嗰個地盤嘅安全委員會，  
4 即係同判頭開安全委員會嘅會議紀錄，個會議紀錄寫得好清楚嘅，每一個  
5 會議紀錄--佢每隔幾個會議紀錄一次都會記錄咗禮頓不斷去要求啲分判商  
6 去上大堂、上細堂、打卡，點解會出現呢啲咁嘅情況呢？就係因為禮頓係  
7 一個好特別嘅公司嚟嘅，佢對判頭嘅欺價好強大，每一個去上堂嘅人都要  
8 畀400釐禮頓，你估你有冇人肯去吖？佢咁一工人可能平均一個科文搵  
9 二、三萬釐人工，佢要畀400釐畀禮頓去畀--叫禮頓幫佢出個證嘞，呢個  
10 就係導致...

11 Q. Mr Poon, you are going well, well outside the ambit of  
12 what I've asked you about, significantly.

13 A. Sorry.

14 Q. You are making speeches. It's not appropriate, with  
15 respect. So let's just try to press on with some other  
16 matters.

17 A. Sorry, but it's a fact.

18 MR PENNICOTT: Sir, would that be a convenient moment?

19 I see it's just gone 11.30.

20 CHAIRMAN: Certainly. 15 minutes.

21 MR PENNICOTT: Sir, could you give Mr Poon the usual  
22 warning, perhaps.

23 CHAIRMAN: Mr Poon, you are now giving your evidence, and  
24 for the period of time, which I suspect will be a couple  
25 of days, if not longer, that you are in the process of

1 giving your evidence, whether you're at home at night or  
2 just having a coffee break like now, you are unable to  
3 discuss your evidence with anybody, including your own  
4 lawyers. Okay? Once you are in the box, in the witness  
5 box, that is, giving your evidence, you must keep your  
6 own counsel only. All right?

7 WITNESS: Understand.

8 CHAIRMAN: Good.

9 MR PENNICOTT: Thank you, sir.

10 (11.31 am)

11 (A short adjournment)

12 (11.49 am)

13 MR PENNICOTT: Thank you, sir.

14 Mr Poon, we were looking at paragraph 30 of your  
15 witness statement, at D19.

16 A. 係。

17 Q. Could I just ask you, please, to go to your first police  
18 witness statement. It's paragraph 7 I want to look at,  
19 which you will find at page 756 in the Chinese version  
20 and 759.2 in the English version.

21 You will see there, in the first line of the first  
22 police witness statement, you say, "In July 2015, when  
23 I was having a meeting with staff at the construction  
24 site", and so forth.

25 Then if you look at your second police witness  
26 statement, at paragraph 3 -- the Chinese version, D1 --

1           sorry, D2/760; English version, D2/765.1 -- you say:

2           "At noontime on a certain day in late July 2015 ..."

3           And then you go on to describe the meeting with  
4           12 people and you identify at least four people who you  
5           say were there.

6           So the two police statements say the meeting took  
7           place, first of all, in July 2015, late July 2015, and  
8           your witness statement says mid-August 2015. Which is  
9           right, Mr Poon?

10          A. 7月同埋7月尾其實兩個有contradiction嘅，而7月尾都喺7月份之內。  
11          我而且都括住其實詳細日期真係唔記得嘅，而喺8月中嗰個，即係話英文  
12          版，喺我嘅畀獨立調查委員會嗰個英文版係寫8月中，嗰個係準確啲。

13          Q. So, when preparing your witness statement, you reflected  
14          upon what you had told the police, and as a consequence  
15          of that reflection you decided that the meeting must  
16          have taken place in mid-August; is that right?

17          A. 你問多次，你--因為中文同英文好似有少少唔夾，我想你問多次，唔好意思。

18          Q. Sure. You told the police on two occasions that the  
19          meeting had taken place in, firstly July 2015, secondly  
20          late July 2015, at noontime, but in your witness  
21          statement you say the same meeting took place in  
22          mid-August 2015.

23          A. 係。

24          Q. So all I'm suggesting to you is you must have, for the  
25          purposes of preparing your witness statement for the

1 Commission, reflected upon what you had told the police,  
2 concluded that it was incorrect, and put in the date of  
3 mid-August 2015. It's a simple process, Mr Poon. It's  
4 not difficult. Is that what happened?

5 A. 係呀，因為--其實成個程序係咁樣嘅，同警方嘅口供同埋嚟證人供詞一樣  
6 喇，就我好記得就係啱啱開地盤冇耐就已經聽到呢件事㗎喇，啱啱開地盤  
7 冇耐，我聽到嘅時候，我仲記得我仲喺度諗有咩嘢理由cut呢，即係仲喺  
8 度咁諗，即係當時我覺得唔應該有嗰個工序開始㗎做，而嚟警方嘅口供其  
9 實係7月初落嘅，喺7月初同7月中落嘅，嗰時候其實我係冇翻睇咁多所有  
10 嘅一個server上面文件嘅，但係去到9月，我交界獨立調查委員會嗰份口  
11 供，我就要翻睇㗎好多...

12 MR TO: I think he said July.

13 MR PENNICOTT: It's July, not June.

14 A. ...--到我交界獨立調查委員會嗰個口供已經去到9月，其實我翻睇㗎  
15 好多文件，包括㗎我哋人事部都話畀我聽嗰啲人嘅考勤紀錄，所以我先至去  
16 搵一個，to my best knowledge，寫番嚟獨立調查委員會嗰份口供上面。

17 Q. All right. Now, back to paragraph 30 of your witness  
18 statement.

19 A. 係，喺度。

20 Q. You say:

21 "Mr Leung reported to me orally that he saw in late  
22 July 2015" -- and I'm not going over that again --  
23 "someone cutting the threaded rebars using  
24 cutting/grinding machines at bay 2 and bay 4 of

1 area C1."

2 Do you see that? Now, let's deal with bay 4, first,  
3 of area C1.

4 A. 係。

5 Q. The records that have been submitted to the Commission  
6 by Leighton and by MTRC indicate that the rebar in  
7 area C1-4 -- C1, bay 4 -- commenced on 14 September  
8 2015.

9 A. 唔。

10 Q. Can I suggest to you, therefore, that it is unlikely  
11 that Mr Leung would have been reporting cutting of rebar  
12 in that area at the end of July. Do you agree with  
13 that?

14 A. 唔同意。

15 Q. And why don't you agree?

16 A. 我其實聽到梁生講，我都懷疑嘅，因為我有出地盤，我記得當時一開工嘅  
17 時候...

18 MR PENNICOTT: There's no translation. Can you pause just  
19 a moment?

20 INTERPRETER: "I had my suspicions when Mr Leung reported  
21 that to me, because I also visited the site myself."

22 MR PENNICOTT: Were you going to say something else,  
23 Mr Poon? Because if you were, you can continue.

24 A. Okay. From the beginning? I resume from the beginning.

25 Q. Do you want me to put the point again?

1 A. No, no.

2 Q. You understand the point I'm making, that in C1-4, the  
3 rebar, according to the records, started on 14 September,  
4 so I'm suggesting to you it's not likely that Mr Leung  
5 could have seen rebar cutting there in July, and you don't  
6 accept the point I'm putting to you?

7 A. 係。

8 Q. So why do you not accept it?

9 A. 係，我而家作答，其實就cut嗰啲coupler，即係cut嗰個coupler本身唔  
10 一定要喺番嗰區安裝，呢個冇一個必然性，喺當時7月尾，我記得，我印象，  
11 我哋其實禮頓淨係挖一個氹，即係挖深，淨係挖咗C1-1同埋C1-2嘅部分嘅，  
12 而嗰度上面其實係一個embankment，一個未挖嘅地方，即係未挖泥嘅地方，  
13 未excavate嘅地方，但係就係有電嘅地方，反而挖深咗嘅地方其實係有電--  
14 冇電到，未拉電落去，所以其實梁生講嘅，我考慮過之後，其實佢冇一個好  
15 大嘅一個值得唔相信嘅地方，因為嗰個剷機本身就需電嘅。

16 Q. But what is absolutely clear, Mr Poon, is that even if  
17 you're right, that Mr Leung saw cutting in C1-4 in July,  
18 neither he or you or anybody else could have seen that  
19 cut rebar being screwed into the diaphragm wall in that  
20 area at that time.

21 A. 7月尾其實我有見到，我講清楚，呢段嘅statement其實係hearsay嚟嘅，  
22 我都講得好清楚嘅，係人哋話畀我聽，佢冇講到畀我聽佢冇扭落去，冇。

23 Q. Okay. That's clear.

24 Now, so far as C1, bay 2, is concerned, which is the  
25 other area that you mention, the rebar in that area,

1           according to the records that the Commission has been  
2           given, started on 1 August 2015 and continued through to  
3           19 August.

4           Now, that's obviously a lot closer in terms of time  
5           to the matters that you're talking about in your meeting  
6           in mid-August. Okay?

7           A. Okay.

8           Q. Right. But again, as I understand it, it's obviously  
9           hearsay evidence from Mr Leung --

10          A. Yes.

11          Q. -- again, so far as area C1-2 is concerned, there's no  
12          question of any rebar, cut rebar, having been seen to be  
13          screwed into the diaphragm wall in July/August, in that  
14          area?

15          A. 我咁樣講喇，我嗰個意思就係話我statement上面冇話到佢哋剪完之後就扭  
16          落去，但係我記唔到梁生有冇同我講有冇扭落去嘅，所以我有寫落去。

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. 佢話喺嗰個位置C1-2至C1-4嘅位置，而冇講畀我聽有冇扭落去C1-2或者  
22          C1-4嘅，冇講畀我聽。

23          Q. Thank you very much.

24          CHAIRMAN: Could I ask you this -- I'm aware of your  
25          qualifications, and I'm aware, therefore, you will have

1 knowledge of the formation of reinforced steel, putting  
2 it into form -- but you've got two workers now, or  
3 rather Mr Leung, you've been told that he's seen that  
4 these rebars have been cut at or about the threaded  
5 area, I think, in two areas; okay? C1, bay 4 and bay 2,  
6 but he doesn't say they have been used to be screwed in  
7 anywhere.

8 So what he's reporting is, "I've just seen some  
9 people cutting some bars, I don't know why but I've seen  
10 them cutting bars." There could be an entirely sensible  
11 reason for doing that. I mean, why would you have even  
12 taken any notice of that? Is it because cutting of bars  
13 was strictly prohibited? Is it because there was some  
14 else that led you to be suspicious?

15 A. 其實喺最初嘅時候，就算我最初睇到，禮頓嘅人cut鋼筋，我特別講係cut  
16 螺絲頭嘅threaded bar，即係嗰個落絞牙部分，佢哋唔係一支一支cut  
17 嘅，佢哋嚟嗰時候一紮一紮嚟，by bundles，而cut嗰時都係成紮、成紮  
18 cut嘅，而且佢哋cut得最初係用架磨機cut，磨機cut嘅時候，會好似放  
19 煙花咁多火花嘅，所以好eye-catching，而一個有經驗嘅人，包括我，  
20 包括梁健，佢都知道呢個唔係正常，cut，如果係cut 鋼筋、  
21 re-inforcement bar，我唔會doubt嘅，因為有人會度番佢嘅  
22 lapping length，但係cut個螺絲絞牙嘅地方就非常、非常之唔正常。  
23 而且在我個人，當個絞咗牙嘅螺絲頭，即係話嗰條threaded section  
24 經過咗熱力，經過咗thermal嘅一個impact，佢鋼筋最少少咗百分之二



1           十五嘅tension, tensile strength, 呢個係好重要嘅事嚟嘅, 對我  
2           哋嚟講, 喺香港, 我哋唔係咁嘅standard嘅。

3           CHAIRMAN: All right. Are you saying, then, that Mr Leung  
4           and these reports you received, you received detail as  
5           to the fact that the bars were in bundles, that they  
6           were cut with a particular type of machine, et cetera?  
7           You entered into a conversation with him about this?

8           A. 我同梁生嘅對話, 其實梁生話畀我聽佢哋一紮一紮嚟嘅, 嗰啲絞咗牙嘅鋼筋,  
9           唔係一支支嚟嘅, 係成紮, 可能有幾十支, 跟住吊到去某一個位置放低之後,  
10          佢哋就有人成紮cut, 成紮cut都係逐支cut, 不過係成紮去handle, 而  
11          cut嗰個machine當時最初係用手提嘅剷機, 係直至9月先見到有一個disc  
12          cutter。

13          CHAIRMAN: All right. It's just that unless my memory fails  
14          me, I have received no evidence from the witness himself  
15          as to his memory of anything like this.

16          A. 朱生有講手提剷機嘅, 綠色嗰架就係佢形容嗰架。

17          CHAIRMAN: A hand-held machine, but I'm talking about  
18          bundles, I'm talking about grinders, I'm talking about  
19          why you, as a professional man, would have become  
20          suspicious of what was happening when there was no  
21          insertion of these rebars into the diaphragm wall,  
22          indeed when it appears there wasn't even any building of  
23          slabs at that stage; it was just excavated.

24          MR PENNICOTT: Yes.

25          A. 唔係, 唔係, 唔係, 第一, 之前嘅證人佢冇講到, 呢個唔係我嘅可以代佢

1 答，但係我喺出面聽，其實嗰啲證人嚟到都係畀--主要畀禮頓、港鐵嘅  
2 律師hammer，佢哋可能可以講嘅空間好細，但係當時其實係仲有外面  
3 好多工程做緊，我哋唔係第一個進場嘅，pile cap當時係做緊，都有  
4 用coupler。

5 CHAIRMAN: All right. I should say, just as a start, I can  
6 assure you, if I thought that they were being hammered,  
7 as you put it, I would have said something. I thought  
8 the questionings that were put to them were quite  
9 proper. All right? So that may have been your  
10 impression or friends may have told you that, but  
11 I don't think it's the actual case. They were asked  
12 questions in a civilised, rational way, and they gave  
13 answers which, to my memory, spoke of nothing about  
14 bundles and spoke of nothing about -- that there was any  
15 particular cause for concern. In fact, in certain  
16 respects, what they appeared to say -- and again I'm  
17 open to correction -- is that because they were getting  
18 on with their own job, they didn't take too much notice.

19 Now, there's a big difference between not taking too  
20 much notice and thinking, "Wow, what's going on here?  
21 This is looking very odd."

22 Do you see the point?

23 A. 我可以recall番一個好似係畢浩--我唔記得佢中文名係畢浩彥定畢浩修，  
24 佢嗰個作供，佢都講過佢當時見到地下有十零粒已經cut咗喺度嘅，當然佢  
25 冇講成個bundle cut，即係成個--成紮去cut，但係佢有解釋個現象，當

1 時係見到cut完之後，個螺絲頭跌咗落地下，唔係淨係一粒，而係十幾粒，  
2 呢個亦都係事實，亦都係禮頓一直做錯嘅嘢。

3 MR PENNICOTT: Mr Poon, can I just try to break this down  
4 a bit. The evidence that you're giving at this  
5 particular juncture appears to be confined to what  
6 Mr Leung told you --

7 A. Okay.

8 Q. -- back in July/August 2015. Am I right?

9 A. Yes.

10 Q. Just pause there.

11 The point that the learned Chairman is putting to  
12 you is that we've heard from four of your employees, and  
13 none of them have described a process by which  
14 a large -- none of those four have described a process  
15 by which a bundle of threaded rebar turns up on the  
16 site -- if they had said that, I would have been asking  
17 them how many are in a bundle and where precisely was  
18 it, and so forth, but park that -- none of them have  
19 described this bundle, however big it may be, being cut.  
20 That's the point that's being put to you.

21 And we are all right about that, aren't we? None of  
22 those four witnesses have described that process?

23 I accept what you say about Mr But ... (unclear words due  
24 to Mr Poon overspeaking) ... on the floor but --

25 A. 係，佢哋冇用個“bundle”呢個字。

26 Q. No, but they have been talking -- each witness, I think

1           it's fair to say, Mr Poon, has been talking about a bar  
2           here or two bars here, possibly three bars, but nobody  
3           has been talking about a significant bundle of rebar.

4       A. No, no, no. I think Mr But describing a relatively large  
5       quantity.

6       Q. I think you are right. He described seeing ten on the  
7       ground or something. I don't think he actually saw  
8       those being cut; he just happened to see a quantity, he  
9       said, on the ground, and indicated, I think, to the  
10      Commission, that when he -- he saw them, but when he  
11      returned the following day, they had disappeared.  
12      I think that's what he said.

