

1 Wednesday, 31 October 2018

2 (10.00 am)

3 (Proceedings delayed)

4 (10.45 am)

5 CHAIRMAN: Apologies for the late starting this morning, but  
6 I think everybody in this room has been advised of the  
7 reason why, hopefully.

8 Well, Mr Pennicott, you might just explain briefly.

9 MR PENNICOTT: Yes, of course sir. Mr Poon needs to listen  
10 to this as well.

11 At around about quarter to ten or thereabouts,  
12 a request was made by my learned friend Mr To that  
13 Mr Poon be given an opportunity to read two recent  
14 witness statements served by Leighton from Mr Zervaas  
15 and Mr Mok. That seemed to me to be an entirely  
16 reasonable request, and a request that was also  
17 communicated to Leighton and they also wholeheartedly  
18 agreed that that was a sensible course.

19 So the reason certainly for the delay until 10.30  
20 was in relation to the opportunity that Mr Poon was  
21 given to read those statements.

22 As for the last 15 minutes, there have obviously  
23 been certain administrative matters that we've needed to  
24 sort out.

25 CHAIRMAN: Yes. Mr Pennicott?

26

1 MR POON CHUK HUNG, JASON (on former oath in Puntì)

2 Examination by MR PENNICOTT (continued)

3 MR PENNICOTT: Good morning, Mr Poon.

4 A. Good morning.

5 Q. When we finished last evening, we were looking at your  
6 email of 6 January 2017; do you remember that?

7 A. 係。

8 Q. In particular, we were looking at your assertion that  
9 you had doubt about the safety, structural safety, of  
10 the 36 transverse construction joints?

11 A. 係。

12 CHAIRMAN: Could we just have that email up on the screen?

13 MR PENNICOTT: Yes. It's C12/7923.

14 CHAIRMAN: Thank you.

15 MR PENNICOTT: I know Mr Poon has it in front of him already  
16 because I told him that's where we were going.

17 That's the one, and we need to go down towards --  
18 that's it.

19 So, Mr Poon, you explained to us last evening,  
20 yesterday afternoon, the transverse construction joints  
21 that you were referring to, and we got the plan out and  
22 you indicated the 36 joints that you were referring to.

23 A. Yes.

24 Q. Mr Poon, am I right in thinking that from your own  
25 direct knowledge, you can't say that you ever saw  
26 anybody connecting rebar into couplers at those joints,

1           those rebar having been cut?

2       A.   你意思指係第一點嗰個三十六個位，係咪呀？

3       Q.   Yes, I do.

4       A.   呢個真係有一個實質印象，我有一個具體嘅印象。

5       Q.   All right.

6           You then go on, Mr Poon, in the email to refer to  
7           the shear keys between the west and east diaphragm  
8           walls, between the EWL slab and the diaphragm walls, and  
9           I think everybody is aware of what you're talking about,  
10          the shear keys, sort of indentation, if you like, into  
11          the diaphragm wall?

12      A.   In Chinese, "剪力，剪力扣".

13      Q.   Are we going to get the translation? I don't know.

14      A.   "Shear key" means "剪力扣".

15      Q.   All right. I think, Mr Poon, what I'm a little bit  
16          unclear about is this. As we discussed yesterday, from  
17          your own personal knowledge, you said you had seen  
18          certain bar cutting incidents in August and September  
19          2015, and we went through that yesterday.

20      A.   唔。

21      Q.   How you got from that position to make these rather  
22          serious allegations about structural safety of the  
23          whole -- all 36 construction joints, the whole of the  
24          EWL track slab -- how did you get from, with respect,  
25          a fairly limited personal knowledge about bar cutting to

1 such a dramatic statement in this email?

2 A. 原因就係因為我哋呢一個--呢個email，其實個背景同時間我同禮頓係有  
3 一啲commercial嘅一啲disputes嘅，呢個commercial disputes  
4 就係禮頓又搵藉口唔畀錢，係時常發生嘅。我哋係12月，其實早係2016  
5 年10月開始，已同禮頓係喺個commercial度對數，喺12月禮頓承認咗  
6 賺我哋--當時10月10號賺我哋1,700萬，當時禮頓係用一個payment  
7 schedule形式，就係雙贏嘅，即係話我哋要喺個工程上做番某啲進度，  
8 而佢就局部咁發放番個1,700萬畀我哋，但係另一方面，就去到--其中  
9 一條數就係應該喺12月內畀個600萬畀我哋，但係禮頓冇畀到，跟住我  
10 哋--當我哋追個600萬嘅時候，禮頓就賴，就話呢樣未做完、個樣未做  
11 完。所以喺12月尾去到1月初我哋公司大部分嘅商務嘅人員同埋我就去  
12 睇番晒所有相片紀錄，就搵番個原因，喺個過程裏面，我哋就留意到剪  
13 鋼筋個個情況，喺個相片紀錄就係好多嘅，因為咁樣，而我係衍生咗我  
14 講呢兩個問題。

15 Q. Well, you say the photographic records -- and we are  
16 going to be coming back to that topic a bit later this  
17 morning, Mr Poon -- that's your answer, anyway, to my  
18 question?

19 A. 係。

20 Q. Can I then ask you to go on in the bundle --

21 CHAIRMAN: Sorry, so that I understand this.

22 MR PENNICOTT: Yes, sir.

23 CHAIRMAN: My apologies.

24 MR PENNICOTT: Not at all.

1 CHAIRMAN: What you are saying is because you had  
2 a commercial dispute, it was necessary for you to go  
3 back to your photographic records, which, in the  
4 ordinary course of events, record day-to-day  
5 construction matters, and in doing so you then noticed  
6 that a good number of these photographs also showed what  
7 appeared to be elicited cutting?

8 A. 係呀。

9 CHAIRMAN: So you then decided to raise the issue?

10 A. 係，就所以--除咗commercial有一set嘅電郵之外，technical都有  
11 另外一set嘅。

12 MR PENNICOTT: And, Mr Poon, if you would be good enough,  
13 please, to go to -- hopefully we are going to just stick  
14 with this file for the next run of documents -- 7926.

15 I remind you, Mr Poon, that the previous email we  
16 looked at was at 9.35 in the morning. This is another  
17 email you sent to Mr Zervaas on 6 January at 1.18. You  
18 say:

19 "Dear Anthony,

20 Please kindly note that there will have several  
21 reports from local media visiting our site office for  
22 an interview on our company."

23 A. 係。

24 Q. What was the purpose of this email, Mr Poon? What was  
25 the message lying behind it?

1 A. 呢個電郵就同其他電郵完全無關係嘅，個電郵就係因為我哋時常入閘嘅時候  
2 有嘢人都唔會有證件入嚟，尤其是呢啲reporters連個工人註冊證都有嘅，  
3 佢要嚟我哋寫字樓，所以我要通知番Anthony我有呢啲咁嘅訪客嚟我寫字  
4 樓，係咁多。唔係淨係呢個電郵嘅，我哋有其他電郵都係咁，有其他訪客，  
5 譬如某一啲testing slab嚟--testing嘅lab.嚟都會咁樣做。

6 Q. Right. The subject matter of this email is,  
7 "Arrangement on reporter visit", so am I right in  
8 thinking that what was happening was a reporter from  
9 some branch of the media was coming to visit you at the  
10 site?

11 A. Visit me at the site without any aspect of the project,  
12 by myself.

13 Q. Okay, so nothing in particular?

14 A. 唔。

15 Q. Can you go on, please, to 7937. This is Mr Zervaas's  
16 email, again of 6 January, sent at 5.49 pm; do you see  
17 that?

18 A. 唔。

19 Q. He says:

20 "Jason,

21 We are in receipt of your email.

22 It is quite alarming" -- sorry, this is the longer  
23 email that we were discussing, the 9.45 email -- "that  
24 you have not brought this issue to our attention earlier  
25 particularly as the alleged malpractice occurred in

1 September 2015."

2 Is it right that so far as Mr Zervaas is concerned,  
3 forget about anybody else, so far as Mr Zervaas is  
4 concerned, on 6 January this is the first time you  
5 informed him of this incident or these incidents?

6 A. Zervaas喺個email就好片面咁講，呢個只係一般佢哋保護自己嘅答法，  
7 Zervaas應該就係畀番佢internal嚟我--收到我電郵之後，佢去調查嘅  
8 一啲internal嘅文件先睇番，因為Zervaas根查嚟2016年嘅8、9月中  
9 間嘅時候先出現嚟地盤，佢之前根本唔嚟地盤，佢同Malcolm係overlap  
10 咗大約一個月時間嘅，大約我唔知佢幾時formally去做PD個位，我記得  
11 我見佢真係坐咗入PD個房，即係project director個房間就係2016年  
12 嘅大約9至10月期間嘅，而當時好快Malcolm就話走，Anthony根本冇  
13 capacity去答2015年9月去到2016年嘅9月呢一年時間嘅事，因為佢根  
14 本唔嚟個project裏面。

15 Q. Mr Poon, Mr Zervaas -- have you read his witness  
16 statements?

17 A. 邊份先？最新嗰份我啱啱睇，之前...

18 Q. Have you read the previous witness statement?

19 A. 有，全部大話連篇、穿鑿附會。

20 Q. So Mr Zervaas says he did not have any conversations  
21 with you about the cutting of the bars, the incidents,  
22 and the first he knew about it was when you sent him  
23 this -- on that topic, of course he talked to you about  
24 other things, but on this particular topic, the first he

1           knew about it was 6 January. Are you saying he is not  
2           telling the truth?

3           A. 佢講大話。

4           Q. All right.

5                     Then could you go, please, to 7940.

6           CHAIRMAN: Sorry, again, please forgive me -- so what you  
7           are saying, in simple terms, is that when this email was  
8           sent by Mr Zervaas on the evening of 6 January, and he  
9           said, "It's alarming you have not brought this issue to  
10          our attention earlier", he knew that that was  
11          a downright lie; he was stonewalling you?

12          A. 係。

13          MR PENNICOTT: Now, your response to that email, Mr Poon, is  
14          at 7940. Do you have that?

15                     This is what you say. So you write the following  
16          morning, Saturday morning, 7 January, and you say:

17                     "Dear Anthony,

18                     We had investigated internally and it is quite clear  
19          that your site in-charge Khyle Roger was well aware and  
20          directing these activities."

21                     Pausing there. What you don't say in this email,  
22          Mr Poon, is, "Dear Anthony, I don't understand why you  
23          say this has not been brought to your attention earlier,  
24          because I told you about it last October or November."  
25          You don't say that, do you, Mr Poon?

26          A. 我有咁講，因為根本大家understood嘅，兩個成年人，當時其實唔係淨係



1 電郵對電郵，我同Anthony並唔係隔空對罵㗎，喺site，我哋兩個分別喺  
2 大家site office，有見面嘅。

3 Q. You've just told the Commissioner, the Chairman, that  
4 what Mr Zervaas had written was a downright lie. So why  
5 didn't you point that out to him and say, "Come on,  
6 Anthony, you're just not telling me the truth"?

7 A. 我唔去即時指出唔等如我有--件事冇發生，好簡單，喺2016年嘅12月去到  
8 2017年嘅月頭，其實因為禮頓應承咗咁--畀番畀我哋嘅錢而冇畀，所以我  
9 哋公司喺月頭去到停工，stop works，因為咁樣，Anthony不斷邀請我  
10 過去佢寫字樓度討論點樣解決件事，佢當時聲稱就成日就話地鐵冇畀錢佢，  
11 跟住--對我無關呢件事，對我嚟講，就係你畀我錢，要畀番我，你應承咗，  
12 而唔畀，跟住Anthony後尾就去到1月初，當我哋停工嘅時候，佢又搬出一  
13 啲另一啲嘅資料，就話我哋呢樣未做、嗰樣未做、呢樣延誤咗、嗰樣延誤咗，  
14 所以唔畀錢住，就擺嗰啲嘢嚟拗。書面，包括書信，包括電郵同埋見面，係  
15 同時進行嘅，我哋冇--唔係完全淨係pure用電郵去做溝通，所以電郵裏面  
16 我會唔會記得逐樣喺見面時講完之後我哋電郵度講番落去呢？亦都好坦白，  
17 我亦都understood咗佢根本知，所以我都無需要再講。

18 Q. In this, the sentence I have just read out, you mention  
19 Kyle Rodgers, or "Roger"; do you see?

20 A. 係。

21 Q. Now, I know -- we discussed it briefly yesterday -- that  
22 you say you had a meeting and a site visit with  
23 Mr Rodgers and Mr So back in September 2015.