13     A. 唔。

14     Q. I think it might be appropriate for you, in the light of  
15     that evidence, Mr Poon -- you've obviously -- we've made  
16     enquiries of China Technology about Mr Leung, and my  
17     understanding is he's no longer employed by you, and  
18     I think I heard you mention the word "embezzlement"  
19     earlier this morning but I may have misheard you.

20     A. 唔止，唔止，不止。

21     Q. All right. So he is no longer employed by China  
22     Technology. When did he leave you? When did he depart?

23     A. More than a year. 一年--超過一年前，超過一年前。

24     Q. All right.

25     CHAIRMAN: Sorry, can I just ask you this, because --

26           forgive me if I'm coming in at this at sort of very

1           basic level. I'm not a trained engineer so I'm having  
2           to catch up with this. But it would seem to me, and I'd  
3           like your explanation, if that is your answer, that you  
4           are saying, on the one hand, that the cutting of these  
5           reinforcing -- or the rebars at the threaded end -- is  
6           that right?

7           A. 係。

8           CHAIRMAN: -- took away a great deal of tensile strength  
9           from the bar; okay?

10          A. (Nodded head).

11          CHAIRMAN: That's the one issue.

12                 The other issue would seem to me that if there is  
13                 a diaphragm wall and you are looking to screwing these  
14                 in, then unless the threads are untouched, they are not  
15                 going to go in the full way, they may not go in at all,  
16                 and therefore the structural integrity of the join is  
17                 going to be affected.

18                 Now, at that time, from what you heard -- and it's  
19                 hearsay, I appreciate that -- what concerned you? Was  
20                 it that just these were bars that now didn't have the  
21                 tensile strength they should have had, or that they may  
22                 perhaps, but perhaps not, at some place, at some time,  
23                 be used to screw into the couplers?

24          A. 容許我講多--解釋多少少，其實喺我個角度睇件事，就唔係單單、單純  
25                 cut螺絲頭咁簡單，成個考慮其實唔係淨係tensile，即係唔係淨係拉力，

1 我哋呢個車站結構，個track slab係要攞嚟accommodate個train嘅  
2 operation，呢一個connection，考慮最重要其實唔只係拉力，仲有  
3 ductility，ductility即係而家可能個最傷個結構嘅問題，地震波。  
4 嗰個coupler本身個連續牆同埋個層板之間碰接嘅方法、中間鋼筋嘅佈置  
5 全部都唔係淨係考慮單純呢個結構就咁freestanding會唔會畀，絕對唔  
6 係，呢個結構正正就係攞嚟做車站其中一個重要考慮因素，就係個接駁位  
7 置嘅ductility。我聽過喺呢個委員會...

8 CHAIRMAN: I don't want to go into, as fascinating as it is,  
9 a lecture on engineering theory. What I'm more  
10 concerned with is: what concerned you at that time?  
11 Because, on the one hand, if they are busy cutting these  
12 threads, to a layman like myself, it looks like almost  
13 a case of mass fraud. That what you're doing is saying,  
14 "We don't care what happens, we are just going to take  
15 the easy way out and pretend." That's a very dangerous  
16 exercise for the people doing it, because it appears by  
17 and large to be an exercise which, if you listen to the  
18 evidence, providing everything is lined up okay, it's  
19 not really that difficult to screw in these threaded  
20 bars.

21 It's either that, or your view was because of the  
22 lack of tensile strength, for whatever purpose these  
23 rebars should eventually be used, they will not be up to  
24 the job.

25 What was concerning you, sufficiently --

1 MR PENNICOTT: At the time.

2 CHAIRMAN: -- at the time?

3 A. 當時我考慮其實就要一定要知道究竟剪呢個鋼筋，即係剪呢個螺絲頭嘅規  
4 模大成點，一般喺香港，結構上，佢無論dead load或者live load，  
5 個safety factor去到1.4，如果喺總嘅數量上面折損5%、10%，其實真  
6 係冇乜大問題，當然呢個合約上可唔可以做係另一件事，但係我一直嘅估  
7 計，喺當時我其實唔掌握，跟住我當然要留意，而我自己心中一直估計都  
8 係大約5%嘅，其實未去到...

9 CHAIRMAN: No, no, what I'm interested in is what concerned  
10 you, as Mr Pennicott said, at the time? Because as far  
11 as I can see, this information that came to you in  
12 July/August was just, "I've seen people not putting into  
13 couplers but just cutting these things." Why would you  
14 have then said, "Wow, this is something I've got to  
15 remember, this is serious, this could be damaging and  
16 I must pursue the matter further"?

17 A. 我哋公司都有紮鐵嘅，我哋公司一年做紮鐵生意大約6千萬，遠遠大過而家  
18 另外一間分判商，我哋每handle一粒coupler，喺香港，係一定睇實嘅，  
19 係一定要100%喺inspection之下扭入去，而且用torque嘅，即係要用  
20 一個磅尺，...

21 CHAIRMAN: I appreciate that, but we're not talking about  
22 couplers here. We're talking about the bars.

23 A. ...而我哋--當我哋見到喺紅磡站零零舍舍係好似冇王管咁，我哋  
24 覺得好奇怪。

1 CHAIRMAN: All right.

2 A. 所以我哋先至有attention喺呢方面。

3 CHAIRMAN: These people were doing something away from  
4 you -- they were different sub-contractors, this is the  
5 point I'm trying to get to -- and you are a busy man.  
6 Somebody comes up to you and says, "I've seen them using  
7 the machine that brings about sparks, they appear to be  
8 cutting these things short", no suggestion they're being  
9 put into couplers. You don't know what you are going to  
10 do with them. For all you know, there may have been  
11 excess and they just wanted to cut them up for whatever  
12 purpose, and yet you decided at that moment this time  
13 that it's of sufficient seriousness that you are now  
14 going to pursue this issue. Why?

15 A. 我一向做人，所有問題嚟到我面前，我都要解決嘅，我唔會逃避，亦都唔會  
16 ignore佢，呢一段嘅說話係講緊中科公司，我作為管理層第一次聽到呢件  
17 事，唔係我親身經歷，呢個對我嚟講係一個傳聞，但係對我嚟講，都係一個特  
18 別，而且我知道我哋公司喺紅磡站所負責嘅scope of works，如果呢件事  
19 最終演繹成一件好嚴重嘅事，可能連中科都會被拖落水，喺管理角度睇，當有  
20 人講呢件事畀我聽，我一定覺得呢個係一個要解決嘅事件。

21 CHAIRMAN: All right.

22 MR PENNICOTT: Back to paragraph 30, please, Mr Poon.

23 When Mr Leung made this report to you and you  
24 identified two potential areas in your witness  
25 statement, do you know whether that cutting was taking



1 place, alleged cutting was taking place, at the lower  
2 level in the EWL slab or the upper level, the top level?  
3 Because we know the slab has rebar at the top and rebar  
4 at the bottom. Do you know whether this was at the top  
5 or the bottom, the report that you were being given?

6 A. 喺30段嘅時間，即係話喺8月初、8月中嘅時間，我係唔知嘅。

7 Q. Right. You see, because one of the problems that we've  
8 got to think about with your evidence, Mr Poon, and the  
9 evidence of the other witnesses, is this -- and you  
10 alluded to, I think, this point earlier -- that we now  
11 know that in significant areas along the top of the  
12 diaphragm wall, the concrete was reduced by about half  
13 a metre?

14 A. Cut-off level.

15 Q. Half a metre.

16 A. Not only. Not only half a metre.

17 Q. All right. Just bear with me. Reduced by, I say, half  
18 a metre, you perhaps say a bit more, but let's just park  
19 that one for the moment.

20 Couplers were dispensed with, and through-bars were  
21 used. So, in that instance, cutting of bars, screwing  
22 into couplers, it's irrelevant, on one view it's  
23 irrelevant, because the couplers simply aren't there.  
24 They've been dispensed with because of new design from  
25 long sections of this diaphragm wall, at the top -- I'm  
26 not talking about the bottom level, I'm talking about

1 the top level.

2 So that's why I've been pressing you, Mr Poon, with  
3 respect, to try to identify, if we can, the sort of  
4 areas that you're saying this took place in.

5 Now, C1-4, for example -- and I pointed out to you  
6 that in fact the rebar didn't start until  
7 mid-September -- that's an area where Leighton and MTRC  
8 say, "We changed the design in C1-4, we reduced the  
9 concrete level and we had through-bars."

10 So if they're right -- that's why I'm trying to test  
11 it, I'm not saying they are right, Mr Poon; I just need  
12 to test you about it -- if they are right, then the  
13 whole question of threading of rebar, screwing into  
14 couplers, simply doesn't arise in that area. Now, it  
15 might arise in different areas, I accept that, but in  
16 that particular area it doesn't arise.

17 Do you understand the point?

18 A. 我明白你嘅問題，不過我想補充嘅，東同西嘅連續牆完全兩個唔同嘅handle  
19 方法嘅，頭先你講緊嘅其實只係apply to東連續牆，西連續牆並冇呢種處  
20 理，西連續牆無論上同埋下都係扭入去嘅，而東連續牆其實冇--我見到--  
21 我哋相片見到，好多地方我哋見唔到有用到所謂full bar，唔係咁嘅，我  
22 見到反而係嗰度無端端多咗個lapping添，lap at tensile area is  
23 prohibited。

24 Q. You may be able to help us more about this particular  
25 topic when we look at some photographs later, Mr Poon.

1 A. Okay.

2 Q. But this is why we've got to think carefully, why we  
3 shouldn't shoot from the hip, why we've got to try to  
4 identify where this actually happened, because, as  
5 I say, it would appear that apart from perhaps -- and  
6 again this all needs to be proved in due course -- if  
7 one defines it in terms of diaphragm wall panels, on the  
8 East Wall, apart from about 14 of the panels, so  
9 Leighton and MTRC say that they adopted a through-bar  
10 design. So in relation to those areas, couplers become  
11 or the coupler issue becomes redundant. Do you follow  
12 the point, at the top level?

13 A. 我明你問題，我明你問題。

14 Q. Now, back to paragraph 30, I'm afraid -- I haven't quite  
15 finished; this could be the last point but I'm not  
16 sure -- the last sentence of paragraph 30, Mr Poon, you  
17 say this:

18 "At the same time ..."

19 Now, I assume by that you mean mid-August 2015; is  
20 that right?

21 A. 係。

22 Q. "... Mr Chu also corroborated with what was said by  
23 Mr Leung ..."

24 Now, that is, I suggest to you, incorrect. Do you  
25 agree?

26 A. 唔同意，我當時真係聽到。

1 Q. Well, the problem with that, Mr Poon -- and you can  
2 comment if you wish -- Mr Chu has told the Commission  
3 that the first incident of cutting rebar that he saw was  
4 in late October 2015.

5 Now, if that's right, he could not have been  
6 reporting to you about cutting rebar in mid-August. Do  
7 you understand the point?

8 A. 我明白，但係朱生其實佢冇同我講話佢第一身睇到，朱生係本身係一team  
9 三十幾人嘅頭嚟嘅，朱生嘅意思係佢啲伙記同佢講，朱生係淨係負責釘板，  
10 carpentry works。

11 Q. That's not what he told us, Mr Poon. We'll just have to  
12 make of it what we can.

13 A. 我--呢個我而家講一講我自己記憶。

14 Q. Okay.

15 In paragraph 32 of your statement, you say this:

16 "I suggested to Mr Leung that he should report the  
17 matter to MTRC for record purposes."

18 First of all, Mr Poon, why would you leave it to  
19 Mr Leung? If this had been reported to you, surely you,  
20 as the senior management, owner of China Technology, you  
21 would have been the appropriate person, surely, bearing  
22 in mind clause 7.4 that we looked at earlier, to report  
23 the matter to MTRC. So why didn't you do that  
24 immediately after you had been told this in mid-August?

25 A. 呢啲係第一--最初嘅時間我聽到，而唔係我自己親身睇到，呢個都係我做嘢

1           方法嚟，唔係我自己親身睇到嘅嘢，我唔會隨便講出口。

2           Q. Right. You go on to say in your witness statement --  
3           let's forget about Mr Leung for the moment:

4                     "Sometime later ... Mr Chu told me that they had  
5                     reported the matter to MTRC."

6           Now, we put that point to Mr Chu, perhaps not just  
7           once but a number of times, and he said quite clearly  
8           that he did not report it to MTRC; he did not see it as  
9           part of his responsibility. So that part of your  
10          evidence is also incorrect, is it not, Mr Poon?

11          A. 喺我嘅good understanding同埋best knowledge，呢段證供其實正確  
12          嘅，我當時的確聽到朱生咁講，我唔明白朱生點解跟住喺調查委員會唔係咁  
13          講，我亦都唔想作任何猜測或者估計，但係喺我自己去草擬呢份證供嘅時候，  
14          呢個係我嘅knowledge嚟嘅。

15          Q. All right.

16                     Now, in paragraph 33 of your witness statement, you  
17                     say this:

18                     "In or about August 2015, I visited area C1 of  
19                     the ... site for site inspection purposes."

20           Now, that, with respect, Mr Poon, is pretty vague,  
21           "In or about August 2015". If the Leighton  
22           sign-in/sign-out records are to be believed, you were  
23           there in August on just about every single day, apart  
24           from perhaps the weekends.

25          A. 周末我都去嘅，周末我都去。

1 Q. I think you might have been there on the odd Saturday,  
2 but we can look at that if necessary.

3 There are two aspects that are quite vague here, if  
4 I may say so, Mr Poon. One is "in August 2015" and the  
5 other is "area C1", which we know is broken down into  
6 five bays.

7 First of all, can you help us: can you narrow down  
8 the date in August when you say you narrowed down this  
9 site inspection?

10 A. 真係記唔到，真係記唔到。

11 Q. And in terms of the area, C1, can you narrow that down  
12 for us in terms of a particular bay or bays?

13 A. 我記得當時嘅印象，就係我哋自己落嗰倉石屎係做咗嚟喇，我可以見到個  
14 倉喺隔離，所以我講係2或者3，仔細嘅位置我真係記唔到。

15 Q. You go on to say:

16 "At a position between bay 2 and bay 3,  
17 I witnessed ..."

18 We are talking about the EWL slab here; yes?

19 A. 係。

20 Q. "At a position between bay 2 and bay 3, I witnessed  
21 three male persons wearing reflective safety vests of  
22 Leighton using a grinding machine to cut the threaded  
23 rebars one after another."

24 Do you see that?

25 A. 係，見到。

1 Q. So you did not witness this cutting of bundles of rebar  
2 at this time; it was one after the other, was it?

3 A. 可能我寫得唔好，可能真係我寫得唔好，佢真係成紮喺度，跟住一支一支咁  
4 剪，啲鋼筋，有啲落絞牙鋼筋係獨立擺喺度。

5 Q. Okay. So there was a bundle and they were cut one after  
6 another; that's your evidence? And do you recall how  
7 large the bundle was?

8 A. 係大約40到50支嘍喇，T40。

9 CHAIRMAN: Sorry, what does that mean, 40 to 50 P40s?

10 MR PENNICOTT: T40s, a type of rebar.

11 A. A type of rebar, yes.

12 COMMISSIONER HANSFORD: 40-millimetre diameter.

13 A. Thank you.

14 MR PENNICOTT: You go on to say in paragraph 33:

15 "The surrounding environment was clear and bright.

16 I was around 30 to 40 metres away from the male persons  
17 and can see them clearly without any obstructions  
18 whatsoever in front of me."

19 Now, it's very difficult for me to even estimate how  
20 far 30 or 40 metres is away from us.

21 A. Bigger than this room.

22 Q. You are telling me. About three to four times the  
23 distance, I would think. We think the dimension corner  
24 to corner is about -- between 10 and 11 metres.

25 A. 呢幅牆嘅panel大概係900闊，每一塊panel，呢間房大概係10米，precise。

1 Q. It's 10.6, actually. So you were a long way away --

2 A. Yes.

3 Q. -- when you saw this going on, were you?

4 A. Yes, because they are using the磨輪, grinding machine.

5 Q. What colour was the grinding machine?

6 A. Can't remember. 唔記得。

7 Q. You say that you approached the persons that were doing  
8 this cutting with the grinding machine. Again, we're in  
9 August, and let's go back to some of the questions that  
10 the chairman was asking you about. What prompted you --  
11 why did you think it was necessary to go to the chaps  
12 that were doing this cutting, so you say, and ask them  
13 to stop? Why did you think that was necessary?

14 A. 第一，就係因為梁健所講畀我聽嘅嘢我親眼見到喇，我最初行埋去係想睇  
15 清楚係咪真係cut緊，因為火花嚟離好遠都可以見到，而跟住埋到去，當  
16 我見到真係cut緊嘅時候，我覺得工人做得唔啱，我去指正啲工人，去叫  
17 佢唔好cut都好正常。

18 CHAIRMAN: So you've said here, in paragraph 34, that they  
19 were cutting in order -- those are my words -- to  
20 install them to the couplers on the diaphragm wall. You  
21 didn't actually see them putting them into the diaphragm  
22 wall.