24 A. 係。

1 Q. Of course they don't accept that that happened but let's  
2 assume you are right.

3 A. 呢個最好嘅佐證，我喺跟住嘅年幾之後，我都提番佢。

4 Q. What I want to know, maybe you can help us, is upon what  
5 do you rely for the rather harmful, rather personal,  
6 assertion that Mr Rodgers was directing these  
7 activities? What do you rely upon, Mr Poon? Help us.

8 A. 因為其實禮頓嘅架構喺地盤睇落去好似好大，但係實際就大部分嘢大佬都  
9 唔做嘢嘅，一日到黑都唔見人嘅，所以連我作為一個site--日日巡site  
10 嘅人，我都唔知蘇耀華原來佢嘅職責--個職位係高過Khyle Rodgers嘅，  
11 而我當時見到嘅現象，Khyle Rodgers--當然--對唔住，我串錯咗一個  
12 字，“Rogers”，就係完全主管成個地盤，尤其是我哋中科區域嘅一個最  
13 高嘅，喺site works嘅負責人，我自己親身...

14 Q. I'm sorry, Mr Poon, but at best, on your evidence, you  
15 had one meeting and one site visit with Mr Rodgers, and  
16 that's the only evidence that you're --

17 A. 唔係最多，唔係最多，唔係最多，我證據呢，如果我要寫晒所有我哋嘅  
18 conversation落去我證供，可能我一千頁都寫唔晒。

19 Q. I'm only focusing -- I'm sure you spoke to him about  
20 lots of things, no doubt -- but I'm only focusing on  
21 conversations/meetings/site visits that you had with him  
22 specifically about the cutting of rebar. You have only  
23 told us about one such meeting and one such site visit.

24 What I'm trying to understand is, Mr Poon, when you  
25 wrote this email early on Saturday morning, 7 January,

1           whether you were shooting from the hip or whether you  
2           thought this through very carefully to make this very  
3           serious allegation against Mr Rodgers. Now, which was  
4           it?

5       A.  我寫個電郵嘅時候，我寫個電郵嘅時候，係用最best嘅knowledge去寫  
6           嘅，我當時喺中科嘅內部調查同埋判斷，Khyle Rodgers係應該對剪鋼筋  
7           最應該負責嘅人，佢知道，佢知道，佢不但只有阻止，佢仲變本加厲，匿埋  
8           去cut，收埋去做。

9       Q.  All right. Can we go back to your email, please,  
10       Mr Poon. You say:

11                "We take it serious especially on any subjects  
12           concerning public safety, when our company is part of  
13           the party being engaged on the construction. However we  
14           have crystal clear mission to build everything under the  
15           sunlight."

16       A.  唔。

17       Q.  Then you say:

18                "Call a spade a spade, it is your unfair commercial  
19           manner leading to our action on commercial review ..."

20                Now, I assume that's a reference to the commercial  
21           dispute --

22       A.  Yes.

23       Q.  -- that you were having with Leighton at the time?

24       A.  Exactly.

25       Q.  Then you say this, and I'm not going to try -- I'm

1           trying to avoid that as much as I can, Mr Poon, although  
2           it is rather difficult to avoid it entirely -- you go on  
3           to say:

4           "... include review on hundred thousands of site  
5           record photos and videos ..."

6           So is it right that in January 2017, you had carried  
7           out a review of what you describe as hundreds and  
8           thousands of photographs; is that right?

9           A.    係。

10          Q.    All right. And it was on the basis of that review that  
11          you made this serious allegation against Mr Rodgers; is  
12          that right?

13          A.    尤其是我好記得當時搵到相片，係見到cut咗啲螺絲頭嗰個尾嗰段，一堆  
14          堆咁喺個地下度，有人影到。

15          CHAIRMAN: What happened to those photographs? I think  
16          you've told us already. You disposed of them, did you?

17          A.    (Nodded head). 喺相度，我想由頭到尾講一次，點解呢度有十幾萬張相--  
18          有斷十萬張相呢？原因就係因為我哋啲科文將唔同嘅地盤啲相擺到亂晒，好  
19          喇，跟住到我哋...

20          CHAIRMAN: I have that. But the fact remains, on your  
21          evidence, you've said at a time, that is at about this  
22          time, you started an internal review, and in the course  
23          of that internal review you identified a large number of  
24          photographs which, in your view, backed up an allegation  
25          of elicited or wrongful conduct by persons under the

1 charge of Mr Rodgers.

2 A. 係。

3 CHAIRMAN: Now, my question is quite simple. You had  
4 identified those photographs but you later disposed of  
5 them; is that right?

6 A. 係呀，喺9月18號之後，2017年9月18號之後。

7 CHAIRMAN: All right. So you had evidence, photographic  
8 evidence, that satisfied you that there had been  
9 wrongdoing?

10 A. 係。

11 CHAIRMAN: And fairly important wrongdoing in the sense that  
12 it put in jeopardy the structural integrity of the area  
13 that you had been working at?

14 A. 係。

15 CHAIRMAN: But, once you reached your deal on a commercial  
16 basis, you were happy to dispose of them. You didn't  
17 keep them up your sleeve in the event that something  
18 awful should happen in the future, or anything like  
19 that?

20 A. 唔係，我講清楚，個商業協議，我講嘅係confidentiality agreement，  
21 而嗰個confidential agreement嗰個背後個原因就係因為Karl Speed  
22 親身應承我，佢會同地鐵去用番鋼針方法計番數，去做番呢個補救工程，因  
23 為我覺得個補救工程會實現，所以我先願意delete啲相。

24 CHAIRMAN: I've still got a little difficulty in  
25 understanding. You reach an agreement, fine. It's all

1 done in good faith. But you are aware of this area of  
2 real concern. You're now dealing with the MTR and  
3 Leightons on a good-faith basis. But why go away and  
4 delete a large number of very important photographs,  
5 which one day you may need for any number of reasons?  
6 I mean, on your basis, a train could be derailed in five  
7 years' time, and there could be an inquiry, just like  
8 this one, saying what happened, and you would then have  
9 all these photographs and you could come forward and  
10 say, "We registered our complaints at the time", but you  
11 say you didn't keep them, you didn't have a record of  
12 them; you just destroyed them.

13 A. 好簡單啫，呢個答案非常簡單，我一直覺得所有事實就喺個站嘅結構裏面，  
14 冇人呃到，唔會係因為我有一張相片而可以就係話指證到嗰度係咁樣，就算  
15 我擁有一百張相片、一千張相片，睇到禮頓cut鐵，禮頓一樣千方百計拗嘅  
16 啫，我一直覺得個結構係一個永久嘅結構，冇人可以拆咗佢或者冇人可以去  
17 隱藏佢，事實就喺裏面嚟，最大事實就喺裏面。

18 CHAIRMAN: So you're saying that because the structure was  
19 there, even though it might cost millions of dollars to  
20 pursue this concern of yours, nevertheless the evidence  
21 was there?

22 A. 個證據另外除咗喺相片度，仲有我哋嘅之間嘅書信來往、嘅交往，包括咗  
23 呢啲email，都記錄咗當時嘅事件。

24 CHAIRMAN: All right.

25 MR PENNICOTT: Sir, I will be returning to the question of

1 the destruction of photographs and documents a little  
2 later on.

3 Mr Poon is right that when he and China Technology  
4 and Leighton entered into the confidentiality agreement  
5 in September 2017, so nine months on from where we are  
6 at the moment, it does have a clause, the  
7 confidentiality agreement, regarding the destruction of  
8 material. But of course one needs to see what that  
9 clause says, and it's rather important to understand  
10 what the clause says and the circumstances in which  
11 documents or photographs may have been destroyed. But  
12 we'll come back to that topic hopefully reasonably  
13 shortly.

14 CHAIRMAN: I'm aware of that. Don't get me wrong.

15 MR PENNICOTT: Just to put it in context.

16 CHAIRMAN: It's been raised several times.

17 MR PENNICOTT: Yes.

18 CHAIRMAN: But I haven't read it as meaning, "Please go away  
19 and destroy ..."

20 MR PENNICOTT: Precisely, sir. That is rather the point.

21 CHAIRMAN: Anyway, we will deal with that.

22 MR PENNICOTT: Where were we? I was going to take you,  
23 I think -- if you could go to 7944, please, in the same  
24 bundle.

25 CHAIRMAN: In any event -- sorry, please forgive me -- but  
26 just as a nota bene, of no value, perhaps -- you enter

1           into an agreement, one of which is now presumably with  
2           help from lawyers if you need it, because it's a complex  
3           agreement involving a lot of things, and you are talking  
4           now about an agreement to destroy evidence that could  
5           point to criminal acts. If I was a lawyer -- and  
6           mercifully that's a career long passed as far as giving  
7           advice is concerned in the private sector -- I might  
8           think about that being an agreement certainly against  
9           public interest and being very open to question as to  
10          its legality.

11       MR PENNICOTT: Indeed, sir.

12       CHAIRMAN: But there we are.

13       MR PENNICOTT: We will look at the clause shortly, I hope.

14                 Mr Poon, anyway, let's try to get January 2017 out  
15                 of the way first, before we move on to September. At  
16                 7944, 7945, 7946, and I think possibly the following  
17                 pages as well -- there are various diagrams and plans,  
18                 and so forth, Mr Poon -- as I understand, this is the  
19                 agreement that you reached with Leighton, signed up on  
20                 23 January 2017; is that right?

21       A.    係，係，係。

22       Q.    Okay. I'm not going to read it all out, but we can look  
23                 at it if we need to, but you're given a series of  
24                 milestone dates.

25       A.    係。

26       Q.    And the agreement provides for certain amounts of moneys



1 to be paid referable to those milestone dates?

2 A. 係，呢度特別注意，7944嘅文件睇得好清楚嘅，其實呢個milestones  
3 schedule已經係第二個version嚟喇，中間其實仲有好多個。

4 Q. Okay. But this is what was being -- a line was being  
5 drawn in the sand on 23 January 2017, on the terms set  
6 out in this document?

7 A. 係，基本上就係禮頓賺我哋嘅錢，佢畀番我哋，我哋應承咗做番啲嘢。

8 Q. Then -- don't put that file away, Mr Poon -- could you  
9 please look at paragraph 51 of your witness statement.

10 A. 係。

11 Q. Sorry, could we just go up to show the gap between --  
12 that's right. So there's paragraphs 50 and 51, Mr Poon.

13 A. 唔。

14 Q. You make reference to the 6 January material that we've  
15 just been discussing, in paragraph 50?

16 A. 係。

17 Q. Then, in paragraph 51, you leap forward in time to  
18 15 September?

19 A. 係。

20 Q. And you say, "On 15 September ... I further issued  
21 another email to Mr Zervaas demanding a response from  
22 him and/or Leighton", as I understand it, demanding  
23 a response to your email of 6 January?

24 A. Yes.

25 Q. Why did you wait nine months to send a chaser?

1 A. 因為9月15號嘅時候，其實9月初開始，我哋公司要負責嘅工作已經差唔多  
2 完成，包括咗嗰啲defect rectification，即係話包括要執爛，當時  
3 其實我本人已經離開咗地盤，我哋公司當地剩番大概我諗一個科文帶住幾  
4 個人喺地盤，至十個人，即係每日唔同嘅，咁已經去到我哋要完全離開、  
5 撤離，...

6 Q. Okay.

7 A. ...所以我要清番晒所有未完成嘅嘢，commercial又係，technical  
8 又係。

9 Q. Okay. Let's put your witness statement away now,  
10 Mr Poon, thank you, and back to the C12 file.

11 If you go to page 7984, please. As I say, Mr Poon,  
12 I'm going straight to this letter that you wrote on  
13 15 September, and I happen to know, and I'm sure you  
14 know, that there were a number of letters and documents  
15 sent by Leighton in the lead-up to you sending this  
16 letter; okay? You understand that?