23 A. 係，係呀。

24 CHAIRMAN: You didn't or you did? You didn't see them  
25 putting them into the diaphragm wall or you did?



1 A. Did. I did. I did see it.

2 CHAIRMAN: So then you were close enough to see that the  
3 threads had been cut, and there was always a danger,  
4 especially if they were using a grinder, I would  
5 imagine, that they might damage the threads as well as  
6 cutting them, and make it even more difficult to insert  
7 them -- you saw them attempting to insert them and you  
8 went up and tried to stop them?

9 A. 係。

10 CHAIRMAN: Okay. And no doubt -- did they say anything to  
11 you?

12 A. 唔理我，唔理我。

13 CHAIRMAN: All right. But that was clearly not merely  
14 negligent but, if it had been done on purpose, with no  
15 necessity to do it -- and I will explain what I mean  
16 about that in a minute -- this was completely wrong  
17 practice that was premeditated, and they didn't say  
18 anything to you, they didn't try to explain themselves?

19 A. 通常香港工人都係咁，工人，the worker level。

20 CHAIRMAN: You see, when I talk about "necessity", from the  
21 little I've learned -- and I'm open to much further  
22 education -- I can see a situation when the dynamics of  
23 the diaphragm wall and the building of the slab are such  
24 that there's force pressures, which may, for example,  
25 put the rebar at a slightly wrong angle, and when you  
26 try to screw it into the coupler you can't get it in.

1 And then I can see, perhaps, a temptation to think,  
2 "I've either got to gouge the coupler out of the wall  
3 and fit it back in; you know what I'll do, I'll just cut  
4 this little bit of the rebar and then I can get it  
5 fitting and I can just put it in" -- I can see that as  
6 a possibility, and I haven't heard evidence on it yet,  
7 from time to time, if you can't get this done.

8 But you're describing a premeditated form of  
9 avoiding any proper linkage of couplers to the bars,  
10 premeditated and, with the greatest of respect, almost  
11 wholesale, for no purpose. Would that be right?

12 A. 講「大規模」呢個字，我其實唔係好同意「大規模」，我覺得都係5%嘅。

13 CHAIRMAN: This is not one bar --

14 A. This is systematic and planned activity --

15 CHAIRMAN: -- they are doing it with a number of bars all in  
16 one area?

17 A. 係，我...

18 CHAIRMAN: I'm just having a real problem with trying to  
19 understand: why are they doing that? If you are on  
20 a building site and you see somebody take something that  
21 is quite precious, I don't know, some electrical  
22 equipment, put it in their pocket and walk away, you can  
23 come to a conclusion they are stealing it; that's  
24 understandable. But here, for me at this moment in  
25 time, they are putting in rebars to couplers on  
26 a diaphragm wall, which is the job they normally do,

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. 所以我覺得呢個係有系統，係planned嘅activity，我唔用...

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

25          A. 其實我覺得好遺憾獨立調查委員會冇辦法查埋北面隧道，當如果我哋將呢件  
26          事--當然，你如果用一個第三身third party去睇呢件事，就可以正正中

1            咗禮頓解釋，就話點解咁做呢？好容易扭入去㗎㗎，冇咁嘅必要㗎㗎，但係  
2            當你睇埋我哋做站區，即係話而家我哋講緊去到50線呢一區，中科加泛迅，  
3            我哋喺北面隧道係好時加永光，完全唔同工人，唔同管理人，乜都唔同，  
4            但係港鐵自己親身喺立法會喺7月13號承認喺北面隧道螺絲頭直頭扭都有扭  
5            人去，扭都有扭，相片見到係咁，佢哋都咁承認，點解係咁呢？

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

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

15           A. (Shook head).

16           CHAIRMAN: Well, all right, "under supervision" in the sense  
17           that somebody might walk around the corner any second --  
18           and yet not just one rebar going into a coupler or being  
19           cut off and then put in because it's out of alignment or  
20           perhaps the threading is damaged, but an actual  
21           deliberate process involving a series of rebars.

22           Now, are you able to give me any statement as to  
23           why, in your opinion, that would be a reasonable thing  
24           to do in the circumstances, or explicable even?

25           A. 可以，其實我哋我份statement度，我哋港鐵6月13號嘅調查，我係收埋

1            咗我最後一段事，港鐵應該講出嚟我講咗啲乜嘢，港鐵好清楚，但係港鐵  
2            收埋晒，我講嘅係corruption。禮頓好特別嘅，我哋坐Karl Speed喺  
3            度，佢好清楚，禮頓佢好鍾意養一啲direct labour...

4            CHAIRMAN: Sorry, is the word "co-option" or "corruption"?

5            A. Corruption. 貪污。

6            MR PENNICOTT: It's "corruption".

7            A. 貪污，好嚴重，喺禮頓公司。禮頓好鍾意...

8            CHAIRMAN: All right. Again, you have to forgive me, and  
9            I need to be educated again, but I understand  
10           corruption, I understand money in somebody's back pocket  
11           by cutting corners, but here you've got to bring all the  
12           rebars on to site -- I'm not laughing out of amusement,  
13           I'm laughing out of bewilderment -- you've got to bring  
14           them all on to site, so you are not just saying, "Let's  
15           bring on half and the money goes into somebody else's  
16           pocket because we've now saved half the rebars -- you're  
17           bringing them all on, you're going to the bother of  
18           cutting them, for about three minutes each one, causing  
19           noise, and then only half, or not at all, putting them  
20           into a set of couplers. How do you save money on that  
21           with? It seems to be entirely random and doesn't fit  
22           into anything.

23           A. Let me explain. First of all, I am this boss of a  
24           sub-contractor. I am the one facing direct demands,  
25           from the management and supervisory staff of Leighton.

1 CHAIRMAN: Yes.

2 A. I am, and I was the one -- I think I am the only one --  
3 rejecting them.

4 CHAIRMAN: Yes?

5 A. Let me finish by English -- I try to make a direct  
6 language so you can understand.

7 Leightons is operating projects in Hong Kong quite  
8 different and quite unusual from the normal practice of  
9 procurement. They did have a good tendering and  
10 procurement exercise.

11 CHAIRMAN: No, no, sorry, you are going -- bear with me  
12 a second. My question is very localised, and my  
13 question is very immediate. I'm not looking at the  
14 greater dynamics. What I'm saying is -- you have to  
15 help me here -- how on earth are you making money for  
16 somebody else's pocket when you're bringing the rebars  
17 on to site, then you are cutting them --

18 A. Leightons engage direct labours or daywork labour from  
19 a third-party sub-contractor, and engaging them on site  
20 without any particular purpose, and the superintendents  
21 or the foreman is controlling this source of excessive  
22 labour, and they would demand the sub-contractor to pay  
23 money to do the partial work of the sub-contractor being  
24 responsible. That's corruption.

25 MR PENNICOTT: But, Mr Poon, let's just think about this  
26 carefully.

1 A. I am telling the truth.

2 Q. Let's think about this carefully. On site, in  
3 a fabrication yard, is a BOSA.

4 A. 唔。

5 Q. In come the rebar, to BOSA, and BOSA thread the rebar.

6 A. 唔。

7 Q. That's an operation that's paid for ultimately by MTRC;  
8 yes?

9 A. 唔。

10 Q. So they go to the time and trouble of threading the  
11 rebar. The rebar, perhaps in bundles, I don't really  
12 know, gets transferred by BOSA onto the site, where it's  
13 required, on a bay-by-bay basis. Then you are saying  
14 that having gone to the trouble of providing the thread  
15 to the rebar, somebody cuts it all off.

16 The point the chairman is making, I think, is what's  
17 the point?

18 A. Yes. I reply exactly.

19 Q. What is the advantage of doing that?

20 CHAIRMAN: Yes. Are you saying that these people who are  
21 day, casual labourers, don't know what they are doing,  
22 so it's easier just to cut them all off?

23 A. They are just receiving orders, instructions, from  
24 the Leighton supervisors.

25 MR PENNICOTT: But why? Can you think of any reason why?

26 A. In area A, A1, I have a very big, big dispute with

1           Leighton management staff on site. They stacked all the  
2           rubbish, debris of concrete into the area to be filled  
3           with lightweight concrete.

4       Q. Mr Poon, you are going well off the track that we are  
5           on, with respect.

6       A. That explains -- that explains --

7       Q. Can you please focus on the rebar question? We are not  
8           interested yet in the question of concrete. Please  
9           focus on the rebar question.

10      A. If you think the management team or the supervisory team  
11          of Leighton on site is that reasonable, that responsible,  
12          yes, it is nonsense that somebody will instruct somebody  
13          else to cut the rebar. But that is not the situation on  
14          Hung Hom.

15      CHAIRMAN: But the point I'm trying to make is -- and this  
16          is where I have emphasised on several occasions I'm  
17          going to require education -- in my minimalist little  
18          engineering brain, I can understand somebody bringing  
19          concrete and saying, "I tell you what, I'll put in half  
20          the sand that should go in", and somebody gets some  
21          money for that, so what you've got is concrete that only  
22          has half the sand. But here you've got the bars already  
23          done, at full price, already brought onto site, and all  
24          these guys have got to do, the day labourers, is screw  
25          them in. Okay? Maybe one of them you can't screw in  
26          and maybe it's all too much trouble and you cut that



1 one, but that's maybe one out of 100, or out of 200.

2 What I don't understand is why these day  
3 labourers -- assuming they are; and that's your  
4 statement, it's not my acceptance of it necessarily --  
5 is why these guys should then just busily cut all this  
6 down, when there is a chance they will be found by  
7 an entirely honest supervisor, and they are not  
8 achieving anything? The only way they can be achieving  
9 anything is if they are so incompetent in screwing them  
10 into couplers, they don't know how to do it, so the  
11 order is just to cut them?

12 A. They are getting benefits on inspection. MTR is not  
13 always on site supervising the works or rebar fixing.  
14 They are not. And they will only inspect until the  
15 3 metre thick slab completed. I observed, and I  
16 experienced, their practice of inspection is going to  
17 visually inspect the rebar fixing works on the top of a  
18 rebar cage 3 metres deep. So what they can only see is  
19 if the screw still appears on the exterior area of the  
20 couplers. When somebody finds difficulties --

21 CHAIRMAN: Sorry, bear with me a second. Are you suggesting  
22 that this was done uniformly, all this cutting? Because  
23 otherwise the whole thing falls down, and then you're  
24 really in trouble. So are you suggesting that they were  
25 just doing this occasionally?

26 A. Yes, occasionally.

1 CHAIRMAN: All right.

2 A. And I have to further emphasise the point that if you  
3 think there is some, for example, substantive problematic  
4 connection between the threaded bars onto the couplers,  
5 the structure will be collapse, no. We have another shear  
6 key system working along with --

7 CHAIRMAN: I am aware of that.

8 A. And we have columns and shear wall supporting the slab also.

9 CHAIRMAN: All right. Right at this moment in time, on  
10 an immediate level -- this is the point I'm trying to  
11 make -- while I can understand somebody paying somebody  
12 else not to deliver as much sand as they should, and  
13 that causes damage to the concrete mix, here I have no  
14 comprehension as to what advantage is being obtained by  
15 what you're suggesting. And if there's no advantage to  
16 be obtained, then what you're suggesting is fairly  
17 profound, because you're suggesting a form of  
18 articulated, organised sabotage.

19 A. Correct.

20 CHAIRMAN: And that's a very big leap. It's a profound  
21 suggestion.

22 A. 唔。

23 MR PENNICOTT: And a very serious suggestion.

24 A. I know. I know.

25 First of all, the benefits or the means of  
26 corruption is not just easy, as you think, that you

1 deliver a certain quantity of materials or goods, and  
2 you pay something to the one responsible for supervision  
3 or making decisions, and they deliver a substandard or  
4 less quantity of that particular materials.

5 We are now here, a team of excessive labour is being  
6 engaged by Leightons and managed by their superintendent  
7 and foremen, always there, from 20 to 40 numbers of  
8 people; they always sat in the smoking house. And if  
9 a sub-contractor willing to pay that supervisor  
10 a certain amount of money, the sub-contractor is not  
11 necessary --

12 Q. But, Mr Poon, the chairman and I are both having the  
13 same difficulty.

14 If, on a particular day, the sub-contractor, which  
15 we know was Fang Sheung, doing this work, had a bit of  
16 difficulty in getting a particular piece of threaded  
17 rebar into a coupler, and they thought to themselves,  
18 "Let's just slice off the end, make it a bit shorter",  
19 and that particular piece of rebar was then fitted with  
20 perhaps a shortened thread. That's sort of explicable  
21 and understandable, if it's just because we are having  
22 difficulty with this particular piece of rebar.

23 A. It's not Fang Sheung.

24 Q. The problem we've got with your evidence, as we see it,  
25 I think, is that even before they've encountered any  
26 particular problem in any particular area, at any

1 particular coupler, that it's all being cut before that  
2 happens, and there just doesn't seem any explanation as  
3 to why they would do it. There's simply no advantage to  
4 Fang Sheung, there's no advantage to Leighton, there's  
5 no advantage to MTRC. Who is gaining any advantage, and  
6 what is it, from this process?

7 A. Definitely there is advantage for Fang Sheung.

8 CHAIRMAN: What's the advantage for Fang Sheung?

9 A. To reduce the cost of labour, first. And second, yes,  
10 there is no immediate and direct advantage to the  
11 corporation of Leightons, but on that level of  
12 superintendence, et cetera, they are achieving the time  
13 benefits on settling the things, the difficulties that  
14 they are encountering on site, with a double benefit on  
15 getting something in their pocket.

16 The labour engaged by Leighton directly on site,  
17 I mean excessive labour, is not paid by them. It's not  
18 paid by the sub-contractor. It's paid by Leightons.

19 CHAIRMAN: All right.

20 A. And we are at that moment in particular high pressure on  
21 the progress.

22 And further, one further information that Leighton  
23 might not release to the Commission yet. At that  
24 particular moment, Leightons had encountered problems on  
25 fixing the threaded bars onto the couplers. Leighton is  
26 trying to get its sub-contractor to handle these special

1 works, because at that particular moment Fang Sheung  
2 thinks, did opine, they are not responsible to handle  
3 that work difficulties. And I got the coupler schedule  
4 at that particular moment.

5 中文-- To translate in Chinese, "coupler", but  
6 "coupler schedule" means the schedule of coupler  
7 quantities.

8 CHAIRMAN: All right.

9 A. I also aware there are third parties outside in the  
10 market that Leighton had approached, try to ask them  
11 to be engaged specially to deal with the coupler  
12 problems.

13 CHAIRMAN: All right. So Leighton had approached people --

14 A. Yes.

15 CHAIRMAN: -- because of particular structural difficulties  
16 they were facing, who were experts in that field?

17 A. Not structural but difficulties on installing the  
18 threaded bars onto the couplers.

19 MR PENNICOTT: But --

20 CHAIRMAN: Can I just ask one question -- sorry,

21 I apologise, but just before we go for lunch -- have you  
22 ever sat down with anybody who's an executive in  
23 Leightons and had a heart-to-heart conversation in which  
24 you have received a confession that this type of  
25 corruption goes on?

26 A. Yes. Malcolm, Malcolm Plummer.

1 CHAIRMAN: All right.

2 A. Malcolm Plummer, who is the project director of that  
3 particular site until certain time of August or  
4 September of 2016.

5 CHAIRMAN: All right. Then one final question, and then  
6 we'll go for lunch, is: clearly, from what you are  
7 saying to us, I appreciate a lot of it is  
8 post-rationalisation -- that's not a criticism, that's  
9 just a statement -- but it would seem to me that once  
10 all this had sunk in to you, you would have had a very  
11 compelling reason to press home action on the part of  
12 Leighton and the MTR; would that be right?

13 A. 係呀, Yes.

14 CHAIRMAN: Then the next question after lunch will be, "Did  
15 you do that at or about that time?", I suppose.

16 MR PENNICOTT: Yes.

17 CHAIRMAN: But there we go. Mr Pennicott, thank you very  
18 much. It's now five past one. An hour and a quarter.

19 MR PENNICOTT: So 20 past, sir.

20 CHAIRMAN: Yes, 2.20.

21 (1.03 pm)

22 (The luncheon adjournment)

23 (2.22 pm)

24 CHAIRMAN: Sorry, two short questions if I may. The first  
25 question is this. Would it be correct to say that by  
26 the middle of this year, the underlying gravity of what

1           you had witnessed had become apparent to you, namely  
2           that it involved corruption on a -- not on a merely  
3           isolated basis but almost systematic?