17 A. 係。

18 Q. I'm going to leave Mr Shieh, if he wishes to, to take  
19 you to any of those documents in the lead-up to this  
20 letter. I just want to focus on this letter.

21 A. 好。

22 Q. What you say is indeed you refer back to a letter from  
23 Leighton of 11 September, and then in paragraphs 1 to 6  
24 you essentially deal with commercial matters, the rights  
25 and wrongs of your dispute with Leighton; do you agree?

1 A. Agree.

2 Q. Then, at paragraph 7, you say:

3 "We reiterate herewith we had already reported the  
4 matter of cheating coupler and threading since this  
5 January, and there is no action on Leighton to remedy  
6 the problem. We do not want our company or our labour  
7 being forced to involve on covering up this illegal  
8 fault."

9 You then say in paragraph 8:

10 "Please do not pretend nothing happen on the EWL  
11 slab, please investigate and remedy the cheating coupler  
12 and threading with immediate effect, instead of speeding  
13 up the wet trades of plasterer and painting and fitting  
14 out works include E&M and suspended ceiling installation  
15 to hide the problem."

16 Now, Mr Poon, can I ask you this: why, in the  
17 context of this commercial dispute that you were having  
18 with Leighton, do you choose to include paragraphs 7  
19 and 8 in this letter? What is the connection between  
20 the dispute on the one hand and these allegations that  
21 you're making on the other?

22 A. 其實我哋公司仍然係儘量想將commercial、technical同埋contract  
23 liability嘅唔同嘅範疇分開書信處理，分開去處理，但係去到9月中--  
24 9月初去到9月中、9月尾呢段階段，已經--我亦都解釋下添，我哋公司當  
25 時嘅處境，我哋公司嗰陣時係開緊二十四小時，開緊呢個港珠澳大橋嘅工

1 程，包括隧道，包括天橋，我哋基本上係冇咁多時間去處理同禮頓嘅爭議，  
2 禮頓就不斷飄信過嚟，飄email過嚟，就不斷send信、send email過  
3 嚟同我哋爭拗，我哋儘量希望儘快逐一個問題回應咗、解決咗，就儘快離  
4 開呢個地盤，其中喺我，喺我個人，尤其是我個人，呢封信我寫，我個人  
5 身上，我最emphasise嘅唔係錢，唔係錢，而係我哋嘅責任，我哋中科喺  
6 呢個車站嘅一啲比較長久嘅一啲liability，所以喺寫呢封commercial  
7 嘅reply嘅時候，我哋咗兩點，我諗都無可厚非，而呢個事實上，當時我  
8 心中好大嘅subject matters。錢其實我哋中科唔緊要嘅，禮頓睇我哋，  
9 當時去到呢一刻係三千幾萬。

10 Q. Mr Poon, some people might suggest to you that the  
11 incorporation of paragraphs 7 and 8 was an attempt to  
12 put commercial pressure on Leighton. I'll give you  
13 an opportunity to say something. Do you agree with  
14 that?

15 A. 唔agree，完全唔agree，其實我喺2016年12月初，12月初，係禮頓  
16 叫我自己搵黃唯銘，問黃唯銘係咪地鐵冇再畀錢畀禮頓，所以令到禮頓  
17 冇錢畀我哋中科，2016年嘅12月初，跟住黃唯銘--我當時同黃唯銘嘅  
18 conversation，除咗commercial之外，都有講coupler嘅問題，而  
19 黃唯銘跟住係畀咗一個地鐵嘅高層，我唔知佢嘅身分，亦都未見過面，  
20 亦都唔知佢個姓，叫Raymond，如果有任何問題，如果禮頓再係咁樣  
21 成日唔畀錢嘅話，就叫我可以搵Raymond，所以對我嚟講，如果畀  
22 commercial pressure，根本就唔需要我自己去做一啲--搵一啲咁  
23 嘅問題，我只要打畀Raymond，就已經okay喇。

1 Q. Mr Poon, I'm just focusing on this letter --

2 A. 唔係，你係問題就係話我係咪想喺封信度去製造一啲commercial  
3 pressure咁嘛，我意思就係話我唔係，第一，呢個係我關心嘅  
4 subject matter，所以寫喺信裏面；而第二，我如果要製造  
5 commercial嘅pressure，我打畀Raymond嘅效果強烈好多，直  
6 接好多，痛快好多。

7 Q. You didn't have the conversation with Dr Philco Wong  
8 until December.

9 A. 2016年12月。

10 Q. Okay. I'm giving you an opportunity to --

11 A. 唔係2017，唔係2017，係2016年

12 Q. 2016, yes, a year before. There was no question --  
13 sorry, I should have said 2016 -- there was no question  
14 of you ringing Philco Wong at this stage, in 2017. The  
15 only conversation you had with him, you say, was in  
16 December 2016?

17 A. 我喺呢個階段，我係冇打過畀黃唯銘嘅，我亦都唔需要佢協助。

18 Q. Okay. Your answer to my question is if you want to  
19 exert commercial pressure, the way you would do it would  
20 be to call --

21 A. 打畀地鐵。

22 Q. -- Dr Wong, Dr Philco Wong; is that right?

23 A. Yes. 原因就係當時嘅處境，禮頓周圍畀人舉緊旗嘅，喺6月嘅時候，喺四--  
24 喺2017年嘅4月到6月時間，同一個地盤，其他判頭不單示威、封地盤，仲

1 衝入禮頓嘅--同埋地鐵嘅寫字樓搗亂，對我嚟講，我如果要畀pressure  
2 畀禮頓，我只要話畀地鐵聽，地鐵就自然會揸佢，佢點諗其實都有用。

3 Q. All right.

4 A. 我根本就唔需要去嗰啲筆墨去寫一啲咁嘅--去寫一段字，唯我自己時間  
5 寫一段字去要脅佢或者去畀pressure佢，一個電話已經搞掂，你睇番  
6 晒出面啲報紙當時禮頓點樣賺人錢。

7 Q. I go back to an earlier question, Mr Poon: if this is  
8 a matter, if this was and is a matter, close to your  
9 heart, as you say, and it's got really nothing to do  
10 with the commercial dispute that you had with Leighton,  
11 why did you leave it for nine months to get, as you saw  
12 it, an answer, a satisfactory answer, to your email of  
13 6 January? If these are two separate issues and not in  
14 any way related, surely waiting nine months doesn't  
15 suggest it is that close to your heart?

16 A. 喺1月6月個電郵之後，其實Anthony話--佢講大話，而家我睇番document  
17 知道，但係佢當時同我講，就話禮頓同地鐵當時係study緊我所關心嘅問題，  
18 包括咗點樣補救，嗰陣時Anthony話禮頓已經有個獨立嘅一個technical  
19 team去研究緊呢件事，同地鐵嗰度研究緊，當時Raymond都同我講，Raymond  
20 有同我講係有咁嘅事，所以我一直係等，等幾個月亦都唔奇，去等地鐵同埋禮  
21 頓搵一個方案出嚟去解決個問題，我好記得Anthony都覺得我講個鋼針方案  
22 係可行。

23 Q. All right. Now --

24 CHAIRMAN: Sorry, you are saying you were told by the MTRC

1 and/or Leighton that because of your earlier complaints,  
2 they had put together a technical team that was looking  
3 at how best to deal with the problems and how best to  
4 devise remedial measures?

5 A. 係，同埋當時Anthony同我講過，我提出嘅鋼針方案，即係話種一啲  
6 stainless steel bar落去係可行。

7 CHAIRMAN: Did you ever see a team like this in operation?

8 A. 冇，不過禮頓個寫字樓其實好多engineer喺度。

9 CHAIRMAN: All right. Tell me, did anybody come to you and  
10 say, "Mr Poon, I'm the member of a new technical team  
11 and we're investigating your concerns; perhaps you can  
12 help us"?

13 A. 冇，冇，冇，真係冇。

14 MR PENNICOTT: On the same day as that letter, Mr Poon, you  
15 also sent an email to Mr Zervaas. That's at 7987.

16 You respond to Mr Zervaas's email of 6 January that  
17 we were looking at a short while ago, and you say:

18 "Dear Anthony,

19 It's already 8 months after our report on the  
20 captioned concerns on structural safety.

21 We still unable to obtain your feedback and we  
22 observe that there is no remedial works being committed  
23 on site in these 8 months time."

24 A. 係。

25 Q. Then, I don't want to read all of this out but picking

1 up the last sentence of the large paragraph in this  
2 email, you say:

3 "We opine all damaged and malpractice couplers,  
4 including installing without torque test and cheating  
5 practice by Leighton direct staff cutting away most of  
6 the threads, estimating over 30,000 pieces involved,  
7 must be tackled in with high respect."

8 Now, you will be unsurprised to hear that I'd like  
9 to concentrate on the figure of 30,000 pieces. Could  
10 you explain to the Commission how you arrived at that  
11 figure? Was it by a process of careful consideration  
12 and reasoning, or by some other means?

13 A. 好，呢個就係講--我講--我一直講，其實禮頓一直都知道嘅，我哋中科同禮頓  
14 嘅討論唔單只cut鋼筋，仲有個ductility嘅問題，ductility，就係個延  
15 伸性，呢個係個車站結構，個車站結構除咗係靜static load、dead load、  
16 live load之外，佢仲要去抵受地震波，seismic force，地震波，成個設  
17 計，我知，我諗好多人都知，佢用coupler嘅原因，用coupler connection  
18 嘅原因就係因為BOSA佢供應呢種coupler係特別係能夠係佢tensile，即係話  
19 佢拉力到咗yield嘅時候，係會另外延伸、延長而吸收個地震波，聽埋我講，聽埋  
20 我講，我一直關心就係我見到安裝嘅時候，有好多螺絲牙露咗出嚟，地鐵唔理，  
21 即係話安裝完個螺絲頭之後，我哋大家仲見到螺絲牙露出個coupler外面，喺  
22 我嘅知識，呢啲螺絲牙就會直接傷害咗呢種可延伸性，即係ductile coupler，  
23 可延伸性螺絲頭嘅力學表現。我呢段說話講個三萬粒，當時我哋公司係有一個  
24 好具體嘅數據，我哋只係喺2015年8月份，禮頓係邀請我哋去做佢發現螺絲頭



1 有問題去補救嘅時候，佢曾經畀過一個Excel表畀我哋，show到大概有二萬  
2 六千幾粒螺絲頭。

3 而我呢個電郵所講，第一段，第一點就係話佢哋安裝嘅時候係求其用手  
4 或者用個士巴拿嚟安裝；第二點就係話佢哋cut咗部分嘅牙，而呢兩個，呢兩  
5 個，and呀，呢兩個完全唔同嘅malpractice我估牽涉嘅數量達到三萬粒。

6 Q. Can we just pause there, Mr Poon. When you say 30,000  
7 pieces -- this time, let's focus on the word "pieces" --  
8 are you talking about couplers and -- are you just  
9 talking about couplers, 30,000 couplers?

10 A. 我諗直接啲講，應該係講rebar connection into couplers。

11 Q. Right. So 30,000 connections? Right. Suggesting, on  
12 what I think I understand you just to have said, that  
13 just about every single piece of rebar had been cut.

14 A. No, no, no, no. Everybody here, 包括社會，都畀禮頓同埋港鐵--  
15 我或者唔好講禮頓，講港鐵，發放嘅資訊而蒙蔽咗，港鐵所發布話有二萬  
16 六千粒螺絲頭，佢只係講咗喺東西連續牆shear key上面嘅螺絲頭，佢從  
17 冇講過我哋另外喺三十六個transverse嘅construction joint上面嗰  
18 大概萬零到兩萬零粒螺絲頭，同埋仲有喺其他好多除咗兩個層板之外需要  
19 螺絲頭接駁嘅地方，所以喺我嘅心目中，呢個地盤有呢一個螺絲頭數量，  
20 我相信超過四萬粒。

21 Q. 40,000 now?

22 A. 係。

23 Q. Okay.

24 A. 唔該check清楚喇你哋。

1 Q. This is all the connections on the east diaphragm wall  
2 with the slab, all the connections between the various  
3 slab bays, the construction joints that you described  
4 yesterday, including the West Wall, or are we just still  
5 focusing on the East Wall? How far does this go?

6 A. 或者畀我數一數出嚟，畀我數一數出嚟，我估計大概有二萬六千粒，喺東同  
7 西連續牆同埋EWL slab、NSL slab嘅層板嘅connection度都有，即係話  
8 EWL track slab、NSL track slab同埋東、西嘅diaphragm walls；  
9 第二組好大數量嘅螺絲頭，一直大家完全忽略咗嘅，其實就係喺我哋每一倉、  
10 每一倉斬倉，譬如C1-3、C1-2之間，C1-2、C1-4之間，呢一啲咁嘅倉數  
11 之間嘅coupler，完全冇數到，...

12 COMMISSIONER HANSFORD: Sorry, I'm getting slightly confused  
13 here. I'm getting confused between, on the one hand,  
14 how many couplers there were on the whole project, and  
15 on the other hand how many couplers we're being told had  
16 defective connections. It seems to me these are two  
17 different numbers, but the numbers seem to be all mixed  
18 up here.

19 MR PENNICOTT: They do, sir, and I'm trying my best.

20 I confess I'm not getting very far.

21 A. Can I show with a picture that MTR present on 2,900?

22 MR PENNICOTT: Wait a minute. Let me just try to address  
23 Prof Hansford's point.

24 I'm doing my best to try to unravel the figure of  
25 30,000 which appears in this email, and it's a large

1 figure, it's got no details, no particulars, I don't  
2 know whether it refers to rebar connections, couplers,  
3 a mixture; I simply don't know, and I still don't know.  
4 Like you, I am confused.

5 It would be helpful, Mr Poon, if -- going back to  
6 some of the general questions I asked you yesterday  
7 morning -- very carefully, very slowly, you explain to  
8 us, explain to Prof Hansford and the Chairman, how you  
9 came to be asserting that 30,000 pieces, however you  
10 define that -- and it would be helpful, I think, to have  
11 a definition of "pieces" first, what you're including in  
12 that, and then how you do the arithmetic to get to this  
13 figure of what you said was 30,000 and what you said on  
14 the transcript a moment ago, 40,000.

15 I just don't -- and all of this, if I may remind  
16 you, Mr Poon, all of this emerging from your evidence  
17 limited to August and September 2015. That's what  
18 really troubled us, I think.

19 A. Okay.

20 Q. You said something about a diagram or some reference  
21 point.

22 A. I think it's better to show with a picture.

23 Q. What --

24 A. H254, try first.

25 CHAIRMAN: All right. Before we do that --

26 MR PENNICOTT: Sorry, sir.

1 CHAIRMAN: My fault -- when you talk about 30,000 pieces, as  
2 Mr Pennicott was asking, to what are you referring?

3 A. Defective connections, including the undoing connections  
4 of the threaded bars onto the couplers, and cutting --

5 CHAIRMAN: But in broad terms, you're referring to 30,000  
6 defective connections into diaphragm walls or other  
7 walls or other connections?

8 A. In the whole project. I'm saying in the whole project.

9 CHAIRMAN: All right. Between couplers and rebars?

10 A. Yes.

11 CHAIRMAN: Right. So you worked out with your own  
12 arithmetic that there must be at least 30,000 --

13 A. Yes, I think so.

14 CHAIRMAN: -- such suspect --

15 A. Questionable.

16 CHAIRMAN: If I could just ask one more question. I don't  
17 have yet a full understanding of the dimensions of this  
18 project vis-a-vis 30,000 couplers, but it would seem to  
19 me that if you're talking about a number that big or  
20 even bigger, you are not going to, if you open up the  
21 slab, see six good couplings and one bad one, 20 good  
22 couplings and one bad one. You are likely to see  
23 a series of ineffective couplings; would that be right?

24 A. 我諗呢個係random嘅，有啲地方係，有啲地方唔係，不如咁，Mr Chairman  
25 同Mr Commissioner，我show一張圖或者一張相畀你睇，呢張相係由...

26 CHAIRMAN: No, no, just answer my question. So you're

1 saying it would be random. But with 30,000, you're  
2 going to not have much difficulty in coming across  
3 numerous bad couplings, is that right, or bad  
4 connections?

5 A. 唔，我嘅understanding，當時嘅understanding，當時，就係所有  
6 螺絲接駁都需要用個torque，torque，磅尺去安裝，磅尺，我去見到全  
7 個period裏面有一把磅尺喺地盤出現過。

8 CHAIRMAN: All right. Now this is something new. So now  
9 what you're saying is it's not simply cutting threads or  
10 simply leaving damaged couplers in situ, in place; it's  
11 also a fact that the incorrect machinery has been used  
12 to bring about the couplings? There should have been  
13 a particular type of machine and that machine you never  
14 saw on site; all right?

15 A. 係，yes.

16 CHAIRMAN: Then, if I'm correct, by way of sweeping up,  
17 you're saying also that because of the use of grinders  
18 and cutting, for some reason, which I don't yet  
19 understand and I will need to be educated by the  
20 experts, the tensile strength of the rebars was  
21 dangerously reduced?

22 A. Reduce 25%。

23 CHAIRMAN: Reduced by --

24 A. 25%.

25 CHAIRMAN: All right. That's significant. Okay. I just

1 want to understand where you are.

2 So you're saying, then, that as and when anybody  
3 decides to open up any relevant portion of this  
4 concreting, they're not going to have too much  
5 difficulty in finding, either randomly or in large  
6 uniform sections, entirely defective couplings; is that  
7 right?

8 A. 係呀，係呀。Mr Chairman同Mr Commissioner，可唔可以我而家就  
9 帶你睇一張相，其實已經睇到大概如果你將來鑿咗之後會見到個問題？張  
10 相唔係我嘅，張相係港鐵嘅。

11 MR PENNICOTT: Mr Poon, if you can recall approximately  
12 where it is, we might be able to find it, but otherwise  
13 it might be a needle in a haystack. Do you have any  
14 recollection as to what picture it is you want to look  
15 at?

16 A. B25436或者38。

17 Q. What is it a picture of?

18 A. Sorry, 15438, 可唔可以畀個index畀我?

19 Q. Sure. You mean the index of the bundle?

20 A. Yes, the index of the bundle.

21 如果有人提到我，就提一提我，我記得有一個party入咗一個CEEK  
22 report, C-E-E-K report。

23 Q. That's helpful. That's a lead.

24 A. 嗰度上面有一張相片。

25 CHAIRMAN: Perhaps we might take a mid-morning adjournment,

1 just for ten minutes.

2 MR PENNICOTT: Ten minutes, sir.

3 CHAIRMAN: That would be subject to Mr Pennicott working  
4 perhaps with counsel for Mr Poon, not by way of giving  
5 advice to Mr Poon in any way but to see if this  
6 particular diagram can be located.

7 MR PENNICOTT: It won't take me long to find the CEEK  
8 report. I know where it is, I just need to.

9 CHAIRMAN: All right. Then we'll continue.

10 MR PENNICOTT: No, if we have ten minutes, we'll find it.

11 CHAIRMAN: Good. Thank you very much.

12 (11.47 am)

13 (A short adjournment)

14 (12.06 pm)

15 MR PENNICOTT: Sir, thank you very much.

16 Mr Poon, in the short break that we've had,  
17 I understand that you have located the photograph, and  
18 perhaps more than one photograph, that you wanted to  
19 show the Commission.

20 Could you just yourself tell me which page you wish  
21 to look at, and then I may need to introduce it to  
22 explain where this has come from.

23 If you just identify the photograph first, that  
24 would be helpful.

25 A. Okay. B14268嘅第四張相。

26 Q. 14268?

1 A. Yes.

2 Q. Before we go there, I just need to explain to the  
3 Commissioners where we are.

4 Sir, these photographs or this photograph we are  
5 about to look at, if one goes to page 14253, please, are  
6 attached to a report, as you can see, sir, from Atkins.  
7 It's dated quite recently, 10 September 2018. Without  
8 going into any detail, its introduction says:

9 "Atkins was requested by MTRC on 30 August 2018 to  
10 carry out urgent inspection on the honeycomb concrete  
11 defects identified at EWL slab ... between gridlines 20  
12 to 40 as shown in the attached NC reports provided by  
13 MTRC (see annex A)."

14 So, sir, just to put the thing in context -- knowing  
15 that both of you have visited the site indeed quite  
16 recently, I have no idea whether you managed to see this  
17 particular item of honeycombed concrete.

18 Anyway, with that introduction, Mr Poon, let's go to  
19 14268 and you can tell us what you would like to tell  
20 us.

21 A. 好喇，幅相其實我想睇右下角第四張相，所以--我希望放大佢，再放大一格。  
22 好喇，張相裏面就見到其實呢個係港鐵聲稱就係個蜂巢現象，我亦都相信係  
23 有傳就話呢張相就係話啲石屎直頭剝落，外露鋼筋，其實呢一個就畀到我哋  
24 好好嘅機會去睇到我哋而家coupler上面有啲乜嘢嘅可能性，喺我嘅best  
25 knowledge，我解釋下呢張相，張相上面我哋見到有五條嘅...



1 Q. Carry on.

2 A. ...有五條嘅鋼筋接駁，喺最頂嘅第一條，我會形容成--除非佢裏面  
3 有剪，係合格嘅，但係當你睇第二、第三同第四條嘅時候，大家唔難發現  
4 其實仲有兩至三格嘅螺絲牙係冇扭入去個螺絲帽裏面嘅，而第五條，雖然  
5 佢唔好清晰，但係似乎係扭到嘅。喺呢張相上面總共有五個螺絲接駁位，  
6 我以我嘅best knowledge判斷，有三條已經唔合格喇。我喺呢張相上面  
7 冇辦法睇到cut鋼筋嘅情況嘅，但係我睇到另一個情況，呢個就係我成日  
8 講ductility嘅問題，就係鋼筋嘅延展性，喺呢個地盤所有被絞牙嘅鋼筋  
9 都要做多一個crimping嘅程序，C-R-I-M-P-I-N-G，crimping呢個程  
10 序，呢個crimping程序會令到嗰支絞咗嘅螺絲牙喺剛剛離開咗絞牙嘅地  
11 方，就會有一個我哋大家好清晰見到，支鋼筋好似刨到比較幼細咗咁嘅現  
12 象，就喺第二條鋼筋我哋睇得好清楚。

13 你見到呢條T40鋼筋，喺螺絲牙同埋鋼筋之間，即係嗰條主鋼筋之間  
14 其實都大概60毫米嘅地方嘅長度係被刨--被mechanically，被一個--  
15 被形成一個比較細嘅直徑嘅。第三條鋼筋，我大概都可以睇到係有咁嘅現  
16 象，第四、第五條因為太遠，我睇唔到，第一條我係完全睇唔到--第一  
17 條應該咁講，第一條我係睇到佢係冇做到crimping嘅。crimping個目  
18 的就係令到條鋼筋喺受拉，當佢去到接近fatigue，接近斷嘅時候，佢  
19 會多咗一個特別嘅延展性，呢個就係攞嚟吸收地震波嘅設計。地震波就係  
20 seismic force，S-E-I-S-M-I-C。

21 喺我個目光睇嚟，或者我嘅best knowledge，呢五條鋼筋有四條已  
22 經係唔合格，我唔需要扭出嚟，都知唔合格，第一條就係因為佢根本冇做  
23 crimping，第二條，佢根本冇扭晒入去，第三條都有扭晒入去，第四條

1 都有扭晒入去，第五條係合格嘅，或者我相信合格。

2 Q. Can I just understand one point, Mr Poon. You are  
3 saying that if you can see any thread at all, then to  
4 you that's substandard; is that what you're saying to  
5 the Chairman and the Commissioner? Any thread at all is  
6 substandard; is that right?