4           A.    你所講嘅係剪鋼筋咩，定係話本身貪污？

5           CHAIRMAN:   Yes.   The two go together, according to you.

6           A.    Okay.   Systematic, planned.

7           CHAIRMAN:   That you were aware of?

8           A.    係。

9           CHAIRMAN:   Then the second question -- and I just need  
10           a "yes" or "no" answer and that will assist me -- had  
11           you reduced any of these allegations in your evidence  
12           into any of the statements?

13          A.    冇。

14          CHAIRMAN:   That's fine.   Thank you.

15          A.    唯一一次就係同港鐵13號嗰時有講過一次，6月13號。

16          CHAIRMAN:   Okay.

17          MR PENNICOTT:   Mr Poon, can I just pick up that point, if  
18                I may, and I think this really is just to put it into  
19                context.   You had the interview on 13 June with MTRC, at  
20                which you said you made the corruption allegation; yes?

21          A.    Yes.

22          Q.    As I indicated to you this morning, you then made six  
23                witness statements to the police, between 4 July and  
24                9 August this year, and the word "corruption" or words  
25                to that effect do not appear in any of those statements.

1 That's correct, is it not, Mr Poon?

2 A. 喎。

3 Q. And you have made five witness statements to this  
4 Commission, and likewise the word "corruption" does not  
5 appear in any of those five statements either?

6 A. 喎。

7 Q. And so, that being the case, Mr Poon, I think I'm  
8 entitled to ask you why it is that you have waited until  
9 this morning to use that word. Can you explain  
10 yourself?

11 A. 我有等到今朝，冇等到今朝。

12 Q. Well, you did wait until this morning so far as this  
13 Commission is concerned, with respect.

14 A. 因為香港貪污指控，負責嘅部門其實唔係警方，亦都唔係呢個commission，  
15 係ICAC，ICAC有條例嘅。

16 Q. So why does that provide you with a reason for not  
17 mentioning the word "corruption" until this morning?  
18 I'm sorry, I just don't follow your line of thinking at  
19 the moment.

20 A. 香港嘅《防止賄賂條例》喺立咗案之後，唔可以向第三者透露。

21 Q. Well, Mr Poon, I am hearing what you say, and it may be  
22 that there are greater minds in this room than mine --  
23 no doubt, there are -- but I still don't follow,  
24 Mr Poon, why it is that you have waited until this  
25 morning to mention the word?



1 A. 我其實喺呢成件事上面，我係協助緊三個唔同嘅機構調查嘅，包括咗呢個  
2 commission，包括咗警方，同包括咗另一個獨立部門。

3 Q. Sorry, which independent department are you referring  
4 to?

5 A. ICAC.

6 Q. Right.

7 CHAIRMAN: I would just mention, Mr Pennicott --

8 MR PENNICOTT: Yes, sir.

9 CHAIRMAN: -- I hesitate to put myself forward as having  
10 anything other than a sort of Reader's Digest  
11 understanding of what the ICAC does, but there is some  
12 provision somewhere about not being able to speak  
13 publicly about these things at a certain stage,  
14 I believe, but there's counsel here who will have a far  
15 better understanding than me.

16 MR PENNICOTT: I'm a bit similar to you, sir. ICAC is  
17 obviously something of an institution that we know  
18 exists in Hong Kong. I've had dealings with them in  
19 various guises before, in cases such as short piling and  
20 so forth, some years ago. Of course the problem one has  
21 is to what extent, in the context of this Commission,  
22 one needs to explore, for example, when the ICAC might  
23 have first shown an interest, and so forth, because  
24 there may be a time point there; I simply don't know.

25 But of course this is a very serious allegation on  
26 any view of the matter, and I think, in an exchange that

1 I had with Mr Poon at the outset of his  
2 cross-examination earlier this morning, he seemed to  
3 suggest that I or perhaps the legal team for the  
4 Commission were somehow targeting China Technology.

5 Of course that's simply not the truth, and the  
6 reason that China Technology are going first, and the  
7 transcript records, Mr Poon, because I've checked it,  
8 that what was said on 24 September is that China  
9 Technology's evidence would be put under the microscope  
10 first -- and I emphasise that -- because everybody else  
11 is coming after you, apart from Intrafor. And the  
12 reason for you, as it were, being here first is that  
13 everybody else then has the opportunity of seeking to  
14 address the allegations that you're making.

15 Now, so far as corruption is concerned, it would  
16 appear that I perhaps can't take the matter any further.  
17 Whether anybody else wishes to try to do so, that's  
18 a matter for them, but maybe I need to park that from  
19 the Commission's point of view at this moment, sir,  
20 unless you feel that there is a line, as it were, that  
21 we can pursue at this stage.

22 CHAIRMAN: Perhaps our position could be reserved.

23 MR PENNICOTT: Certainly it's going to be reserved.

24 CHAIRMAN: Counsel for the parties of course are free to ask  
25 such questions as they think will best defend their  
26 clients' interests.

1 MR PENNICOTT: Yes.

2 CHAIRMAN: I don't think at this stage that there's any  
3 issue of confidentiality vested in Mr Poon.

4 MR PENNICOTT: No.

5 MR SHIEH: Mr Chairman, can I just venture to suggest the  
6 line of questioning put to Mr Poon by Mr Chairman went  
7 to the reason why Mr Poon thought that anyone would want  
8 to cut the threaded ends in such scale --

9 CHAIRMAN: Yes.

10 MR SHIEH: -- and not just on isolated instances.

11 CHAIRMAN: Yes.

12 MR SHIEH: Mr Poon then pulled out the word "corruption" for  
13 the very first time in this Commission. We have  
14 something to say about whether or not the allegation of  
15 corruption actually makes any sense, because we are  
16 still trying to understand what he was saying.  
17 Therefore, any purported explanation as to why threads  
18 are being cut is obviously regarded as having some  
19 degree of relevance.

20 Without being shy, what Mr Poon is now doing is, in  
21 line with what he is doing in other respects, trying to  
22 do a "heads I win, tails you lose" situation, because  
23 when he wanted to say it this morning, he had absolutely  
24 no inhibition in mentioning the C word. So he did not  
25 think that any Ordinance concerning confidentiality of  
26 ICAC into possible corruption has inhibited him from

1 actually uttering the C word this morning. So query  
2 whether or not, irrespective of the nicety of the ICAC  
3 Ordinance, whether that was in fact what had "inhibited"  
4 him from putting all these matters into a witness  
5 statement in the first place.

6 He can't pick and choose and blurt out this morning  
7 and say, "Here I am, brave whistleblower, listen, listen  
8 out there", and then when pressed, "Oh, gosh, I'm  
9 terribly sorry, I'm gagged, not by a confidentiality  
10 agreement this time, but by the Ordinance."

11 But those behind me are checking and it may be that  
12 there will be some sort of result soon, and that is the  
13 precise ambit of any "ban" on ICAC investigation,  
14 whether or not one is only prohibited from saying that  
15 he is being investigated or he is helping  
16 an investigation, or whether or not the ICAC Ordinance  
17 bans someone in the position of Mr Poon outside the ICAC  
18 investigation from whistleblowing at all.

19 So that is something which, in my respectful  
20 submission, need not be parked, maybe a five-minute  
21 adjournment would solve it, and I hope I may have  
22 actually prompted Mr Pennicott to ask the questions  
23 which may need to be asked, namely did he feel inhibited  
24 or gagged this morning when he uttered the C word so  
25 righteously? Irrespective of the niceties, because it  
26 may well be that, yes, on a proper construction of the

1 Ordinance, it did ban him, but obviously he did not  
2 regard himself as being banned. That is the point.

3 So maybe, if one wants to go along that line, let's  
4 pursue maybe a five-minute break to check actually the  
5 position of the ICAC Ordinance.

6 I may have some answers here but maybe a five-minute  
7 break would deal with it.

8 CHAIRMAN: Yes.

9 MR SHIEH: Because if as a matter of law he is not gagged at  
10 all, he would then have to say, "I'm terribly sorry,  
11 I was mistaken, I thought I was gagged", which is the  
12 next question: this morning, why didn't you think you  
13 were gagged?

14 CHAIRMAN: Yes. All right.

15 MR SHIEH: I reveal all my hands now, unfortunately, but  
16 I have more in my pocket when it comes to my turn.

17 CHAIRMAN: Yes.

18 MR TO: Mr Chairman, if you look at a document called B3082,  
19 this was what Mr Pennicott was talking about the meeting  
20 of 13 June.

21 CHAIRMAN: Yes.

22 MR TO: We have got a record in terms of -- audio records of  
23 all the people involved, except four persons. Mr Poon  
24 did mention, for example, he mentioned the C word during  
25 that meeting, but as of today we can't even verify  
26 because we don't even have the record of the -- the

1 voice records of these.

2 CHAIRMAN: All right. We have some evidence. This is not  
3 the first time it's been raised. That was the purpose  
4 of my question. I asked for a "yes" or "no" answer,  
5 whereas I thought it was best that I should then step  
6 back from this. I had explored what I wanted to  
7 explore, which is what possible motive could there be to  
8 people carrying out the systematic actions that were  
9 described.

10 MR PENNICOTT: Yes.

11 CHAIRMAN: But I'm more than happy to adjourn for five  
12 minutes, Mr Pennicott.

13 MR PENNICOTT: Sir, I, standing here as counsel for the  
14 Commission, was naturally taking a rather cautious  
15 approach.

16 CHAIRMAN: The same as myself; I don't want to bring the  
17 Commission into difficulty.

18 MR PENNICOTT: Without actually knowing the answer, I didn't  
19 want to, as it were, shoot from the hip without knowing  
20 what the answer was, without having a chance to research  
21 the position.

22 All I wanted to ask, which I did ask, was why did  
23 you leave it until this morning to mention the C word?  
24 Mr Poon has given his explanation as to why it was only  
25 this morning.

26 Frankly, for my part, I'm prepared to park that for

1 the moment. I don't think we need to adjourn. We're  
2 not, I'm afraid, going to finish Mr Poon this afternoon  
3 on any view, and if we need to come back to it, we'll  
4 come back to it, either with me or with somebody else.  
5 Unless you think that we ought to bottom this out --

6 CHAIRMAN: Mr Shieh, would you object to that?

7 MR SHIEH: I'm perfectly content, but I have made my point,  
8 and that is to say that the reason why Mr Poon had  
9 chosen in this Inquiry to raise it only orally, at  
10 a hearing, is going to be the subject of some  
11 investigation. But if it is thought it may not be worth  
12 the while of adjourning for five minutes, other people  
13 can pick it up, then so be it, because we have  
14 ... (unclear words due to coughing) ... as to the details  
15 of corruption as suggested. That is a different point.

16 CHAIRMAN: Yes, that's a different point, and certainly it's  
17 open to be picked up and I'm sure you will be able to  
18 obtain the necessary advice while Mr Pennicott is  
19 examining the witness a little further.

20 MR PENNICOTT: Sir, that's right, and also of course I will  
21 look at this again this evening, and if I feel I need to  
22 come back to it -- I don't really want to be pressed  
23 into a five or ten-minute adjournment and then come back  
24 to this. I'd rather take this in a rather more measured  
25 way.

26 CHAIRMAN: Good.

1 MR PENNICOTT: And if we come back to it in the morning, we  
2 will, either with me or with somebody else.

3 CHAIRMAN: Yes.

4 MR PENNICOTT: Right, now, Mr Poon, let's go back to where  
5 we were. We were discussing -- that's you, Mr Poon, me  
6 and the chairman -- various issues arising out of  
7 paragraphs 33 and 34 of your witness statement, as you  
8 will recall, before lunch.

9 A. 係，記得。

10 Q. The chairman's final point to you before lunch was,  
11 "Well, if this was so important, presumably you would  
12 have reported it to MTRC or Leighton"; do you recall  
13 that?

14 A. 係。

15 Q. As it happens, if we go on in your witness statement,  
16 you have a heading, "Reporting the incidents to Leighton  
17 in September 2015"; do you see that?

18 A. 係。

19 Q. What you say here, and let's look at paragraph 35 first,  
20 is that:

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

26 Now, Mr Poon, can I suggest to you that at least the



1 second sentence of that paragraph is incorrect, because  
2 Mr But has told the Commission that he did not attempt  
3 to stop those cutting the rebar because he did not see  
4 it as his responsibility. So do you accept that that  
5 second sentence is incorrect?

6 A. 我嘅best knowledge, 係呢段說話仍然正確嘅。

7 Q. All right. Well, obviously we've heard what Mr But has  
8 said and the Commission will have to decide, if it's  
9 important, who is telling the correct version.

10 Going on, paragraphs 36 and 37 -- you say this:

11 "In September 2015, I reported the incidents in  
12 August 2015 to Mr So Yiu Wai ..."

13 And that I think is Gabriel So?

14 A. Yes, Gabriel So.

15 Q. "... the then superintendent of Leighton, and Mr So's  
16 superior Mr Khyle Rodgers, the then senior  
17 superintendent of Leighton."

18 A. 係。

19 Q. The first point there is, Mr Poon, that Leighton --  
20 sorry, Mr So and Mr Rodgers, who will be coming along to  
21 give evidence in the next few weeks, say that you got  
22 them around the wrong way in terms of superiority; that  
23 is Mr So was Mr Rodgers' superior, so you've got this  
24 around the wrong way. Were you aware of that? Have you  
25 read their witness statements?

26 A. 唔知道, 到而家亦都唔相信, 因為蘇先生一直都係聽Roger嘅指示。

1 Q. I think they probably know who was superior to whom,  
2 Mr Poon.

3 A. Yes.

4 Q. So this wasn't something you checked; this was something  
5 you just had an impression about, is it?

6 A. 係。

7 Q. All right.

8 Now -- sorry, let me ask you that again: have you  
9 read their witness statements, that is the witness  
10 statements of Mr So and Mr Rodgers?

11 A. 冇。

12 Q. You haven't? In that case, you won't know that they  
13 both deny that this reporting to them that you relate  
14 here took place. They both deny it. So are they both  
15 not telling the truth?

16 A. 如果佢哋否認，一定講大話。

17 Q. Right. So you are adamant that this reporting to Mr So  
18 and Mr Rodgers did take place?

19 A. 係，我唯一錯呢，其實蘇耀偉（譯音）呢個中文名我錯咗嘅，Gabriel So先  
20 係我去approach嘅人，Gabriel So同Khyle Rodgers，肯定我同佢講過。

21 CHAIRMAN: Sorry, is Mr Gabriel So Mr So Yiu Wai?

22 MR PENNICOTT: Yes. Well, it's the same Mr So.

23 A. 唔係呀，唔係呀，我喺後靚警察口供度clarify咗。

24 CHAIRMAN: All right. So we're not talking about Mr So  
25 Yiu Wai, we're talking about Mr Gabriel So?

1 MR PENNICOTT: We are talking about Mr Gabriel So.

2 A. 或者我咁講，我係冇辦法記得佢哋中文名，因為我記英文名嘅，喺蘇先生，  
3 我係記Gabriel So嘅，後起我落完警察口供之後，警察話畀我聽原來佢  
4 哋有兩父子喺同一地盤做，所以我記錯，即係用錯咗佢個中文名，所以我  
5 到而家我都唔記得佢哋嘅中文名，我淨係記得英文名嘅咋。

6 Q. All right. It's Gabriel, anyway.

7 Now, I'm going to, Mr Poon, leave this, any detail,  
8 to Leighton's counsel to put to you about this alleged  
9 reporting that took place. But can I just ask you this  
10 question, or two questions -- first of all, were they  
11 together, the three of you together, when you made this  
12 report, or were there separate incidents?

13 A. 我記得係呀，係喺--就喺我哋地盤上面有一間酒店，嗰個酒店有埋個  
14 shopping mall嘅，喺shopping mall個food court度飲嘢之嘛。

15 Q. Yes, and that's what you say in your police statement.  
16 It was the food forum, level M, is what you say in your  
17 police statement; is that right?

18 A. 係。

19 Q. So the three of you were having a discussion together;  
20 there was not one reporting to Mr So and a separate  
21 reporting to Mr Rodgers? The three of you were  
22 together; is that right?

23 A. 同一個event裏面。

24 Q. Okay. Following that reporting, you did not follow it  
25 up with anything in writing; no email, no letter,

1 nothing of that nature?

2 A. 冇。

3 Q. Then, moving on in usual statement, you say in  
4 paragraph 38:

5 "That said, in mid-September 2015, I myself again  
6 saw staff members of Leighton once again, cutting the  
7 threaded rebars."

8 Then, Mr Poon, this is not a criticism, but do we  
9 then really need to go to paragraph 40 and say:

10 "I immediately approached that person and tried to  
11 stop him ..."

12 Or does paragraph 40 follow from 39, where you say  
13 you had an inspection with Mr So and Mr Rodgers?

14 A. 係。

15 Q. Okay. Let me try again. Paragraph 38:

16 "That said, in mid-September 2015, I myself again  
17 saw staff members of Leighton once again, cutting the  
18 threaded rebars."

19 Is that a completely separate incident to the one  
20 you're referring to in paragraph 40?

21 A. Yes.

22 Q. Okay. Thank you. So, in mid-September, that took  
23 place. Did you take any photographs on that particular  
24 occasion that you are referring to at paragraph 38?

25 A. No.

26 Q. Then you say:

1 "Between 15 to 20 September 2015, I invited both  
2 Mr So and Mr Rodgers for a site inspection."

3 How did you make that invitation, Mr Poon? Did you  
4 have their telephone numbers? Did you email them? How  
5 did you set up that invitation to a site inspection?

6 A. 好似係WhatsApp, 係, WhatsApp。

7 Q. And you've got a period of 15 to 20 September, and  
8 I assume you can't be more precise than that?

9 A. 大約呀, 因為警察堅持要我寫一個準確啲嘅日子。

10 Q. Okay. Well, actually what you told the police was the  
11 15th to the 22nd, so you've actually narrowed it down in  
12 this statement to the 15th to the 20th.

13 A. 唔。

14 Q. And you say:

15 "During the inspection, all three of us saw one  
16 staff member of Leighton cutting the threaded rebars  
17 using a hydraulic disc cutter."

18 Now, pausing there, what, on that occasion, do you  
19 say you actually saw? Was it just one bar, two bars,  
20 a bundle of bars; what did you see on that occasion when  
21 you were with Mr So and Mr Rodgers?

22 A. 其實講得仔細少少喇, 其實我記得嗰一日就係因為有我哋嘅員工匯報又開始  
23 喺度cut喇, 跟住所以我就約Gabriel出去, 我哋係--我講出去--約出去,  
24 其實唔係目的係睇嗰個cutting嘅, 係因為我記得當日佢睇另一個  
25 WhatsApp group有啲安全投訴, 所以我約佢出去話睇安全嘅嘢嘅, 跟住

1 出到去之後，我記得大概喺嗰度附近開始行，就喺--exactly 睇到呢個  
2 case，而Gabriel當時係同緊Khyle Rodgers一齊。

3 Q. All right. Then you go on to say:

4 "I immediately approached that person and tried to  
5 stop him from cutting the threaded rebars. Nonetheless,  
6 Mr So stopped me and asked, rhetorically, 'why would it  
7 be a problem to cut the threaded rebars?' Mr So, in  
8 front of me, asked that staff member to continue with  
9 what he was doing, namely cutting the threaded rebars."

10 A. 係呀，係。

11 Q. Can I just go back because I don't think you answered my  
12 earlier question: how many rebars are we talking about,  
13 Mr Poon?

14 A. 我諗睇到cut緊嘅一、兩條嘅啫。

15 Q. All right. You say:

16 "I (secretly) took out a Huawei mobile phone, which  
17 belongs to Chinat, and took 2 photographs and a video  
18 clip of approximately 10 ... seconds."

19 Do you see that?

20 A. 係呀。

21 Q. What's happened to those two photographs and the video  
22 clip?

23 A. 唔係，呢兩張相--其實我解釋一下個電話先，我好多電話嘅，我會將啲...

24 Q. Can you just answer my question first and then go back  
25 to it if you want to supplement?

1 A. Okay, 呢個就係後尾畀咗Karl Speed睇, 跟住要delete嗰個。

2 Q. You were asked to delete the two photographs and the  
3 video clip; is that what you're telling the Commission?

4 A. 唔止, 唔止。

5 Q. For the moment, let's just focus on these two  
6 photographs and this video. That's what you've referred  
7 to in the witness statement. I just want to focus on  
8 the two photographs and the video clip. You say you  
9 were requested to delete them from your phone; is that  
10 right?

11 A. 係。

12 Q. Who requested you to delete them?

13 A. Karl Speed.

14 Q. When did he do that?

15 A. 9月18號2017年。

16 Q. Which year?

17 A. 2017.

18 INTERPRETER: Interpreter corrects: 18 September.

19 A. 18 September, year 2017.

20 MR PENNICOTT: Thank you. We've got it clear now. It's not  
21 your fault, I don't think, Mr Poon, I think it was just  
22 interpretation.

23 All right. Well, I'm not going to pursue that with  
24 you. If somebody else wants to, no doubt they will.

25 Then, Mr Poon, we come to paragraph 41 of your

1 witness statement, where you introduce the seven  
2 photographs that you have attached to the witness  
3 statement; yes?

4 A. Yes.

5 Q. You say:

6 "On 22 September 2015, I, again, saw staff of  
7 Leighton cutting the threaded rebars with hydraulic disc  
8 cutter. I (secretly) used my personal Huawei mobile  
9 phone to take 7 photographs."

10 Pausing there -- just give me a moment, Mr Poon --  
11 Mr Poon, are you confident, are you sure, that you were  
12 at the site on 22 September?

13 A. Sure.

14 Q. Could I ask you, please, to be shown bundle C8,  
15 page 5720. Mr Poon, this is the Leighton check-in time  
16 and check-out time document.

17 A. 唔。

18 Q. And we are looking at September. I'll show you how  
19 I know that in a moment, if you need me to. You  
20 personally are the second entry up from the bottom, is  
21 that correct, on 5720?

22 A. 係。

23 Q. And according to this record, you were there, as we can  
24 see, for the whole week beginning 7 September --

25 A. 係。

26 Q. -- the whole week beginning 14 September; do you see



1           that?

2       A.   係。

3       Q.   But there is no entry in respect of yourself between  
4           19 September and 28 September; do you see that?

5       A.   係，見到。

6       Q.   That's why I've asked you whether you are confident and  
7           sure that you were at the site, taking these  
8           photographs, as you say you did, on 22 September. Are  
9           you able to explain why you didn't check in and check  
10          out on 22 September?

11      A.   我再重申，我唔係成日打卡嘅，禮頓嗰張證，要打卡呢，首先就要擺出禮頓  
12          張證，佢有個電子認證，要先嚟，即係先喺個turnstile度電子認證咗，  
13          先至可以打掌紋，只要我有帶嗰張證呢，其實打唔到卡嘅。

14      Q.   Mr Poon, it appears from this record that you  
15          consistently, as I've just pointed out to you, clocked  
16          in and clocked out for the two weeks beginning on  
17          7 September, and then there is a considerable gap of  
18          eight or nine days.

19      A.   係，係。

20      Q.   So what happened? You clock in and clock out  
21          consistently, and then there is an eight or nine-day gap  
22          where you didn't do so at all.

23      A.   我唔係一直定時打卡嘅，唔係，我唔需要計我自己嘅糧，我根本冇咁嘅必要  
24          一定要打卡入閘；第二，你睇下29號，唔通我係鬼嚟嘅，我可以有出冇人？  
25          我可以跳咗入地盤裏面，19點45分先跳番出嚟？

1 Q. I don't really worry or want to speculate, Mr Poon, what  
2 you did or did not do on 29 September. I'm more  
3 interested to know what you were doing on 22 September.  
4 Again, I can only work with the records I've got, and  
5 I'm, counsel for the Commission, giving you  
6 an opportunity, before no doubt somebody else will be  
7 cross-examining you on this particular point, to give  
8 an explanation as to why this record doesn't show you as  
9 present on 22 September, which seems a rather important  
10 point, Mr Poon, given that you say you took these  
11 photographs on that particular day.

12 A. 係呀，我嗰日影嘅相，其實我可以identified by the相嘅。

13 Q. All right.

14 A. 因為幾記得嗰個event嘅。

15 Q. All right.

16 A. 因為嗰個event有人嚟阻止我影相。

17 Q. So you think we can identify you from the photographs;  
18 is that what you are saying?

19 A. 見唔到我，係見到想阻止我嗰個人。

20 Q. Okay. We're going to look at the photographs in  
21 a moment, Mr Poon --

22 A. Okay.

23 Q. -- so perhaps you could point that out as we go through.

24 A. 同埋仲有，就係我從來都唔會留喺地盤留到凌晨嘅，9月7號話我留到去凌晨  
25 12點26分。

1 Q. Yes.

2 A. 除非我超人喇，如果唔係，我返完屋企，跟住7點58分又返嚟。

3 Q. Mr Poon, before I close this file and move on to  
4 a different point, can I just pick up a point  
5 I mentioned to you this morning, which is there are four  
6 Mondays in September, 7, 14, 21 and 28, and it was on  
7 one or more of those occasions you said you had your  
8 discussion with Mr Rooney. It appears, again, from this  
9 record, which is all I've got to work with, that you  
10 certainly were there on Monday the 7th and Monday the  
11 14th, quite early in the morning, at 7.19 and 7.25  
12 respectively. So would I be right in suggesting that if  
13 you had your discussions with Mr Rooney, which of course  
14 he doesn't accept you did have, it would have been  
15 either on the 7th or the 14th; would you accept that?

16 A. 我再講一次，我本人完全唔信禮頓呢啲咁嘅紀錄嘅，呢啲紀錄其實可以攞改，  
17 喺李潤潮嗰個case上面，禮頓嘅紀錄係話佢12號先開始上堂，但係李潤潮攞  
18 得出禮頓畀佢嘅實際嘅工作證係11號，呢個紀錄上面見到少少事實，我星期一  
19 係特別會早返嘅，原因就係因為要prepare去做site walk，而且我星期一  
20 係好少好少唔返嘅。

21 Q. But what this does show -- how important it is, I do not  
22 know -- is that you weren't there on Monday, the 21st,  
23 or Monday the 28th?

24 A. 我就肯定喺嗰度，我唔知點解唔喺嗰度，我亦都唔知點解29號我會淨係得一  
25 個走嘅日子--一個時間，而我朝頭早唔使人去嘅，就可以走到嘅，咁已經證

1           明佢唔reliable喇。

2           COMMISSIONER HANSFORD: Mr Pennicott, do we know why some  
3           entries are red and some are black?

4           MR PENNICOTT: Sir, I've been wondering about that myself.  
5           I was going to ask.

6           A. Late, late. Late and early leave.

7           MR PENNICOTT: The only explanation that someone has  
8           suggested it might be is late or early.

9           A. Late or early.

10          Q. Late if it's the morning, leaving early if it's red in  
11          the evening; is that right --

12          A. Yes, the second-last -- on the right-hand side, we have  
13          the second-last to the third-last columns, showing the  
14          minutes that they late or early leave.

15          COMMISSIONER HANSFORD: I'm not sure I necessarily want to  
16          pursue this, I'm just interested, but it seems odd to  
17          me -- so I can see an 8.10 which is in black, and I can  
18          see an 8.01 in red, but maybe this is a red herring.

19          MR PENNICOTT: Yes, sir. Very dry. I suspect that perhaps  
20          one of the Leighton witnesses ought to explain, if we  
21          need to do it.

22          COMMISSIONER HANSFORD: Thank you.

23          A. So it is unreliable.

24          MR PENNICOTT: Well, I hear what you say, and Mr Poon, I've  
25          just given you the opportunity of looking at that  
26          particular document.

1           Now, the photographs. Can we start, please, with  
2           D1/226. That's the first photograph, Mr Poon, that you  
3           have exhibited to your statement?

4           A. 係。

5           Q. Before we look at any more of these photographs, could  
6           I please invite you to go to page 232.1.

7           A. Yes.

8           Q. Where we have some analysis of the details of the  
9           instrument, put it that way, that took the photograph.

10          A. Okay.

11          Q. And all of the photographs that were taken on  
12          27 September, according to this material that we have  
13          been given, were taken on a Sony camera, model D5303 --

14          A. No, Xperia Z2.

15          Q. -- not on a Huawei phone, which is what you say in your  
16          witness statement.

17          A. Yes.

18          Q. Can you explain the position? What is your explanation?

19          A. 其實我好記得呢架機同我用開嘅華為機唔同嘅，所以我喺警察落口供嘅時候  
20          就已經講咗係第二部機，第二部機，我哋可以睇番我哋警察嘅口供，我落警  
21          察個口供嘅時候有解釋畀警察聽我最初係用華為機影，跟住係用第二部機影  
22          嗰一輯--嗰張相，唔係用部華為機嘅。

23          Q. Mr Poon, all I can do, struggle with, is your witness  
24          statement. The second sentence says:

25                 "I" -- this is on 22 September, paragraph 41 --

1 "used my personal Huawei mobile phone to take  
2 7 photographs", and then you produce the seven  
3 photographs, the first one of which we've just been to.  
4 That's what it says in your witness statement.

5 If you wish to correct that, please tell us how you  
6 would like to correct it.

7 A. 第二部機，其實警察口供嗰度都有寫嘅，第二部機其實唔係華為機，其實係  
8 擺喺地盤嗰部Z2。

9 Q. So it was the camera that is referred to on this detail;  
10 is that right?

11 A. 唔係，唔知道，Xperia嚟，Z2，我唔知呢個咩嘢model。

12 Q. The model number -- on page 232.1, it says, "Program  
13 name: Camera 360", and then various image details are  
14 given. If you flick over the page to 232.2, it's the  
15 same photograph but with some more information. It says  
16 it's a camera make, Sony, camera model, D5303. So this  
17 is where I've got my information from, Mr Poon.

18 A. 我完全冇印象呢個，我嗰部，地盤擺喺度嗰部相機係Xperia，  
19 X-P-E-R-I-A，Z2，Z two。

20 Q. I will leave it to others who have produced this  
21 information to try to unravel that particular point,  
22 because so far as I can tell, what I'm being told from  
23 this information is that it was this Sony camera. You  
24 seem to be disagreeing.

25 A. 我估計啲相機其實都係組裝，會唔會個相機鏡頭係呢個呢？我唔知，真係。

1 Q. Okay. But the Xperia is a Sony camera?

2 A. 冇印象，冇印象，我只係用過嗰一款機一次。

3 Q. All right. Let's go back to the photographs, Mr Poon.

4 226. First of all, can you identify the area of the  
5 site where this photograph was taken?

6 A. 記唔到，喺張相度記唔到，但係用時間，可以check番。

7 Q. Let's go back a stage. You made this special visit on  
8 22 September, you tell us. Do you recall which area you  
9 went to? You were clearly there for a little while,  
10 taking photographs. Can you recall which area you  
11 visited?

12 A. C2-3或者C2-5、C2-6附近。

13 Q. Because I thought you might have said C1-4, because, so  
14 far as I can tell from the various records, Mr Poon, the  
15 rebar that was going on on 22 September was in  
16 area C1-4, but you can't confirm one way or the other  
17 whether this is C1-4 or some other area?

18 A. 不如我哋直頭睇番，呢張相片無論點都好，都係好factual，不可抗逆嘅，  
19 日子好清晰，9月22號18點18分，其實呢度睇番港鐵喺佢畀政府個report  
20 好清楚講咗，記錄咗喺咩時候邊一區有紮鐵工程，其實咁樣就大概可以睇  
21 番個位置，如果你要我而家做，我都可以做一次畀你睇。

22 Q. That's okay. I've suggested to you that if it's any  
23 area, that it's likely to be C1-4, because that is where  
24 the rebar was being installed on 22 September. You can  
25 agree with me, disagree with me, or say you don't know.

1 A. 我唔想估計，我想睇事實。

2 Q. All right.

3 What we can see in this photograph, it appears, is  
4 what? One worker, using a tool to cut through a bit of  
5 rebar?

6 A. 係。

7 Q. Now, you can't tell us the precise area. Can you tell  
8 us at what level the worker is at? Is he at the lower  
9 level of the EWL slab or the higher level?

10 A. 喺底層鐵嘅面。

11 Q. Right, the lower level. The surface of the lower level?

12 A. Yes.

13 Q. Understood.

14 Now, the second photograph, Mr Poon, is a bit of  
15 a puzzle. It's at D227 --

16 CHAIRMAN: Sorry, just for my benefit, this first  
17 photograph, which shows a rebar seemingly being cut,  
18 there's no sign of any threading; would you agree?