7 A. 係呀，係呀，雖然有人話「個螺紋未扭晒入去，但係螺紋絞多啲，我已經扭  
8 咗足夠數量嘅螺紋落個coupler度，咁咪合格囉。」我反對，螺紋本身會  
9 傷害咗條鋼筋嘅拉力，螺紋同接合器要完全吻合先至去完成成個接合器原先  
10 設計嘅拉力。

11 Q. Mr Poon, thanks for that. At least that is  
12 something that no doubt others, engineers, qualified  
13 engineers, experts and so forth, can have a look at and  
14 see what they can make of this photograph in due course.

15 CHAIRMAN: Sorry, can I just ask --

16 MR PENNICOTT: Of course, sir.

17 CHAIRMAN: -- are you saying crimping, as I understand you  
18 to be saying, is necessary?

19 A. Definitely.

20 CHAIRMAN: All right. So earlier you had spoken about  
21 crimping having a weakness. That would be wrong, would  
22 it?

23 A. 呢個crimping本身要由BOSA喺佢嘅特別機器嗰度做，先至唔會傷害鋼筋嘅  
24 拉力，而本身測試呢啲鋼筋...

25 CHAIRMAN: All right. But, on an ordinary basis, assuming

1           you're right there, BOSA will just crimp every bar as it  
2           goes through? They had set up a system for that.

3       A.    係呀，係呀，本身佢個submission好清楚。

4       CHAIRMAN: Does that have anything to do with this piece of  
5           machinery that should be used for the coupling?

6       A.    嗰個就獨立嘅，我嗰個torque就係目的令到協助個工人可以將全部螺絲  
7           牙扭落去個螺絲帽裏面。

8       CHAIRMAN: All right. So, in other words, it's not merely  
9           then the fact that people were cutting threads and/or  
10          failing to put them in; in your view, a further problem  
11          was there was no machine to ensure the correct torque  
12          strength, and in addition to which there was a failure  
13          on many occasions to actually ensure that you went right  
14          the way in so that there was a firm connection between  
15          the rebar going in and the rebar already in? Would that  
16          be right?

17      A.    係。

18      MR PENNICOTT: All right.

19            Sir, I was just trying to pinpoint the location of  
20           that photograph that we've looked at. If one goes to --  
21           if you're following this, Mr Poon -- if one goes to  
22           14267, there's a plan. The photograph Mr Poon was taken  
23           to is marked NCR258, photo 4. So that looks to me, sir,  
24           it's the brown box, left-hand side, one sees the  
25           reference NCR258, and it's pointing to a little yellow

1 area, I think you can see that --

2 CHAIRMAN: Yes.

3 MR PENNICOTT: -- just to the left of gridline 30.

4 COMMISSIONER HANSFORD: Yes.

5 A. 30個格線同L1格線之間。

6 MR TO: The intersection.

7 MR PENNICOTT: Yes, which I think in area terms is C1-1?

8 A. 唔係，唔係，呢度係C1-875。

9 MR PENNICOTT: It's right on the edge of -- I always  
10 remember that 1-875 runs down between 30 and 31 so it's  
11 right on the edge. I understand. That's right.

12 A. That's the bay done by Leightons, that's why I point it  
13 out.

14 Q. All right. Thank you very much, Mr Poon.

15 Now, unfortunately, we've got to go back to the  
16 email.

17 A. 頭先仲有個數量上嘅問題，係咪呀？Quantity。

18 Q. Well, can we just pause there, Mr Poon, because we were  
19 focusing, before that little excursion, on the figure of  
20 30,000 that you had in your email, and we were trying to  
21 get an explanation from you as to how you calculated  
22 that.

23 A. 唔。

24 Q. Let me put this to you. My understanding -- imperfect,  
25 no doubt, but no doubt to be further explained in due

1 course by others -- is that just on the EWL slab itself,  
2 just on the EWL slab itself, if you take the number of  
3 connections to the D-wall on both the east and the west  
4 side, and you take the number of connections between the  
5 connecting slabs that you referred us to earlier, there  
6 are, just on that slab, over 40,000 connections.

7 A. Not only. Not only.

8 Q. In excess of 40,000?

9 A. 40,000-something.

10 Q. Just on the EWL slab?

11 A. 但係EWL slab仲有其他地方有coupler嘅，我一定要話埋畀你聽。

12 Q. I'm sure, but we're just talking in rough numbers. So  
13 we're back to your figure of 30,000, and you mentioned  
14 40,000 earlier. You seem to suggest, if I have  
15 understood your answer correctly, that this was,  
16 including the EWL slab, the NSL slab, both in relation  
17 to the diaphragm wall connections and the bay  
18 connections --

19 A. And the OTE. And the OTE connection.

20 Q. But if one assumes -- and I make an assumption; it may  
21 be right, it may be wrong -- that there are  
22 approximately the same number of connections on the NSL  
23 slab as there are on the EWL, we're going up to 80,000  
24 to 90,000 connections?

25 A. 南北線係少啲嘅。

26 Q. There were fewer? All right.

1 I'm going to give you one last chance, see if we can  
2 take this a bit further. Please, Mr Poon, one more  
3 opportunity, give us your process of reasoning as to how  
4 you arrived in this email at the figure of 30,000  
5 pieces, which you have described in answer to the  
6 chairman as connections, as I understand it.

7 A. 唔。

8 Q. So how did you get there?

9 A. 其實我而家個電郵上面所講嘅connection--即係其實我想講嘅就係個  
10 defective connection或者suspected defective connection，  
11 個原因就係嚟自兩大項嘅，第一項就係最先嗰句statement講嘅，就係  
12 話佢係冇完成，即係佢扭咗之後，佢冇完成個torque test嘅，而我成日  
13 肉眼見到啲螺絲頭尾係仲有牙未扭晒入去，如果係咁嘅情況之下，基於個  
14 ductility嘅consideration，我都會覺得呢啲係problem嘅，係  
15 suspected defective connections。

16 而第二部分就係講禮頓啲人去cut咗啲部分螺絲牙，再扭入去假裝扭  
17 好，嗰啲其實我一直估計都係大概佔5%嘅，即係話，我估計因為冇torque  
18 test，冇將個螺絲牙完全扭入個螺絲帽裏面，牽涉嘅總數量problematic  
19 嘅，suspected problematic connections就係大概三萬。

20 Q. All right, Mr Poon. If someone else wants to have  
21 a go --

22 CHAIRMAN: So that's 30,000, which is made up of a small  
23 minority of cut threads --

24 A. Yes.

1 CHAIRMAN: -- about 5 per cent?

2 A. Yes.

3 CHAIRMAN: 5 per cent of what, I'm not quite sure, but  
4 anyway, 5 per cent; it's quite small.

5 Then you've got ones where you can see the screws,  
6 which means, as I understand it, that you're reducing  
7 the torque strength; is that right? I'm not an expert  
8 on torques, but anyway you're reducing the torque  
9 strength. Then you've got other ones where, for some  
10 reason, the tensile strength has been reduced. So all  
11 of these together, including maybe some I haven't  
12 mention, bring you up to a figure of about 30,000?

13 A. 係。

14 CHAIRMAN: I mean, obviously you need to have some torque  
15 strength, I'm not suggesting you don't, but I've not  
16 heard anything so far to suggest that these rebars and  
17 these couplers are required at the point of installation  
18 to be tested for torque.

19 A. 我哋公司...

20 CHAIRMAN: I thought it was in the design. I may be wrong.

21 MR PENNICOTT: We will be hearing from the people who  
22 actually did the work.

23 CHAIRMAN: I appreciate that.

24 You can tell me I'm wrong -- I'm wrong, am I?

25 A. No, I'm not -- I --

26 CHAIRMAN: You can tell me I'm wrong because then I know

1 your position.

2 A. I'm listening.

3 CHAIRMAN: Your position is, "Sorry, Mr Chairman, you're  
4 wrong. Those of us who understand engineering will say  
5 you have to have a test for torque strength at or about  
6 the point of installation"?

7 A. I would rather say in the ultimate consideration on the  
8 structural integrity, we are not necessary to consider  
9 the performance of torque. However, the torque test  
10 itself is going to ensure and secure a proper  
11 installation of the threaded bar onto this mechanical  
12 coupler.

13 So I would limit the subject of torque is just  
14 limited on the workmanship issue.

15 CHAIRMAN: All right. Now, if we -- the last question, then  
16 I'll let Mr Pennicott proceed. Your evidence, then, on  
17 consideration, is that as far as the matters that have  
18 taken up the public's interest, namely cutting rebars or  
19 cutting threads on rebars, or failing to properly put  
20 in, or doing the cutting -- let's leave it at that --  
21 that's just 5 per cent?

22 A. Yes.

23 CHAIRMAN: All right. So what's brought us here,  
24 effectively, is an approximately 5 per cent deficiency  
25 rating, on your estimation?

26 A. Yes.



1 CHAIRMAN: And that estimation is based on a series of  
2 haphazard observations? By "haphazard" I mean you  
3 weren't out there bird-watching, you weren't sitting  
4 there all day long with binoculars looking at the people  
5 working. As you walked by, from time to time, you would  
6 see an instance of what appeared to you to be thread  
7 cutting or something like that, and from that you come  
8 to a rough estimate of 5 per cent?

9 A. Yes.

10 CHAIRMAN: All right.

11 Thank you, Mr Pennicott.

12 MR PENNICOTT: Thank you, sir.

13 Mr Poon, the evidence you gave just a moment ago  
14 about the thread that you could see, and you said that  
15 you could see at least two --

16 A. One or -- to -- two numbers of threads.

17 Q. -- one to two threads -- if I don't take you to it,  
18 someone else will, so can we just have a look, please,  
19 at C10, page 7013 to start.

20 A. Yes.

21 Q. This is something I think from the BOSA manual or  
22 similar -- I will be corrected if I'm wrong -- and you  
23 can see, at the top, it says, "Visual inspection --  
24 acceptable thread tolerance"; do you see that, Mr Poon?

25 A. Yes, I see it.

26 Q. Okay. You can see that in all four situations that are

1 shown in the picture, they all get a tick, and you can  
2 see, certainly on the second, third and fourth, they all  
3 have either one, two or possibly three threads showing;  
4 do you see? And they are all acceptable.

5 A. 我見到，但係我即刻個回應就係呢個catalogue根本就唔係我哋而家用緊  
6 嘅螺絲頭。

7 Q. These are non-ductile, but if you want to see the  
8 ductile ones we'll go to 7016. It's the same point,  
9 Mr Poon. The ductile ones are at 7016, and the thread  
10 is also shown on those.

11 So can I suggest to you that you are wrong about  
12 suggesting, as you have done, that simply because you  
13 have some exposed thread it is unacceptable.

14 A. 第一次呢，係，我係第一次見到BOSA呢個catalogue，我有睇過㗎。第  
15 二，我質疑BOSA呢個catalogue，我哋不如咁，好簡單，好簡單，我  
16 suggest調查委員會擺BOSA呢四個case去test。

17 Q. You can suggest that, Mr Poon.

18 If we go back to page 7010 in the same document --  
19 sorry, the previous document, 7010, another BOSA -- this  
20 is a method statement for fixing a type B coupler.

21 A. Yes.

22 Q. And that gives an installation method, position  
23 splice B, and the previous page, 7009, is the coupler  
24 installation method for standard splice type A.

25 You can see the steps that those doing the

1 installation are required to take, and at 4, which seems  
2 to be the important point from our point of view:

3 "Use a typical pipe wrench to tighten the splice.

4 No special torque amount is required."

5 Do you see that?

6 A. 係呀，我見到個catalogue係咁寫。

7 Q. So all this evidence that you've been giving about  
8 torque, BOSA, the specialists, the people who  
9 manufacture, design and supply this material, say to us  
10 that no special torque is required.