19 A. 唔係呀，我哋好容易分螺紋嘅，因為螺紋反光嘅，metallic silver in  
20 colour，任何光照落去都會反光嘅，所以如果我哋影相呢，...

21 CHAIRMAN: All right. So you are suggesting that white blur  
22 in the middle of the machine is actually a gap in the  
23 machine and we can see the thread through the gap which  
24 is reflecting light?

25 A. 係。



1 CHAIRMAN: Thank you.

2 A. 我記得後面啲相清晰啲。

3 MR PENNICOTT: Yes, indeed. Let's skip over the one I was  
4 going to. If you go to page 228, is that a close-up --

5 A. Yes.

6 Q. -- of what we were looking at on 226?

7 A. 係，係。

8 COMMISSIONER HANSFORD: Can I understand, in this  
9 photograph, which bar is being cut?

10 A. 嗰條擺喺木方上面嘅T40鐵。

11 COMMISSIONER HANSFORD: So this is a bar being laid on top  
12 of the reinforcement cage that's already been fixed, and  
13 the bar that's being laid on top of the cage is the one  
14 that's being cut; is that correct?

15 A. 係。

16 MR PENNICOTT: Thank you, sir.

17 Chairman, does that help?

18 CHAIRMAN: Yes, it does, thank you.

19 MR PENNICOTT: Thank you.

20 Mr Poon, go back, please, if you would, one page to  
21 227. As I said, this is a slight mystery, because what  
22 you've told us in your witness statement is you're  
23 attaching seven photographs that you took on  
24 22 September, but unfortunately, if one looks at the  
25 date of this photograph, on 227, it's actually dated

- 1 4 September; do you see that?
- 2 A. 係。
- 3 Q. And what's your explanation for that?
- 4 A. 夾錯咗，呢張唔係嘅，227唔係嘅。
- 5 Q. Okay. So do you wish to say anything about this  
6 particular photograph, what we can see on -- what you --  
7 if you took this on 4 December?
- 8 A. 呢個係另一個時段影嘅。
- 9 Q. Yes, in early September --
- 10 A. 係呀，係呀。
- 11 Q. -- and I can tell you, if the information is correct,  
12 this was taken on a Huawei phone.
- 13 A. 好似唔係，我唔記得，呢個就，呢個我唔記得咗喇已經，但係呢個又係有成  
14 個series嘅相嘅。
- 15 Q. Did you take this photograph, Mr Poon?
- 16 A. 記唔到，我其實嘗試去記嘅，因為真係影咗好多相，呢個係有特別case令  
17 我記得番。
- 18 Q. All right. Do we know which area this is? Can you  
19 pinpoint which area this photograph was taken in?
- 20 A. 呢個區肯定就喺東面嘅--即係你話227咁嘛，係咪？喺東面連續牆，係，  
21 東面連續牆。
- 22 Q. Yes, but which area, are you able to say?
- 23 A. 可能係C2-3、C2-5之間或者C2-6。
- 24 Q. And we certainly know this is at the lower level because

1 we can see the "plus 1.02"; do you agree?

2 A. 係呀。

3 Q. Now, we looked at the photograph at D228. My  
4 understanding, Mr Poon, is that the photographs at 229  
5 and 230 are photographs that you describe in your  
6 witness statement as simply random photographs that  
7 don't remain help us; is that right?

8 A. 係呀--唔係，唔係，唔係，幫到嘅，幫到我，因為呢個相就係見到嚟阻止  
9 我嘅人。

10 Q. Ah. Good point.

11 A. 所以我就特別認得呢輯相。

12 Q. So do we look at 229 or do we look at 230? Which one  
13 would you like to look at?

14 A. 我就記唔到個先後次序，我記得係好似係朦個幅先嘅，呢部機後尾--我  
15 買咗之後點解唔用呢？就係佢影相，第一張相幾乎都係朦嘅。其實相中  
16 有一個人嘅，嗰個人其實就係紮鐵嘅打理人阿Joe。

17 Q. Joe Chung?

18 A. 我唔知佢姓--係咪姓張或者Chung，我唔知，我淨係知佢叫阿Joe。

19 Q. From Fan Sheung?

20 A. From Fan Sheung.

21 CHAIRMAN: And he is the person on the left-hand side of the  
22 photograph?

23 A. 係，Yes.

24 CHAIRMAN: With a yellow helmet?

25 A. Yes.

1 MR PENNICOTT: And he's from Fang Sheung; is that right?

2 A. 泛迅嘅打理人阿Joe。

3 Q. He'll be giving evidence I think either later this week  
4 or next.

5 So it's definitely 229 we need to look at.

6 There's a person on the left of 230. If you look at  
7 230, Mr Poon. Is that Joe as well?

8 A. 係，係，都係左手面嗰個。

9 Q. Okay. This time again we can see, even if we can't  
10 identify the area, we know we're at the lower level?

11 A. 係。

12 Q. Because we can see the "plus 1.020" in the distance;  
13 yes?

14 A. 2.82.

15 Q. "Plus 1.0820", here.

16 A. Sorry. I've got this one.

17 Q. And we know the higher level is a figure we have looked  
18 at before, with the Intrafor witness, plus 2.82, which  
19 is the higher level?

20 A. 係。

21 Q. Okay.

22 A. That is exactly the surface of the EWL track slab.

23 Q. Indeed.

24 Then if we could go, please, to the next photograph,  
25 page D231.

1 A. 係。

2 Q. In your witness statement, Mr Poon, you say that this  
3 shows damaged couplers. I think that's what you say.  
4 You seem unsure.

5 A. Let me double-check, please.

6 Q. Yes. Photograph 6 -- I think this is photograph 6;  
7 maybe it's not. Yes, this is photograph 6.

8 A. Okay.

9 Q. You say in your witness statement at 41.3:

10 "Photograph 6 ... showed damaged couplers at  
11 area C1-4 and area C1-5."

12 First of all, how do we know that this is at C1-4  
13 and C1-5?

14 A. 當時警察要我睇番晒啲啲紮鐵時間，其實呢個係警察落先嘅，跟住我哋將  
15 佢擺番落去我哋嘅statement裏面。

16 Q. Yes, okay, but how did you deduce, how did you reason,  
17 that this was in C1-4 or C1-5?

18 A. 因為當時得啲個位置係紮緊鐵，我記得當時都係用香港鐵--因為當時港鐵  
19 報告係open㗎嘛，佢有一個表，啲個列表係個報告嘅尾段，係寫緊每一倉  
20 嘅紮鐵時間，開始同埋完工時間。

21 Q. All right. Do you know whether this was at the lower or  
22 the higher level?

23 A. 呢個影嘅係中間同埋上面，中間同埋上層。

24 Q. These are the couplers, you say, towards the upper  
25 level?

1 A. 係，對，Yes.

2 Q. And why do you say they are damaged?

3 A. 其實打完嗰啲CJ，即係打花個石屎之後，如果佢係打花咗嗰啲coupler呢...

4 CHAIRMAN: Sorry, I'm going deaf in my dotage along with  
5 everything else and I can barely hear it.

6 Okay, continue, please.

7 A. 其實個螺絲全部係香港用緊嘅mechanic coupler，都係CNC嘅product，  
8 CNC就stand for computerised pneumatic cutting，即係一啲精  
9 密嘅切割，只要少少打到、打花、撞擊過，都扭唔入嚟喇。我哋喺呢個相上  
10 面見到喺偏右手面，我指住呢個位置，有一粒係特別打到嗰個螺絲頭嘅邊係  
11 特別粗。(indicating).

12 MR PENNICOTT: The witness is pointing to the fourth coupler  
13 circle, distinctively silver, on the photograph to the  
14 left of the yellow pipe that is going up the right-hand  
15 side. Sorry, fifth. It looks like it's the fifth one;  
16 quite right.

17 A. 黃色嘅，係。

18 Q. Sorry, Mr Poon, you were saying?

19 A. 因為如果打--曾經打到個螺絲頭，即係打到coupler個面，而將佢打咗錘  
20 落去，即係話擺個炮仔或者大炮打咗錘落去呢，就幾乎肯定係扭唔到落去  
21 嚟喇，萬試萬靈嘅呢個實驗。

22 Q. Mr Poon, just on that point, before we look at the last  
23 photograph -- my understanding is that at one point,  
24 China Technology was asked by Leighton to provide

1 a quotation for doing some of this work, to expose the  
2 couplers; is that right?

3 A. 應該咁講，本身暴露螺絲帽喺我哋落嘅石屎嗰度，喺我哋落嘅石屎，所掂  
4 到嗰個construction joint係我哋喺合約上面本身有價錢、斤兩度數  
5 造嘅，如果唔係我哋中科嘅責任，包括咗因為留coupler留得唔好，佢深  
6 入咗去石屎裏面，我哋去打CJ，即係話我哋喺啲花嘅石屎嘅時候見唔到，  
7 而需要再啲出嚟，嗰個就係報個價，而喺呢個報價之前，去到好似係8月  
8 份，2015年8月份，其實禮頓係另外叫我哋報個價，去打嗰個擋土牆--  
9 唔係，打個diaphragm wall，都關coupler事。

10 Q. Mr Poon, pause there, because you may be able to help  
11 the Commission on this point. It's not something that  
12 you refer to in your witness statement, unfortunately,  
13 but it's something that we picked up from one of your  
14 police statements; all right?

15 A. 唔。

16 Q. So let's just have a look at it to make sure  
17 I understand what you are saying. It was your fourth  
18 police witness statement which you made on 24 July 2018,  
19 and if we could look in the Chinese version at D2/822,  
20 English version D2/824.1.

21 A. 係，我喺度。

22 Q. What you say --

23 A. 第4段，paragraph 4?

24 Q. Yes. At 824.2, paragraph 4, you say:

25 "In the end of July ... at the construction site ...

1 Mr Gary Chow ... verbally indicated to me that, since  
2 Leighton had not yet hired another construction company  
3 to perform the work of hacking concrete off the surfaces  
4 of the east and west retaining walls inside the  
5 construction site of Hung Hom Station such that couplers  
6 could be exposed, such work was to be done by Chinat  
7 instead."

8 I don't want to read it all out, but you then, as  
9 I understand it, Mr Poon, gave a quotation; is that  
10 right?

11 A. 係。

12 Q. If we could find that in D2 -- possibly not.

13 A. D825.

14 Q. Sorry, Mr Poon, D1/825.

15 A. yes.

16 Q. That's the quotation that you gave; is that right?

17 A. 係。

18 Q. As I understand it, this was for, if you like, the face  
19 of the diaphragm wall that you were quoting for?

20 A. Yes.

21 Q. This had nothing to do with the removal of the concrete  
22 at the top of the diaphragm wall; this was just for the  
23 face of the diaphragm wall, is that right?

24 A. 本來以為係，但係當我開工嘅時候，因為用daywork，所以我發覺我嘅工  
25 人係連擋土牆嘅上面都打埋，即係個capping zone。



1 Q. But you say in this police witness statement that this  
2 operation that you carried out lasted a couple of weeks,  
3 you fell out with Leighton over it and it didn't  
4 continue?

5 A. 係。

6 Q. So it was a very short-term operation?

7 A. 因為有人問我攞錢。

8 Q. All right.

9 CHAIRMAN: Sorry, I don't want to chase this down  
10 an irrelevant rabbit hole, but are you saying somebody  
11 wanted a kickback from you?

12 A. 係呀，係呀，個價已經無利可圖。

13 MR PENNICOTT: So, when you were, in your couple of weeks,  
14 removing the surface of the diaphragm wall to expose the  
15 couplers, what tools, what machinery, what were you  
16 using to expose the couplers?

17 A. 最先我哋因為只係打coupler，所以係要細炮，一支大約咁大嘅炮，即  
18 係一支細--我哋叫細炮，但係因為禮頓要我哋打埋上面嗰嚟石屎，即係  
19 個capping zone，所以我哋專登租咗個風機，買咗六支大嘅風炮去打。

20 Q. This is the top of the diaphragm wall. At the moment,  
21 I am just trying to focus on the surface, the face of  
22 the diaphragm wall, exposing the couplers and how it may  
23 be they got damaged. Since you did a couple of weeks'  
24 work on this, as I understand it, I thought you might be  
25 able to assist as to how it may be that the couplers --

1 A. 幫到呀。

2 Q. -- being exposed could get damaged, because that might  
3 be helpful, Mr Poon, amongst all of these other things.

4 A. 如果淨係用細炮，係好難打爛螺絲帽，但係如果用大炮，就完全兩回事，  
5 大炮其實主要係打一啲比較大面積、大規模、大volume嘅地方，就係要  
6 將啲個連續牆由佢落咗石屎嘅位置打落去cut-off level，如果再要執  
7 一啲精細嘅level同埋執嘅coupler，一定要用細炮，大炮一打落去就  
8 已經打爛㗎喇。

9 Q. Indeed, and that's the point I was trying to get at,  
10 Mr Poon, that presumably your operatives who were only  
11 doing this work for a couple of weeks, as you say,  
12 presumably you would give them instructions to do the  
13 work with due care because what you were trying to do  
14 was to avoid damaging the couplers, I assume; would that  
15 be right?

16 A. 跟住就要負責，係，對。

17 Q. Yes, quite, and indeed that would apply not just to you  
18 but to anyone else who was trying to expose the  
19 couplers; to take care and try not to damage them, to do  
20 their best not to damage them?

21 A. 跟住我見到唔係咁。

22 Q. Okay. So back to that photograph. We are back at 231.

23 A. 係，係。

24 Q. We can see that this photograph, we know it was taken on  
25 22 September. This wasn't an area of wall that you had

1 participated in exposing the couplers? This wasn't, no?

2 A. 唔係我。

3 Q. But you say you can see, in this photograph, damaged  
4 couplers?

5 A. 係呀。

6 Q. All right.

7 Then, over the page, at 232 --

8 A. 係，見到。

9 Q. -- you say in your statement that this photograph  
10 "showed two persons wearing polo T-shirts of Leighton  
11 attempting to install a thread with cut rebar onto the  
12 couplers."

13 Pausing there --

14 A. 係。

15 Q. -- can you identify the area where this photograph was  
16 taken?

17 A. 我都係要睇番嗰個表先可以夠膽講，因為呢度相片冇顯示個位置，我即係  
18 意思睇番紮鐵進度嗰個表，對番時間。

19 Q. All right. Agreed that it's at the lower level?

20 A. 係。

21 Q. How do we know, how do you know, that the bar that they  
22 are apparently seeking to install had thread that had  
23 been cut?

24 A. 呢張相片其實睇唔到，但係如果將七張相片組織一齊，就睇到我當時嗰兩、  
25 三分鐘睇到嘅故事，就係有人喺度cut鋼筋上面嘅螺絲紋，然後有另一啲人

1           就擺去安裝。

2           Q. So you're suggesting that one or more of these bars that  
3           we can see in this photograph is in fact one of the bars  
4           that you say you saw cutting a minute or two earlier; is  
5           that your evidence, Mr Poon?

6           A. 係，即係228，剪完之後，有人就另外擺去232張相度安裝，同一個bay嚟嘅。

7           MR PENNICOTT: Okay.

8                     Sir, I see it's 3.40. Shall we have 15 minutes?

9           CHAIRMAN: Yes. Thank you very much.

10           (3.42 pm)

11                             (A short adjournment)

12           (4.00 pm)

13           MR PENNICOTT: Thank you, sir.

14                     Mr Poon, could we please move on to paragraph 42 of  
15           your witness statement, at D22.

16           A. Okay.

17           Q. Here, you say this:

18                     "In September 2015, Mr Thomas Ngai told me that he  
19           still saw staff members of Leighton cutting ..."

20           CHAIRMAN: Sorry, just a second. We don't seem to have that  
21           up yet.

22           MR TO: On the screen.

23           MR PENNICOTT: No screen. Sorry. I wasn't paying attention  
24           to the screens.

25           CHAIRMAN: There we are. Thank you.

26           MR PENNICOTT: Mr Poon, have you got that in hard copy as

1 well?

2 A. I got it.

3 Q. Thank you very much. You say:

4 "In September 2015, Mr Thomas Ngai told me that he  
5 still saw staff members of Leighton cutting the threaded  
6 rebars and/or pretending they had properly installed the  
7 threads into the couplers. Nonetheless, these practices  
8 were no longer done in the morning and/or the afternoon.  
9 Rather, they were done at night."

10 That's simply not true, is it, Mr Poon? Mr Thomas  
11 Ngai could not have told you that in September.

12 A. Yes.

13 Q. Mr Thomas Ngai gave evidence last week, and he has told  
14 the Commission quite clearly and unequivocally that he  
15 saw one incident, and that that was in December 2015.  
16 So what you're saying here, Mr Poon, certainly in  
17 relation to the time, cannot be and is not right,  
18 I suggest to you.

19 A. 係呀，42段應該係December，當時係打錯咗September。

20 Q. Right. So there is a typo here. It should say "In  
21 December"; is that right?

22 A. 係，因為成份文件其實我哋跟chronology嘅order嘅，即係跟個時間  
23 order嘅。

24 Q. All right. Well, that may be right, but in the previous  
25 paragraph you were talking about 22 September, the  
26 photographs you took, but anyway, leave that on one

1 side.

2 So let's substitute "December":

3 "In [December] 2015, Mr Thomas Ngai told me that he  
4 still saw staff members of Leighton cutting the threaded  
5 rebars ...", and so forth.

6 In what circumstances did he tell you that, Mr Poon?

7 A. 唔係太記得清楚，如果記得清楚，我就寫得好清楚。

8 Q. You made the same error in your police statement; yes?

9 A. 事實上個error係come from個police statement。

10 Q. Yes, because this witness statement itself has been  
11 prepared, in part, based upon what you have told the  
12 police in your various statements?

13 A. 係。

14 Q. All right. You then, in your witness statement, after  
15 paragraph 42, jump from what we now know is December  
16 2015 to June 2016.

17 A. 係。

18 Q. So is it right that you give no evidence to this  
19 Commission of having seen any cutting of rebar between  
20 December -- well, in your case, September 2015 to  
21 June -- well, after September 2016 -- sorry, 2015? Let  
22 me put that again. It was very unclear, I'm sorry.

23 You don't give any evidence to the Commission,  
24 Mr Poon, that you personally saw any rebar being cut  
25 after September 2015; is that right?

1 A. 其實我係想講12月，即係2015年12月之後，Thomas Ngai仍然同我講有。

2 Q. My question, Mr Poon, was that you personally did not  
3 see any further cutting of rebar after September 2015;  
4 is that right?

5 A. 係，係，係。

6 Q. So what we have, so far as your personal knowledge is  
7 concerned, Mr Poon, is a situation that I can summarise  
8 in this way, to see if you agree with me: you limit your  
9 evidence of seeing this cutting to really the period end  
10 of July to September 2015 -- I'm talking about you  
11 personally, Mr Poon.

12 A. 甚至縮窄到去8月中添，8月中去到9月22號。

13 Q. All right. I'm happy with that. Mid-August to  
14 22 September, just that period; yes?

15 A. 係。

16 Q. All of that confined to the EWL slab?

17 A. 係。

18 Q. And all confined to area C1?

19 A. C1同埋C2。

20 Q. C2. Help me with C2, Mr Poon. Which of the incidents  
21 do we need to look at for C2? I'm sorry, I've missed  
22 something.

23 A. 我哋打番開去227幅相。

24 Q. Yes.

25 A. 我記得我曾經同警察對過呢啲時間，我印象係有幾張相搵嘅時間係喺C2區。

1 Q. Mr Poon, I thought we had agreed, although I agree it  
2 may not have been as precise and clear as it could be,  
3 but I thought we had reached some agreement that all  
4 these photographs that you say you took on 22 September  
5 was in area C1-4?

6 A. 我哋可唔可以睇下D600?

7 Q. 608?

8 A. 600 exactly.

9 Q. Ah. Yes. That's the photograph that we were looking at  
10 just now but with some annotations on it.

11 A. Yes. 呢個annotation係我打嘅。

12 Q. And whose annotations are they; yours?

13 A. Yes, mine.

14 Q. I imagine, in the light of my question, you want to look  
15 at the box at the bottom, where you say:

16 "'A' is standing on the vicinity of the east D-wall  
17 at C1-3 or C2-5 or C1-4 and cutting its vertical  
18 rebars."

19 A. 係。

20 Q. What I think I was suggesting to you, Mr Poon, was that  
21 the only rebar that was being placed and fixed on  
22 22 September -- sorry, you are quite right, this one is  
23 on the 4th -- it certainly wasn't C1-4, because that  
24 didn't start until 14 September?

25 A. 我背唔到，我當時我記得同警察一齊睇都係睇地鐵有個表，都係用地鐵嗰個



1 report個表睇出嚟。

2 Q. So C1-4 didn't start until 14 September. What are your  
3 other options?

4 Let's see the photograph, please. C1-3. Right.  
5 C1-3, the rebar fix was finished on 4 September, the  
6 very day you took this photograph. So I suppose, in  
7 theory, it could have been C1-3.

8 A. 呢個表都係B嘅，都係地鐵嘅，不如我哋睇睇地鐵嘅report，好唔好呀？  
9 地鐵嘅report係D01至到D42。

10 Q. I'm not going to disagree with you because also you say  
11 C2-5 -- and this is the point you are making -- C2-5,  
12 I accept, the rebar was being fixed --

13 A. 唔係，呢個又係好好嘅機...

14 Q. -- between 29 August and 11 September. So I accept it  
15 could have been in C2-5 as well.

16 A. 但係呢個係好好嘅機會，我有啲懷疑港鐵係manipulate出嚟嘅呢啲咁嘅  
17 information中間有discrepancy，其實港鐵係report，佢D1至D40  
18 頁嗰個report裏面，佢有一個表係寫明個紮鐵時間同埋落石屎時間，跟  
19 住佢亦都搞咗好多個嗰啲layout plan出嚟，其實值得獨立調查委員會  
20 睇一睇，或者唔係我哋呢個時間，或者可能我哋background睇一睇，會  
21 唔會港鐵係唔同嘅表有唔同嘅時間？

22 Q. With respect, think -- think before you say things.  
23 There is no basis, I suggest to you, that you can make  
24 the allegation that the MTRC material, the documents,  
25 the records, are manipulated.

1 A. I have.

2 Q. You have no basis for saying that.

3 A. 我係話佢有discrepancy，佢冇改，佢係兩份唔同嘅文件，佢中間相--  
4 文件與文件之間嘅時間其實唔同。點解咁我咁講呢？就係琴日、前日委員  
5 會其實就rely on港鐵嘅B2900、2903呢兩份文件度，就令到全世界覺  
6 得喺1月12號之後根本就冇任何嘅紮鐵工序可以見到，我去見到--作為--  
7 我作為一個認識地盤好深嘅人，我就覺得呢個文件其實有少少唔完全，唔  
8 完整。

9 Q. All right. So going back to my attempted summary, in  
10 terms of the areas, definitely C1-4, and possibly C2-5;  
11 yes? Okay. So that's the extent so far as your  
12 evidence is concerned?

13 A. 我親身見到嘅，同意。

14 Q. As I say, you go forward in your witness statement to  
15 June 2016 at paragraph 43. Then, leaving aside the  
16 paragraph about Mr Rooney which I have asked you about  
17 already, and no doubt the MTRC will ask you anything  
18 else they wish to about those paragraphs, you then turn  
19 to the incidents in late 2016 and early 2017.

20 A. 係。

21 Q. You say -- correctly, it seems to me; you said earlier  
22 correctly -- that Mr Zervaas took over as project  
23 director from Mr Malcolm Plummer in or around  
24 September/October 2016.

25 A. Yes.

1 Q. And I think Mr Zervaas tells us that he indeed took up  
2 the position of project director on 11 October 2016.

3 A. 對我哋嚟講，佢哋冇正式交接。

4 Q. Okay. You tell us, I think, that you discussed with  
5 Mr Zervaas, you say between September 2016 -- it may be  
6 October but there we are --

7 A. They are overlapping.

8 Q. There's an overlap? All right. We'll see what they say  
9 about that. But let's assume it's September/October  
10 through until January.

11 You had a discussion with Mr Zervaas of Leighton  
12 about the possibility of drilling and plating steel  
13 dowels in the shear zones between the EWL slab and the  
14 diaphragm wall.

15 As I understand it, Mr Poon, you say that because,  
16 to your understanding, that would be some sort of  
17 remedial measure to put right, as you saw it, something  
18 that had been done incorrectly; is that right?

19 A. 係呀，係。

20 Q. Now, you don't tell us this, Mr Poon, but I'm going to  
21 ask you anyway: did you have any similar discussions  
22 with Mr Plummer?

23 A. 冇。

24 Q. I find that slightly curious, Mr Poon, because  
25 Mr Zervaas is new on the scene, new to the project, in  
26 September/October 2016. Mr Plummer has been the project

1 director in place throughout the relevant period, so far  
2 as I can work out, yet you don't have any discussions  
3 with him about it. Can you explain why that is, or why  
4 that was?

5 A. 好唔同，佢兩個人好唔同，Malcolm係已經年紀比較大，係比較退休狀態  
6 嘅一嚟，實際上我同佢講地盤嘅任何嘢，我都留意到唔會跌落去另一個  
7 level處理；Anthony就唔同，Anthony畀到我啲感覺，佢會解決問題，  
8 好唔同，所以我同Anthony最初傾嗰時候，我感覺到係比較responsive  
9 嘅，所以我都好多咁同佢講。

10 Q. The other thing that sort of puzzles me, Mr Poon, is  
11 that apart from the discussions that you say you had  
12 with Mr So, Gabriel So, and Mr Khyle Rodgers in  
13 September 2015, there's no evidence that you had any  
14 further discussion with anybody from Leighton until you  
15 spoke to Mr Zervaas in September/October 2016. Is that  
16 right? Is my understanding correct?

17 A. 唔係，唔係，只不過嗰啲咁嘅討論即係好似變咗老生常談，冇乜進展，冇乜  
18 實際方向，佢哋又話唔到事，所以我有仔細寫落去嗰個statement裏面嘅，  
19 如果唔係，段段就好似43段咁冇乜point。

20 Q. Well, those are your words, Mr Poon, not mine, but if  
21 you had discussions with other members of senior  
22 Leighton staff between September 2015 and  
23 September/October 2016, when you met Mr Zervaas, surely  
24 that's something that you ought to have relied upon,  
25 informed us about, so that we could explore it, but you

1 haven't given us any material to do so.

2 A. 其實我都唔係完全冇嘅，咁樣你睇隔離個頁，我寫咗個名喺度㗎，  
3 paragraph 49 attach個email，我寫畀邊個人呢。

4 Q. Mr Poon, you're jumping ahead. Trust me, I'm coming to  
5 the 6 January 2017 email. I'm just trying to again  
6 understand what's going through your mind, Mr Poon.  
7 Between September 2016, So/Rodgers discussion,  
8 September/October, a year passes until you raise the  
9 point with Mr Zervaas; it just seems almost  
10 incredible -- if this is so important, so critical, such  
11 a big public safety matter -- that there's this year's  
12 gap where you do absolutely nothing.

13 A. 先頭先你講嘅時段，你講咗話係2016年嘅9月，去到2016年嘅10月，其實  
14 你都係講2016，應該2015年開始，其實唔係嘅。最初我所知道，呢件事我  
15 一直覺得我自己估計都係幾個per cent嘅啫，其實係咪去到好大概public  
16 safety呢？並唔係嘅，其實喺中段我仲知道咗多啲嘢，嗰啲嘢我一直冇向  
17 傳媒或者冇人向人講，呢個就係令我更加擔心個站出問題嘅地方嚟，就係  
18 有禮頓嘅staff向我講，喺原來我哋開工之後，其實禮頓畀RDO同埋BD  
19 hammer得好緊要，因為佢哋冇跟圖施工，所以導致就不斷我見到地盤有改  
20 圖嘅情況，我係留意到有改圖，只不過當時我誤會咗呢啲改圖其實係一啲補  
21 救措施，一直以為係，直至有...

22 Q. Well -- sorry. Go on, continue.

23 A. ...直至有人話畀我聽件事唔係咁，我記得--唔記得幾時，連續有  
24 兩個禮頓嘅中、高層staff--高層staff畀地鐵趕走，我先開始懷疑件事

1 係好大。

2 Q. Mr Poon, are you sure that you haven't got things  
3 slightly confused in your own mind? Because we've  
4 touched on this a couple of times already today, that  
5 Leighton and the MTR certainly did alter the design of  
6 the rebar in significant areas of the east diaphragm  
7 wall -- we know that; all right? -- by reducing the  
8 level of the concrete, exposing some of the rebar that  
9 was there; yes? You understand that? You understand  
10 what I am talking about?

11 A. 可能我知得多過你。

12 Q. I'm sure you do.

13 A. I did. I did.

14 Q. It depends what subject we're talking about of course,  
15 Mr Poon. But anyway, leaving that aside. So we've got  
16 this reduction of the concrete level along large  
17 sections of the east diaphragm wall. You know what I'm  
18 talking about. And I'm just concerned that what you  
19 were actually seeing was the removal of some of that  
20 rebar at the top that was in the diaphragm wall, the  
21 couplers, and so forth, that were no longer necessary  
22 because they were having through-bars. I mean, is that  
23 what you were witnessing? Is that what you were  
24 confusing?

25 A. No. No. 呢個係委員會一直禮頓同埋港鐵而家包裝嘅故事，故事，

1 story, fabrication。

2 Q. Sorry, what is a fabrication, Mr Poon?

3 A. 第一，其實Intrafor有講得好清楚嘅，佢只有五板石屎落低咗，其他嘅  
4 石屎，Intrafor係落啱level，我喺地盤畀我記得嘅記憶印象，我係見  
5 唔到嗰度有啲特別嘅情況，見到特別情況我一定睇得到，我好眼利嘅，就  
6 等如頭先我可以睇到呢度有九個panel或者10個panel，而你頭先所講就  
7 話禮頓、港鐵其實係知道嘅，其實佢哋自己改圖，改得更加好，就將啲連  
8 續牆造低啲，就將本來上面嘅coupler換成一個連續性嘅鋼筋佈置，更加  
9 大力、更加好咁表現好喺個結構上面，實際唔係咁，實際唔係咁，我哋喺  
10 問Intrafor嗰時已經...

11 Q. Well --

12 A. 可唔可以畀我講多啲呢？呢度其實係個委員會調查嘅基礎咨一嚟嘅，如果  
13 我哋一開始個assumption係完全錯嘅話，可能我哋永遠都搵唔到事實，  
14 當然，成個結構其實...

15 CHAIRMAN: Yes, all right. Don't explain. Yes.

16 A. 第一，我見到好多bay，甚至乎我返轉頭睇相，嗰啲鋼筋--頂部鋼筋並唔  
17 係連貫性一條過咁樣去跨過嗰個cantilever位，唔係，完全唔係，錯嘅，  
18 fabricate，我反而見到喺個high tensile zone係有lapping；第  
19 二，我甚至見到gridline 45至48東面，有人喺個擋土牆前面收埋曲，啲  
20 rebar係停咗喺擋土牆前面，我又見到打擋土牆嘅時候唔係一個proper嘅  
21 cut-off level，當然，個cut-off level本身應該係2.84，如果有人  
22 將佢reduce 600、700，去accommodate咗本身頂層嗰組七至十一層或  
23 者五至七層嘅鐵，okay，呢個都情有可原，我見到唔係咁，我見到就係好

1 似任意咁亂打，同一倉石屎裏面，個擋土牆頂係完全唔同level，而且有  
2 人好似刨鉛筆尖咁樣，如果你cut個cross-section，個擋土牆係“A”  
3 字型嘅打到，呢個係我見到嘅事實，亦都係點解我哋想喺10月22號我哋嘗  
4 試將21,718張相全部呈審晒畀獨立調查委員會。

5 我哋好努力去睇，我哋好努想去搵番啲事實出嚟，我哋發覺我哋公司太  
6 細，我哋冇咁多時間去逐張相睇，去到22號之前，其實我哋好想畀多一份  
7 口供--證人口供，將呢件事講清楚，但係我哋發覺越睇越多嘢，越睇我哋  
8 越confuse，所以我哋唔敢寫，我哋instead我哋希望--我哋申請，喺  
9 22號開始申請將嗰21,718張相畀晒獨立調查委員會，等委員會可以定時  
10 或者不定時可以隨意咁樣去睇啲相，去睇番個事實，咁樣可能幫助到我哋  
11 打少啲個結構，可能。

12 但係禮頓同港鐵反對，唔接納，佢覺得我哋咗大家時間，咁反問喇，  
13 禮頓同港鐵夾埋入咗五萬張文件，遠遠多過我哋上，我哋handle十三萬  
14 張--十三萬page of bundles，點解獨立調查委員會唔加埋我哋嗰  
15 21,718張相呢？佔都佔唔到兩成。

16 MR PENNICOTT: Mr Poon, I'll come back to the end of that  
17 answer in a moment. Can I just get you to clarify one  
18 thing in that long answer. You said that you saw  
19 gridline 45 to 48 east side, there was someone putting  
20 a "code", it's come out here, code in the diaphragm  
21 wall. Did you mean a bend or a U-bar?