11 So have you just been making it up, Mr Poon, about  
12 the torque?

13 A. BOSA係咁講，係--作出嚟？唔係，好簡單啫，一陣間我哋嚟緊我哋有  
14 泛迅嘅，不如我哋問下泛迅喺香港有邊個地盤唔需要用torque嚟安裝  
15 coupler，又或者我哋問一問紮鐵工會--紮鐵商會有邊一種coupler  
16 係唔需要用torque安裝去收貨嘅呢？當然，我見到BOSA喺佢catalogue  
17 係寫得好清楚嘅，最好，我諗最好--因為我哋而家關心緊個公共安全，  
18 最好就係擺一啲BOSA話可以接受兩、三個牙未扭落去嘅螺絲，用手扭  
19 落去就搞掂嘅，擺去test一次，如果test完出嚟唔合格，就問BOSA  
20 點解會咁。

21 Q. Can we go back, please, to C12, to pick up the train of  
22 emails. I'm sorry about this. We had looked at your  
23 email at 7987 which you sent early in the morning on  
24 Friday, 15 September 2017. Later on that morning, you  
25 wrote an email at 7991. So this is 11.07 in the

1 morning, and this went to Frank Chan, the Secretary for  
2 Transport and Housing?

3 A. 係，係。

4 Q. You caption this email as a "Request for a joint  
5 interview on the construction works of [the station]  
6 extension", and before we look at what you say, why at  
7 this point in time, Mr Poon, did you feel it appropriate  
8 to email the Secretary for Transport and Housing,  
9 copying the email to Mr Zervaas?

10 A. 喺我上面有兩個party，第一個係禮頓，第二個係港鐵，喺2015年嘅9月，  
11 我自己親身已經向禮頓反映，去到2017年嘅9月，件事未獲得解決，另一方面  
12 喺2016年嘅12月，我向咗黃唯銘反映，港鐵嘅project director黃唯  
13 銘反映，當時我誤以為包括咗Anthony Zervaas同我講佢哋已經同港鐵一  
14 齊研究緊解決方案同補救方案係真嘅，而結果去到2017年嘅9月，就喺呢個  
15 電郵嗰個朝頭早，Anthony Zervaas本來約咗我喺紅磡站地盤傾一系列我  
16 哋公司退場嘅一啲安排，但係Zervaas冇出現到，當我搵佢嘅時候，佢話佢  
17 喺澳門，跟住我喺電話同佢講，我關心嘅問題當然有commercial，亦都有  
18 呢個technical問題，同埋出番封信畀我哋，就係個certificate of  
19 substantial completion，跟住我就可以退場離開。

20 Zervaas講得好清楚畀我聽禮頓公司已經有好清晰嘅corporate嘅  
21 decision，佢收嘅order 就係推翻所有先前嘅所有討論，佢哋嘅stand  
22 point就係根本從來沒有剪鋼筋嘅情況發生過。我跟住問佢我應該點做，  
23 佢話「你鍾意點做都得，你鍾意講畀邊個聽都得，你向邊個投訴都得。」  
24 所以我就揀咗直接向運房局投訴。

1 Q. So if it were to be suggested to you, Mr Poon, that this  
2 was some tactic to up the ante in your commercial  
3 negotiations with Leighton, I assume you would deny it?

4 A. 唔係，唔係。

5 CHAIRMAN: Sorry, just before we move on, can I just see if  
6 I can understand you and we can reach agreement on what  
7 I think is quite an important couple of issues; okay?  
8 Please listen carefully to me. I'm not in any way  
9 seeking to condemn you or anything else. I'm just  
10 seeking to come to a rational understanding of the  
11 thrust of your evidence.

12 A. Okay.

13 CHAIRMAN: Do you understand that?

14 A. (Nodded head).

15 CHAIRMAN: Now, for the moment, I want you to accept  
16 a couple of things; okay? If, hypothetically, in  
17 installing rebars into the couplers, no particular  
18 torque is required -- hang on -- if no particular torque  
19 is required, and if, as the BOSA diagrams appear to  
20 show, the visibility of one, two or three threads itself  
21 does not cause a defective coupling -- if you accept  
22 those two things, is it your case that the problem  
23 concerning safety lies in the fact that approximately  
24 5 per cent of the couplings were defective in the sense  
25 that there was rebar cutting?

26 A. 我會咁答，夏官好似都係港珠澳--唔係，呢個高鐵調查委員會嘅成員嚟嘅，

1            喺嗰段期間，我哋建築界，我哋建築界其實有一個消息，就係嗰度嘅螺絲  
2            頭接駁都出問題，...

3            CHAIRMAN: No, no, I just want to see if I can understand  
4            you because it would help me a great deal.

5                       What I'm saying is if -- you don't have to accept  
6            it; you can be bitterly opposed to it -- but if, for the  
7            sake of the conclusion I'm seeking to reach, the showing  
8            of one, two or three threads was not a problem or is not  
9            a problem, and if no particular torque is required,  
10           then, on your estimation, the defective couplers would  
11           be about 5 per cent? It seems to me that has to be the  
12           case. "Yes" or "no"?

13           A. Yes, yes, yes.

14           CHAIRMAN: Thank you. Hang on. And if it's 5 per cent,  
15           then, on your estimate -- it appears at different  
16           times -- those 5 per cent of defective couplers would  
17           have to be random, essentially random, not all  
18           concentrated in one little area?

19           A. C3區好似我哋冇留意到有，C3, we didn't observe anything  
20           in C3.

21           CHAIRMAN: Okay. So you agree with me; essentially random.

22                      Then my question is if we're looking at  
23           approximately 5 per cent of couplers, reasonably  
24           randomly dispersed, being defective, in your view would  
25           that undermine the essential structural integrity of the  
26           diaphragm walls and/or the platforms?

1 A. 如果單單淨係嗰5%，係唔會。

2 CHAIRMAN: Okay. Thank you very much. So my understanding,  
3 then -- and I'll be corrected, no doubt, by counsel who  
4 represent you -- is this, that if the showing of those  
5 threads that we looked at this morning is not of itself  
6 an indication of a materially defective coupling, and if  
7 no torque is required for this particular type of  
8 coupling supplied by BOSA, then what you have seen over  
9 a period of time are wrongful acts of cutting threads,  
10 and you would estimate that this wrongful form of  
11 behaviour results in about 5 per cent defective  
12 coupling, randomly placed, and you would agree, on that  
13 basis, that there is no danger to the structural  
14 integrity.

15 So if experts were to come in and say, "Don't worry  
16 about the threads, don't worry about the torque", then  
17 you would accept, despite your concerns about wrongful  
18 acts, about negligence or malfeasance, about corruption  
19 or whatever, there is in essence no danger to the  
20 structural integrity of the matters that you had been  
21 working on?

22 A. 咁我又唔同意喎，因為你isolate咗一連串嘅結構問題嘅其中一個嚟睇喎。

23 CHAIRMAN: No, I'm not. I'm saying, and I don't want to go  
24 on too long because I think I have your answer and it's  
25 quite clear to me, but I appreciate all of these things  
26 work together, but if in fact no particular torque

1 strength is required, and if in fact one or two or three  
2 threads showing doesn't make any difference, then we're  
3 looking solely at the wrongful acts of cutting rebars or  
4 of not putting them in at all. And all I want to find  
5 out is -- and you appear to agree with me -- if that is  
6 in fact the case, if that is the case, and we will have  
7 expert evidence on that, then safety is not a compelling  
8 issue?

9 A. 唔係, No.

10 CHAIRMAN: All right. Very briefly, tell me why; where have  
11 I got it wrong?

12 A. 呢個係成個組合問題, 而家我哋成個紅磡站結構嘅安全問題, 唔係單單  
13 isolate 咗喺剪鋼筋件事上面, 剪鋼筋大約5%, 我估千三粒, 另外仲有  
14 好多螺絲帽咗出嚟, 用手鑲番落去, 又或者禮頓用鑽窿種鐵嘅方法種入  
15 去, 呢個我哋都未講。

16 CHAIRMAN: All right. This is another issue, now, that  
17 we're coming up against. This other issue is -- okay,  
18 you've just described it to me -- how much of  
19 a percentage would they take up?

20 A. 估唔到, 其實我哋喺一開場白時想講啲相, 畀石永泰大律師stop咗個度,  
21 其實就係想話畀大家聽其實啲窿窿佔個百分比都唔少嘅。

22 CHAIRMAN: All right. Thank you very much.

23 MR SHIEH: I wish to just emphasise that it was Mr Poon who  
24 withdrew the application.

25 CHAIRMAN: Thank you. Yes.



1 A. 係石永泰先生阻止。

2 MR PENNICOTT: Sir, I was going to come to a passage in  
3 Mr Poon's witness statement a little later.

4 CHAIRMAN: Yes.

5 MR PENNICOTT: But in light of some of the questions that  
6 you've just put to Mr Poon and the answers that you've  
7 received, perhaps I could, as it were, omit some of the  
8 emails that I was going to look at, and just go straight  
9 to this point, because I think it probably bears on the  
10 sort of questions that you've been asking.

11 CHAIRMAN: Thank you.

12 MR PENNICOTT: Mr Poon, could I ask you -- don't lose C12,  
13 but go to your witness statement, starting at  
14 paragraph 83. That's at D1/36.

15 A. Okay. I have it.

16 Q. You have a heading there, "D4. The investigation"; do  
17 you see that?

18 A. 係。

19 Q. This is the infamous interview on 13 June that you are  
20 dealing with; do you see that?

21 A. 係。

22 Q. Now, the paragraph I'm interested in is over the page at  
23 paragraph 87. You say -- and this is you reporting  
24 because you were asked to tell us what happened at that  
25 interview:

26 "I was asked by representatives of the MTRC how many

1 threaded rebars were actually cut. I told them that  
2 I estimated that each bay of EWL slab (except C3-3  
3 northward to C3-6) should have 30 to 100 problematic  
4 connections. On average, that would be around  
5 50 problematic steel bars at each bay. I therefore  
6 estimated (by sole arithmetic means) that there would be  
7 approximately 1,000 threaded rebars being cut.  
8 I emphasised that the figure mentioned were only a rough  
9 estimation."

10 Then you say in paragraph 88:

11 "In the course of my explanation, I emphasised that  
12 Mr Philco Wong's allegation that there were only  
13 20 threaded rebars being cut deviated seriously from the  
14 facts that I was aware. Nonetheless, I also told those  
15 at the meeting that I was of the opinion the estimation  
16 of 5,000 threaded rebars seemed to be slightly large  
17 a figure."

18 So, Mr Poon, the point we appear to have got to --  
19 and I don't know whether this is connected with the sort  
20 of questions that the chairman very perceptively has  
21 been asking you -- is that we've gone from 30,000  
22 connections, which is what you said "pieces" meant.  
23 You've now got a figure of 1,000 threaded rebars being  
24 cut, according to you, and we don't understand how  
25 you've got there, I think.

26 How did you arrive at a situation where at one time,

1 in September 2017, you were throwing around the figure  
2 of 30,000 connections, and now you are telling the MTR  
3 that you don't think it was any more than 1,000?

4 A. No, you are totally wrong.

5 Q. That's what you're telling them, "I therefore estimated  
6 ... that there would be approximately 1,000 threaded  
7 rebars being cut". Where does that come from?

8 A. 我再講，三萬個螺絲頭有問題，接駁有問題，有問題，當中有千零支，即係  
9 5%嘅係cut咗，好清晰啫，根本係兩個完全唔同嘅數字嚟嘅，係完全唔同嘅。

10 Q. Right. So the Chairman is right that if you just take  
11 the threaded rebar on its own, it's a very, very small  
12 percentage of your very large figure that you mentioned  
13 back in September?

14 A. 我一直都係講千零支，5%嘅。

15 Q. All right.

16 CHAIRMAN: You see, I accept -- and I don't want you to  
17 think that I'm drawing an absolute conclusion from what  
18 you've said -- I'm not, far from it -- but what I'm  
19 saying is you accept yourself that the initial problem  
20 that aroused your concerns was cutting of threads on  
21 rebars. You've said that that makes up about 5 per cent  
22 only of the defective couplings, and what I have put to  
23 you is that if -- and you may well be supported, I do  
24 not know -- but if experts were to come in here and  
25 satisfy us conclusively that the issue of torque is not  
26 that relevant, and the issue of some threads showing is

1 not that relevant, then what we're left with, if we  
2 accept that evidence, is about 5 per cent problems.

3 A. No. No.

4 CHAIRMAN: Okay. We add a percentage or two for holes that  
5 have been left empty or that sort of thing; is that  
6 right?

7 A. 係，係。

8 CHAIRMAN: So let's make it 6 per cent, 7 per cent.

9 A. 我估計窿--即係鑽窿種鐵啲度，我聽到一樣，我其實未睇晒啲document，  
10 淨係禮頓其中一封畀Intrafor嘅NCR都已經講咗其中一個區域都已經唔見  
11 咗二百幾粒coupler，一個NCR啫。

12 CHAIRMAN: All right. Okay. We'll leave those out at the  
13 moment.

14 A. 即係話呢個數量可能係好多。

15 MR PENNICOTT: All right.

16 CHAIRMAN: You see, what I'm trying to do, for the benefit  
17 of the public, Mr Poon, is to be able to say, subject  
18 effectively to some expert evidence here on the make-up  
19 of couplers and their engineering dynamics, if we can be  
20 satisfied on that, as per the BOSA set of  
21 instructions -- and I would imagine those set of  
22 instructions have been thought out with some care -- if  
23 we can come to that, then all of us are in a much better  
24 place, because all of us can say we really don't have to  
25 have the same worries that we might have had at some

1 stage as to the integrity of the structures.

2 A. 唔係，我相信呢個我留待畀BD答喇，Building Department，喺2011年  
3 至2013年期間，其實係有--香港係有一個好大嘅工程，啲coupler係跟足  
4 指引，跟足inspection procedure去安裝，結果發現係好多係唔合格。

5 CHAIRMAN: All right.

6 A. 呢個我留番畀BD，即係政府嗰面去可能畀番啲information畀獨立調查委  
7 員會。所以喺我作為一個負責任嘅contractor，負責任嘅subcontractor  
8 嘅vision裏面，我係--如果我睇到BOSA咁樣寫，我係唔會覺得BOSA嘅  
9 catalogue係reliable，除非BOSA嘅catalogue係有佐證，呢個佐證  
10 就係佢所講嘅一啲可以鋼筋扭唔晒入去都合格嘅一啲咁嘅情況，佢有足夠  
11 嘅拉力報告去證明。

12 我再重申多一點，我希望Mr Chairman同埋Mr Commissioner考  
13 慮清楚，我哋而家考慮緊嘅結構問題並唔係單單喺2018年6月1號去到而  
14 家我哋喺傳媒睇到嘅問題，我一開始已經講，因為受制於保密協議，我有  
15 啲傳媒度全部講晒我見到嘅問題出嚟，而只係將已經暴露咗喺傳媒嘅一啲  
16 資料繼續演繹，我甚至乎講清楚，我係主要針對港鐵不斷喺度講大話，而  
17 講番事實畀公眾聽，但係5% coupler被cut或者threading被cut，呢  
18 個係成個結構問題其中組合嘅一部分，我哋絕對唔能夠單單睇，如果有專  
19 家話BOSA啱，可以唔扭晒啲thread入去都安全嘅，都接受嘅，我哋係咪  
20 單單淨係搵到我哋覺得嘅一、兩個technical point或者解釋，咁就  
21 係有一個圓滿答案畀公眾呢？我再強調一次ductility嘅事...

22 CHAIRMAN: Thank you very much. There's just one thing

23 I would mention, and that is that you speak of this

1 confidentiality agreement, but of course I'm sure your  
2 counsel will have told you that the Ordinance that  
3 provides for this Commission provides that anything that  
4 you may say before the Commission for the purposes of  
5 the Commission's Inquiry protect you from civil and/or  
6 criminal proceedings. You're aware of that?

7 A. Yes.

8 MR TO: Mr Chairman and Commissioner, we did write to the  
9 Commission in terms of asking the Commission -- I even  
10 told Mr Pennicott, my learned friend, that we should  
11 advise the client about this point, and we have written  
12 a letter this morning emphasising this point so this  
13 client can freely speak out on what happened at the  
14 confidentiality meeting.

15 CHAIRMAN: All right. But with the greatest of respect,  
16 we're now halfway through his evidence. It seems to me  
17 that if he was under any impression that he was being  
18 shackled by erudite legal language in an agreement, he  
19 would have been disavowed that some time before he came  
20 to give evidence, with respect. But there we are.

21 All right. It's 1 o'clock. We will return at 2.15.

22 MR PENNICOTT: Thank you.

23 CHAIRMAN: Thank you.

24 (1.00pm)

25 (The luncheon adjournment)

26 (2.15 pm)

1 MR PENNICOTT: Sir, good afternoon.

2 Good afternoon, Mr Poon.

3 A. Good afternoon.

4 Q. Before lunch, the last document that we had looked at  
5 I think was the email that you had sent to Mr Chan, the  
6 Secretary for Transport and Housing. That's the last  
7 email we looked at, not the last document.

8 A. 係。

9 Q. And the answer you got to that email, Mr Poon, is at  
10 C12, if you've still got C12, at 8006. It's the one at  
11 the bottom of the page, Mr Poon.

12 In fact you had a response from the Assistant  
13 Secretary, thanking you for your email, informing you  
14 that because this was a technical matter it had been  
15 referred to Highways, and therefore "By copy of the  
16 email ... Mr Vincent Chu, who is a senior engineer of  
17 Highways ... looking after [the] project, will approach  
18 you shortly". Okay?

19 A. 明白。

20 Q. That's just to get the thing in sequence. Then what  
21 happened --

22 A. 係。

23 Q. -- was late in the afternoon on 15 September 2017, you  
24 had a meeting with Mr Zervaas and Mr Speed?

25 A. 係。

1 Q. And at that meeting you discussed the commercial  
2 situation between you.

3 A. 喺15號會議冇討論嘢嘅，鬧交嘅咋。

4 Q. All right. That's what you say, Mr Poon. I'm trying to  
5 deal with this as quickly as I can. I'll leave  
6 Mr Shieh, if he wants to, to get into the detail.

7 But you say on the 15th you had a meeting with  
8 Mr Zervaas and Mr Speed, you obviously discussed your  
9 commercial situation but you didn't reach agreement on  
10 that day?

11 A. 唔淨只商業情況，係包括cut coupler，包括睇嗰段片，包括咗Karl  
12 Speed話要封殺我哋公司。

13 Q. All right. That's your version of that meeting on the  
14 15th.

15 You then say, on the 18th, you had another meeting,  
16 I think with Mr Zervaas and Mr Speed, and it's at that  
17 meeting that you settled your commercial differences?

18 A. 唔只商業上分歧，嗰度我諗對咗五、六樣嘢。

19 Q. All right, but one of the things you did was reach  
20 a commercial settlement with Mr Zervaas and Mr Speed,  
21 you say on the 18th?

22 A. 其中一樣係，其中一樣係，包括咗其他所有嘢。

23 Q. All right. Now, I don't know whether you've had the  
24 opportunity of reading the witness statements of  
25 Mr Zervaas and Mr Speed about this particular situation



1 on 15 September, but essentially, if I can summarise it,  
2 they say there was just one meeting, on the 15th, and  
3 that is when you did the deal, and the agreement was  
4 then subsequently signed, and there was no second  
5 meeting, certainly with Mr Speed. There was another  
6 meeting a couple of days later with Mr Zervaas. All  
7 right?

8 But Mr Speed is telling the Commission, in his  
9 witness statement, that the only time he met you in this  
10 context was on 15 September.

11 A. 唔係。

12 Q. All right. Anyway, what happened was you reached  
13 a settlement agreement, and that agreement is at 7993.  
14 That's right, is it, Mr Poon?

15 A. 呢個其中一份協議呀。

16 Q. Yes. So far as the final account statement is  
17 concerned, we see that at 7995, the details of it, and  
18 the final amount payable is \$1.6 million; do you see  
19 that?

20 A. 睇到。

21 Q. Then the other agreement that was reached, and is dated  
22 18 September, was the confidentiality agreement, and  
23 that you will find starting at 8000.

24 A. 係。

25 Q. Had you ever been asked to enter into one of these

1 confidentiality agreements on any other sub-contract  
2 before, Mr Poon, or was this the first time you were  
3 ever asked to enter into this type of agreement?

4 A. 之前有--我諗我喺我二十幾年嘅生涯當中，有--呢個係第二份，呢個  
5 第二份。

6 Q. The second one?

7 A. Second one only, 但係通常喺個main contract都會有好多隱藏條款  
8 或者有啲條款係講confidentiality嘅。

9 Q. All right. So obviously, we see this document is headed  
10 "Confidentiality agreement" --

11 MR BOULDING: Sir, could I just point out the document has  
12 not come up.

13 MR PENNICOTT: I'm so sorry. I wasn't paying attention.  
14 I've got the hard copy.

15 CHAIRMAN: Thanks. That's better.

16 MR PENNICOTT: Thanks for that.

17 We are all now on the same page, as it were.

18 So, Mr Poon, there's a definition of "Confidential  
19 Information" in clause 1, and I'm not going to trouble  
20 you with it and go through it, but the important clause  
21 for current purposes I think, Mr Poon, is at 8002, where  
22 we have a heading just above 3.5 which says "Return or  
23 destruction"; do you see that?

24 A. (Nodded head).

25 Q. It says:

1            "At any time upon demand by" -- and I'm going to use  
2            the word "Leighton" rather than "LCAL" -- "Leighton, the  
3            Subcontractor must promptly deliver up to Leighton or  
4            destroy (at the option of Leighton), all copies of any  
5            Confidential Information (including any information that  
6            is derived from Confidential Information) as may be in  
7            the Subcontractor's control or possession (including  
8            copies in the control or possession of the  
9            Subcontractor's Affiliates, agents, consultants or  
10           subcontractors), provided that the Subcontractor may  
11           retain a copy of the Confidential Information as  
12           required:

- 13           (1) for accounting purposes;  
14           (2) by any court, law or regulation; or  
15           (3) by the rules of any relevant stock exchange."

16           Therefore, do you agree with this general  
17           proposition, Mr Poon, that you are only required to  
18           destroy confidential information if you are requested to  
19           do so by Leighton?

20           A. Yes.

21           Q. Now, as I understand it, you say you were requested by  
22           Leighton --

23           A. Yes.

24           Q. Firstly, can you inform me, or inform the Commission,  
25           rather, who requested you to destroy information?

26           A. Karl Speed.

1 Q. When did Mr Speed make that request or demand?

2 A. 9月18號，我記得佢喺入咗嚟寫字--入咗個會議室短短時間嘅，佢當時要求  
3 我銷毀喺個電話上面我show過畀佢睇有關剪鋼筋嘅相同片。

4 Q. Okay. You perhaps anticipated my next question. So  
5 we've got Mr Speed, 18 September, at a meeting. The  
6 next question is: what information did he ask you to  
7 destroy?

8 A. 剪鋼筋嘅片--剪鋼筋，thread cutting，剪鋼筋。

9 Q. So let me just understand, please. Try to recollect, if  
10 you can, the precise words that you say Mr Speed  
11 uttered. Do you say he told you to destroy any  
12 information you had about bar cutting? Is that what  
13 you're saying?

14 A. Karl Speed就講，叫我即刻銷毀咗我喺電話畀佢睇嗰啲相同片，因為我  
15 15號係畀咗我個電話嘅相同片畀佢睇，同佢拗，當時佢話係冇cut過鋼筋，  
16 而我係show畀佢睇係有相同片show到cut咗鋼筋。

17 Q. Okay. So my understanding is that he asked you to just  
18 destroy -- how many photographs had you shown him? Two  
19 photographs?

20 A. 我係差--大約係兩張相加一個片。

21 Q. Plus one video? Okay. That was the only request he  
22 made to you, just those two photographs and the video;  
23 is that right?

24 A. Karl Speed係，Karl Speed係，跟住Anthony都仲有。

25 Q. Hang on a minute. Let's just take this in stages. So,

1           so far as Mr Speed is concerned, we are just limited to  
2           the two photographs and the video that you showed him?