22 A. Okay, bend, bended bar.

23 Q. A bend?

24 A. Bended bar, L-bar.



1 Q. Okay, an L-shaped bar?

2 A. Which means the bar is not connected to the diaphragm  
3 wall.

4 Q. L-shaped bar, okay.

5 Just coming towards the end of that answer, Mr Poon,  
6 and no doubt the chairman will tell you this -- I'm  
7 going to tell you first -- I'm afraid the way it works,  
8 Mr Poon, is you can't just say, with respect to us,  
9 "Here's 21,000 photographs, make of them what you will,  
10 have a look." I'm afraid the position is that we need,  
11 I'm afraid, to be guided by yourself and other witnesses  
12 to help us. We can't just have 21,000 photographs and  
13 say, "Spend a couple of weeks flicking through these  
14 photographs and try to figure it out for yourself." We  
15 need help.

16 The position is, on I think now three occasions,  
17 attempts have been made by China Technology to put in  
18 material, put in photographs in particular, and then the  
19 application has been withdrawn. So, with respect,  
20 Mr Poon, it's a bit unfair to criticise, make  
21 criticisms, in the way you have.

22 If you wanted to put in material, then frankly  
23 you've had quite a lot of time to do so, quite a bit of  
24 opportunity to do so. I appreciate that you maybe are  
25 not the biggest company and you are not Leighton and  
26 you're not the MTRC.

1 A. Definitely.

2 Q. You're not MTRC and you're not the government, but  
3 nonetheless you, China Technology and you personally,  
4 have made a lot of serious allegations, both in the  
5 media, in your witness statements and in your oral  
6 evidence today, and what we have to explore is whether  
7 those allegations are sustainable, whether they are the  
8 truth, and the more material we have to help us in that  
9 endeavour, the better, and if you don't give it to us,  
10 we can't deal with it. But as I say, there's a proper  
11 way of giving it to us, and it isn't just, "Here's  
12 21,000 photographs, good luck." That's not the way it  
13 works. Do you understand?

14 A. I understand. 但係琴日我聽到石永泰律師--大律師，佢講咩嘢呢？  
15 佢質疑，佢質疑我有資格去評論啲相，佢話呢啲係expertise做，我有  
16 錢請，不過我會再嘗試。

17 MR WILKEN: I apologise. It was me who's guilty of that.  
18 If he's going to throw a stone, he can at least throw it  
19 at the right person.

20 A. Thank you. Thank you. Thank you.

21 MR SHIEH: That's not the fault of me.

22 A. 但係我都仍然會指示我嘅大律師就將27,718張相入晒畀獨立調查委員會，  
23 當然我會盡我嘅能力去寫一份witness statement去cover啲相，  
24 但係我真係冇...

25 CHAIRMAN: Have you accidentally invited us to ...

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. 我哋呢個似乎係一個inquisitorial嘅proceeding，而唔係一個刑事  
6 審訊呀，石永泰大律師。

7 CHAIRMAN: All right. Let us just get back on track, if we  
8 can. That's not blaming you, Mr Pennicott. It's just  
9 beginning to ramble rather.

10 MR PENNICOTT: It is, sir, yes.

11 All right. Let's just see where we were.

12 Let's move on, Mr Poon. Your discussions with  
13 Mr Zervaas started September/October, you say, 2016;  
14 yes?

15 A. Yes.

16 Q. I'm not going to get into the detail of some of this,  
17 but Mr Shieh or Mr Wilken may well do. But can I put it  
18 like this, in general terms, Mr Poon: that in the latter  
19 quarter of 2016, you started discussions with  
20 Mr Zervaas, representing Leighton, on a revised  
21 milestone schedule and a final account payment schedule;  
22 "yes" or "no"?

23 A. 用"revised milestone"係錯嘅，禮頓當時爭我哋公司好多錢，  
24 Zervaas所offer嘅就係一啲一啲咁樣啲番啲錢畀我哋，係佢哋爭我  
25 哋錢，啲錢應該一早畀咗我哋公司㗎喇，係我哋啲payment嚟嘅。

1 Q. All right. Anyway, you ultimately managed to reach some  
2 agreement/understanding with Mr Zervaas?

3 A. 係，因為佢話地鐵冇畀錢佢，所以佢要咁樣慢慢畀我哋。

4 Q. All right. As I say, I'm not getting into the detail --  
5 Mr Shieh will do that, if he wishes to do so.

6 A. 呢個都唔係獨立調查委員會嘅範圍。

7 Q. I know that's what you say, but I think Leightons take  
8 a rather different view about it, Mr Poon. That's why  
9 I'm not going to ask you about it.

10 A. 我object你咁樣...

11 Q. If someone else wants to ask you about it, they can.  
12 But I am going to ask you about one or two emails that  
13 you wrote, because I just need to try to understand what  
14 it is you were saying, albeit some time after September  
15 2015.

16 Could you please -- and I appreciate you have  
17 recited this in your witness statement, but I want to  
18 look at the actual document itself -- be shown C12/7923.

19 Do you have that email?

20 A. I have that.

21 Q. You obviously -- your name appears at the bottom of the  
22 email?

23 A. 係。

24 Q. And this is an email that you prepared and it's all your  
25 words; is that right?

1 A. 係，係。

2 Q. You say:

3 "During our review on progress photos and videos, we  
4 found plenty of records concerning malpractice use of  
5 coupler in this project ..."

6 Let me just pause there and ask you this. Other  
7 than photos and videos, were there any other records,  
8 any other materials, emails, letters, memos, site  
9 diaries, reports -- were there any other documentary  
10 material that you considered before you wrote this  
11 email, or was it exclusively the photographs and the  
12 videos?

13 A. 呢個係相片，相片、錄像。

14 Q. All right. So is the answer to my question you didn't  
15 consider, didn't look at, any other material?

16 A. 冇。

17 Q. In the first paragraph -- I don't want to really read  
18 all of this out, Mr Poon -- it might be read out by  
19 others later -- you refer to "the shear face of the EWL  
20 track slab", and you made mention of "malpractice  
21 activities of Leighton staff" that you say were  
22 deliberately taken, and you refer to that happening  
23 between the day shift and the night shift, and, as  
24 I understand it, you are talking about the cutting of  
25 rebar; is that right?

1 A. 同埋扭埋coupler人去。

2 Q. All right.

3 Now, when you say "we found plenty of records" --  
4 and you have indicated to me that that means the photos  
5 and videos -- we've looked at the seven photographs, two  
6 of which we know are simply random photographs, albeit  
7 they help you to identify a particular person. That is  
8 all, Mr Poon, that you have presented to this  
9 Commission. Could I suggest to you that that doesn't  
10 amount to "plenty of records"; it amounts to five  
11 photographs in one, possibly two, specific areas of the  
12 site.

13 A. 我理解有啲唔同，先我寫個電郵嘅時候，就獨立調查委員會都未出現嘅，  
14 而我個understanding，我bundle裏面唔止有五張相，只不過你哋覺得  
15 有一個witness statement去cover就等如冇人過啲相，其實禮頓要求  
16 我哋畀番electronic copy嘅相都有四十一張，呢個都係經獨立調查委  
17 員會出電郵要求我哋公司呈交，我哋亦都交咗，亦都document咗喺  
18 bundle裏面。

19 CHAIRMAN: Sorry, are you saying that in this Dropbox of  
20 21,000-odd photographs, amid all the ordinary, mundane  
21 photographs taken in the course of work, there are  
22 a mother lode of photographs showing rebar cutting  
23 and/or screwing or pretending to screw into couplers?

24 A. 我而家--其實我哋點樣review Dropbox啲相呢？而家只有我一個人  
25 review嘅啫，其實我哋Dropbox啲相，我為免流失，只有我部電腦係

1           有擺到，另一個copy就已經copy咗喺警察嗰喇，我之前嘅做法就係每  
2           個星期用星期二一個時間同警察一齊睇，而我唔能夠講...

3           CHAIRMAN: I'm sorry. My concern is just a simple answer:  
4           are you suggesting that in addition to the number of  
5           photographs that have been put before this Commission  
6           purporting to show cutting of rebar and/or misuse of the  
7           threaded rebar into couplers, in addition to those few  
8           photographs, there's a mother lode, a wellspring of  
9           photographs to be found in these Dropbox, but you just  
10          haven't had time to go and find them?

11          A. 我仲...

12          COMMISSIONER HANSFORD: That should read "there's another  
13          load".

14          CHAIRMAN: No, sorry, I meant "mother lode", being a mining  
15          term, I think.

16          COMMISSIONER HANSFORD: Thank you.

17          CHAIRMAN: It's a simple answer. Are you saying there's  
18          a whole lot of photographs --

19          A. 我相信仲有相係未擺出嚟嘅，我相信仲有相未擺出嚟，但係有幾多，我真係  
20          數唔到，因為其實喺9月18號之後我哋曾經大量咁delete Dropbox裏面啲  
21          嘢，即係2017年9月18號嗰個confidentiality agreement之後，我曾  
22          經我自己親身喺Dropbox delete咗好多嘢，而21,718張相係而家剩番嘅。

23          MR PENNICOTT: Mr Poon, the way it happens is this. Let's  
24          just see if we can help the Commission a bit further.  
25          In your first police interview on 4 July this year, you

1 handed them a USB stick.

2 A. 係。

3 Q. And that, as I understand it, had I think at the time  
4 40,000 photographs on it, but subsequently it was  
5 discovered there were a lot of duplicates and that  
6 reduced down to about 21,000. Am I about right?

7 A. 係。

8 Q. Then, subsequently, at a later police interview on  
9 31 July, so some 27 days later, presumably the police  
10 having had to opportunity of looking at your 40,000  
11 photographs, as they were at the time, you went back to  
12 the police station and you gave another statement, and  
13 you were taken through the photographs by the police.

14 And what happened is all described in your police  
15 witness statement -- English version D831.1; Chinese  
16 version D829 -- and we can see at paragraph 3 of this  
17 statement of 31 July that you start off by saying:

18 "Inside the USB, there is a folder with the folder  
19 names 'SCL1112' ...", and so forth.

20 Going a bit further down, you say:

21 "There are 42 items inside folder '05. Photos'  
22 (screen capture produced as page 1 of attachment 1), and  
23 it contains about 40,000 photos and short videos in  
24 relation to SCL Hung Hom Station Extension construction  
25 work. I personally selected these photos and short  
26 videos (about 40,000 in total) from the Dropbox cloud



1 storage account of Chinat and downloaded them to the USB  
2 without editing the content of any of these photos and  
3 short videos."

4 Then if we could then move to paragraph 4, you say:

5 "The folder '05. Photos' contains a folder with  
6 folder name '2015 07'" -- which I assume is July --  
7 don't look elsewhere, Mr Poon, follow me -- July 2015 --  
8 "which contains 45 items ... Accompanied by the police,  
9 I browsed through the 45 minutes items inside [that  
10 folder] and could not identify any photo in this folder  
11 which is relevant to the matter of suspected cutting of  
12 rebars by someone in SCL project."

13 A. 係。

14 Q. So that's the July one out of the way.

15 You go on to say:

16 "The folder '05. Photos' contain a folder with  
17 folder name '2015 08'" -- so we are now into August --  
18 "which contains 544 items ... Accompanied by the police,  
19 I browsed through this folder ... This folder ...  
20 contains two items ... which are ..."

21 And then you identify them.

22 "The said 2 photos were provided by me to the police  
23 on 10 July 2018 (produced as enclosure 9 and enclosure  
24 10 [to an earlier statement you made])."

25 Then you say:

26 "I now use pen to draw a line underneath each of

1           these 2 items. Aside from those 2 photos, folder '2015  
2           08' contains no other photo which is relevant to the  
3           matter of suspected cutting of rebars by someone in the  
4           SCL project."

5           So that's August, two photographs.

6           Then we move to September, in paragraph 6, and it  
7           all becomes a little more complicated, but essentially  
8           what we end up with is a number of photographs that  
9           you've identified in September, slightly more than  
10          you've given the Commission, but nonetheless, in your  
11          witness statement to the Commission, as we have seen  
12          this afternoon, you have just produced the seven  
13          photographs, and that presumably was a judgment that you  
14          took to provide this Commission with those seven  
15          photographs as being directly relevant to the points  
16          that you wanted to make to the Commission.

17        A. 我解釋下喇，因為我寫個witness statement嘅時候，我想確保我自己  
18          第一身知道同埋witness件事係100%係我嘅經歷，我先擺落去我自己個  
19          witness statement度，呢個就係我擺嗰七張相嘅原因。

20        Q. So the fact and the point is, Mr Poon, that back in July  
21          you were clearly looking at these photographs, analysing  
22          them, going through them with the police, as we can see,  
23          and taking a measured, considered view about which  
24          photographs were relevant to the bar cutting, and then  
25          you have produced those that you think are relevant, to  
26          you personally?

1 A. 係，而另一方面，我搵到有關嘅相，其實我夾晒落bundle，雖然有attach  
2 under my witness statement，但係其實喺bundle上面我係擺咗落去。

3 Q. I appreciate that there are other photographs, Mr Poon,  
4 but the problem is they've not really been explained,  
5 and therefore it's a little difficult to ask questions  
6 about them.

7 Now, we were looking at the email. Could we go back  
8 to the email, if you've got it there.

9 A. Okay. You can go ahead.

10 Q. Sorry, it's C12/7923.

11 A. 我睇到electronic copy。

12 Q. Thank you.

13 Attached to this email to Mr Zervaas, copied to  
14 Mr Tam, you send two of the photographs that we have  
15 been looking at this afternoon, the one of 18:18 and  
16 18:19 of 22 September; yes?

17 A. (Nodded head).

18 Q. So just two of the photographs.

19 A. 係。

20 Q. Then you say this:

21 "We doubt the structural safety and life time of the  
22 EWL track slab, especially on the following structurally  
23 critical vicinities:

24 1. The 36 numbers of face on transverse  
25 construction joints between the pour bays on whole

1 400 metre long EWL track slab."

2 Now, trying to break that down, when you say "the  
3 whole 400 metre long EWL track slab", I assume you are  
4 limiting yourself to the east diaphragm wall?

5 A. No. No.

6 Q. You are not?

7 A. No.

8 Q. All right. When you say 400 --

9 A. From point 1, no.

10 Q. When you say "400 metres", are you talking about the  
11 whole length of area A, HKC, area B, area C, right along  
12 the slab; is that what you're saying?

13 A. Yes, exactly, from gridline 1 to gridline 50.

14 Q. And when you say "transverse construction joints", what  
15 do you mean?

16 A. 中文講，即係我哋「斬倉」，英文就係話，the pouring bay  
17 that we down -- that we divided, therefore, we have the construction  
18 joints.

19 CHAIRMAN: Sorry, I didn't understand that.

20 MR PENNICOTT: Neither did I, sir. I'm also not getting any  
21 translation.

22 CHAIRMAN: Yes. What is the meaning of "transverse  
23 construction joints"?

24 A. To me?

25 CHAIRMAN: Yes, to you.

26 A. We have the track slab like rectangular box, from gridline

1           1 in area 8 and from gridline 50 in area C3, the train is  
2           running on it. We are dividing it into totally grossly 36  
3           bays for pouring concrete.

4           CHAIRMAN: Yes.

5           A. And between each bay of concrete, we have a transverse  
6           joint.

7           CHAIRMAN: All right?

8           A. Which is also connected by couplers and threadings.

9           MR PENNICOTT: So if you would be shown B17/24198.

10          A. Yes.

11          Q. I appreciate, Mr Poon, that this omits the HKC in the  
12          diagram, although not in the detail below. And so, as  
13          I understand it, what you're talking about is each joint  
14          between each bay; is that right?

15          A. Yes, the joint, the transverse joint, between different  
16          colours of bays.

17          Q. Okay.

18          COMMISSIONER HANSFORD: Could I just understand -- so the  
19          couplers we're referring to, unlike the previous ones  
20          which were couplers coming out of diaphragm walls --

21          MR PENNICOTT: Yes.

22          COMMISSIONER HANSFORD: -- these are couplers between bay  
23          slabs presumably installed by Fang Sheung?

24          MR PENNICOTT: The rebar, yes.

25          COMMISSIONER HANSFORD: The couplers at the east transverse  
26          joints?

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. Yes.

10 Q. This is a connection between two bays, effectively, that  
11 you are talking about?

12 A. 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: Understand.

23 CHAIRMAN: Good.

24 (5.00 pm)

25 (The hearing adjourned until 10.00 am the following day)

26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

PAGE

MR POON CHUK HUNG, JASON (on former oath in Punti) ...1  
    Examination by MR PENNICOTT .....1