3       A.   係。

4       Q.   Okay. That's clear. Did anybody else at Leighton ask  
5           you to destroy information?

6       A.   跟住就我記得喺個會議室等咗好耐，曾經Mark Manning入過嚟，Mark  
7           Manning就淨係負責個final account嗰一部分，當簽完Mark Manning  
8           個final account，又等咗大概我諗有半個鐘至到八個字，喺當時陪住我  
9           等...

10      Q.   Sorry, I'm hesitating because the transcript has two  
11           names now. Can you spell the surname of the person you  
12           are referring to? Is it Manning?

13      A.   Manning, M-A-N-N-I-N-G.

14      Q.   Thank you. All right. So Mr Manning --

15      A.   淨係負責個final account嘅啫。

16      Q.   You're not suggesting that Mr Manning asked you to  
17           destroy any documents?

18      A.   No. He never.

19      Q.   That's fine. Okay. My question was: did anybody else  
20           at Leighton ask you to destroy documents?

21      A.   Okay, okay, okay, Manning入嚟簽完final account，佢就離開咗  
22           嚟喇，跟住只有我同Anthony喺間房度繼續傾，亦都喺度繼續等緊嗰個  
23           confidentiality agreement，大約我哋等咗半個鐘，喺嗰半個鐘時  
24           間亦都見得到蓮塘嘅事，跟住有禮頓一個後生仔，Chinese嚟嘅，我唔識

1 佢嘅，佢擺咗呢份confidentiality agreement入嚟，跟住我就喺  
2 Anthony面前睇，我睇到晒啲條款嘅，我哋有討論，Anthony就話我需  
3 要跟條款裏面--佢其實講咗好多嘢，其中講3.5，佢就話我要跟條款3.5  
4 裏面，佢知除咗--我哋公司除咗我電話之外，可能仲有其他有關cut鋼筋  
5 呢件事嘅相片或者紀錄，佢叫我全部返到去都要銷毀，跟呢個條款銷毀。  
6 佢特別講到呢個協議要埋我太太簽，因為禮頓知我哋嘅物業唔係淨係我一  
7 個人hold，有啲係我太太hold。

8 Q. Yes, I understand, and your wife did indeed sign the  
9 agreement as well.

10 What I'm first of all trying to focus on is your  
11 evidence that Mr Zervaas asked you to destroy -- I think  
12 this is what you're saying -- photos or records on bar  
13 cutting. Is that right?

14 A. 係。

15 Q. Now, I don't think -- I will be corrected if I am  
16 wrong -- you mention that in any of your five witness  
17 statements. Would I be right about that?

18 A. 好似有，好似喺警方有講過。

19 Q. You certainly mentioned about Mr Speed, I have no  
20 problem with that, and you think you might have  
21 mentioned it in one of your witness statements. We can  
22 check that if necessary.

23 A. 其實仔細個詳情就係頭先我咁講，仔細詳情。

24 CHAIRMAN: Sorry, could I just ask one thing?

25 MR PENNICOTT: Of course, sir.

1 CHAIRMAN: What made you think that these photographs  
2 constituted confidential information?

3 A. 我有拗過嘅，因為佢保密資料一開始個definition係冇寫明任何嘢嘅，  
4 即係喺page C8000嗰度，第1點嘅(a)，其實佢...

5 MR PENNICOTT: Sorry, let me intervene, Mr Poon, just one  
6 moment.

7 Sir, I didn't, and I'm sorry, read out in detail  
8 this definition, but it does bear looking at, I confess.  
9 Mr Poon is perhaps quite right:

10 "In this agreement [it says], unless the context  
11 otherwise requires:

12 'Confidential Information' means all information of  
13 any description and in any form, which has been  
14 disclosed by Leighton or has otherwise come to the  
15 knowledge of the Subcontractor through its involvement  
16 in the Project, including ...", and then we get (a),  
17 (b), (c) and (d).

18 Without wishing to make any submissions at the  
19 moment --

20 CHAIRMAN: No.

21 MR PENNICOTT: -- that's a pretty broad definition of  
22 "Confidential Information", if I may say, "or has  
23 otherwise come to the knowledge of the Subcontractor  
24 through its involvement in the Project" -- it's either  
25 very broad or actually very difficult to discern  
26 precisely what it's getting at, one or the other or

1 possibly both.

2 COMMISSIONER HANSFORD: It makes me wonder what information  
3 wouldn't be confidential.

4 MR PENNICOTT: Quite.

5 COMMISSIONER HANSFORD: Thank you.

6 CHAIRMAN: Thank you very much.

7 MR PENNICOTT: Mr Poon, we've not been able to find, albeit  
8 on a very quick check, any reference in any of your  
9 police statements to Mr Zervaas.

10 A. 唔。

11 Q. Yes, Mr Speed, but not Mr Zervaas. Although perhaps  
12 Mr Zervaas was, you say, with Mr Speed when you were  
13 asked you to delete the two photographs and the video.

14 A. 係。

15 Q. All right. If you go back, on to page 8006, on  
16 18 September, this is at the top of the page this time,  
17 Mr Poon, 7.22 in the evening, you write another email,  
18 back to the Assistant Secretary at the Department of  
19 Transport and Housing, and what you say, presumably  
20 having signed up to the final account agreement and the  
21 confidentiality agreement:

22 "During these few days we are working tight and hard  
23 on the suspecting technical issue with Messrs Leighton  
24 and had reached satisfactory understanding and full  
25 clarification, ie the suspecting subject had been  
26 cleared now and no significant impact is retained.



1           In order to avoid any unwanted impact and due to the  
2           good progress observed, we thus kept silent on the  
3           investigation from Messrs Highways Department and we had  
4           did our best endeavour on our act of non-disclosure.

5           We believe it is a full and final end of the issue  
6           and may we invite to close all relevant files  
7           accordingly."

8           Then you thank the Assistant Secretary for his  
9           attention, and so forth.

10          Mr Poon, when you say that you believed it was  
11          a full and final end of the issue, what did you mean by  
12          that?

13         A.   因為當時--其實當時喺個會上面有好多subject討論過嘅，有啲subjects  
14           係未解決嘅，但係關於紅磡站結構嘅問題，當時我獲得咗一啲affirmation，  
15           一啲承諾，第一個承諾就係話禮頓會承認有剪鋼筋，佢問我究竟我覺得有幾多  
16           百分比係被剪，跟住我就一連串...

17         Q.   So you asked by whom and when?

18         A.   Karl Speed同埋Anthony都有講過，Karl Speed全部講嘅嘢好快同埋  
19           好broad嘅，Anthony就會具體啲。

20         Q.   All right.

21         A.   跟住喺剪鋼筋同埋一啲defective coupler connection嗰度，Karl  
22           Speed親身應承佢哋會同港鐵去run一個proposal出嚟，去妥善解決呢個  
23           technical問題，而個proposal會基於我要求，種番鋼針個方向去做，  
24           佢當時亦都強調，喺16號，我同Anthony喺site--帶過Anthony去site

1 睇，當時個擋土牆，我當時睇過西面擋土牆，係仍然expose嘅，即係話  
2 喺EWL track slab嗰個3米範圍，我哋其實可以行喺個擋土牆出面，要  
3 做嗰個種鋼針嘅方法其實好簡單，睇嚟，我記得大家都仲有一個估計，都  
4 係幾百萬嘢，即係幾百萬嘅工程，因為基於呢個承諾，而且睇嚟，禮頓今  
5 次係唔會再反口覆舌，同埋連Karl Speed都知道呢個唔係咁大工程嘅--  
6 即係唔係咁大件事嘅--唔係咁難做嘅一個補救方案，所以我選擇相信佢。

7 Q. Okay. You do realise that of course both Mr Zervaas and  
8 Mr Speed don't accept a word of that; you're aware of  
9 that, are you?

10 A. 我見到佢哋而家係反口嘅。

11 Q. Did you never think about putting that in writing, given  
12 its apparent importance?

13 A. 有，有，有。

14 Q. Did you?

15 A. I try.

16 Q. What do you mean, you tried?

17 A. 唔係，我係要求我哋中科同禮頓簽番一份協議，寫清楚呢啲point。個  
18 confidentiality agreement入嚟之前，其實我expect呢個文件  
19 裏面會寫埋呢啲point嘅，結果冇，所以我哋擾攘咗好耐先簽。

20 Q. Again, Mr Poon, do I find that in any of your witness  
21 statements?

22 A. 我有仔細寫。

23 Q. Well, you didn't write it out at all.

24 A. 我再講一次，我再講一次，個confidentiality agreement裏面，禮頓

1 係有絕對權力講任何嘢成為一啲需要保密協議cover嘅範圍。我頭先喺個  
2 獨立調查委員會之前又或者之前我向公眾都多次重申，我唔會講晒所有嘢，  
3 只係講一啲公眾知道嘅嘢，我會留待喺獨立調查委員會先講，所以喺我第  
4 一日作供開始，我就不斷將我知道嘅嘢講出嚟，而包括呢個電郵，8006嘅  
5 電郵，8006嘅電郵，唔係我本來想寫嘅原意嚟嘅，呢個電郵係Anthony喺  
6 臨尾我就離開個會議室嘅時候，佢要求我出番畀運房局close番件事。

7 喺呢個電郵之前，我聽到Anthony收咗個電話嘅，跟住個電郵係用我  
8 嘅一個電話發出去，但係內容係爭議過嘅，我寫咗一個簡單version，跟  
9 住Anthony改咗一個我覺得favourite to禮頓嘅version，跟住我哋  
10 又執執執，執到而家呢個content。

11 Q. The problem we've got, Mr Poon, is that, as I suggest,  
12 all of this that you are now telling us, telling the  
13 Commission, is not in your witness statements, and as  
14 far as I can recall is not in any of your police  
15 statements.

16 So what we're getting now, for the first time,  
17 despite the Commission having asked you to provide  
18 a detailed witness statement or witness statements, with  
19 everything you want to say in it, we're now getting some  
20 of this material for the first time.

21 What that does, Mr Poon, potentially, is prejudice  
22 other parties, because they haven't yet had  
23 an opportunity of hearing what you're now saying and  
24 trying to address it, and that's harmful to them and  
25 frankly, Mr Poon, to the process that we are engaged in.

1           So why is it that you are now saying these things  
2           for the first time?

3       A.  我一直都講，我會入到聆訊--個調查委員會度，我就會講晒全部嘅事，我  
4       特別回應番你話我而家先講呢個質疑，今朝我收到兩份嚟自禮頓嘅witness  
5       statement，一份就係嚟自Anthony嘅，正正就係你講緊嘅content，我  
6       Jason Poon作供已經第三日，禮頓喺我第三日作供嘅時候先突然間又影一  
7       份有關commercial disputes嘅witness statement，咁我點回應呢？

8       Q.  Mr Poon, with respect, that's not entirely fair.  What  
9       Mr Zervaas and Mr Mok were responding to were witness  
10       statements, your fourth witness statement, and the  
11       photographs you produced last Friday.  That's what they  
12       are responding to.

13      A.  我第四份witness statement就係回應番石永泰先生喺佢opening亂咁  
14      噏，out of context咁樣講話中科要脅600萬，話中科收咗600萬，就  
15      係因為石永泰先生喺毫無證據之下亂咁指控中科，之前中科嘅所有證供都  
16      冇講有關commercial嘅問題。

17      Q.  I understand.

18      A.  呢個對唔對中科公平呢？

19      Q.  We're trying to be fair to everybody here, not just you,  
20      Mr Poon, but everybody, and you produced a fairly late  
21      witness statement and you produced some photographs that  
22      nobody had seen before --

23      A.  Thank you.

24      Q.  -- on Friday, and they were simply addressing those  
25      matters.  Your lawyers this morning asked for you to be

1 given -- your lawyers this morning asked me whether you  
2 could be given an opportunity to read the two  
3 statements, and you were given that opportunity before  
4 we started this morning, and I imagine that you did take  
5 that opportunity to read those statements.

6 A. 你哋有另一位同事其實approach過我，佢問過我睇完呢一個證人供詞之後我  
7 有啲乜嘢要求，我講咗個證人供詞裏面又係好片面咁講部分我哋嘅disputes，  
8 commercial disputes，我如果要回應嗰份文件，我返去要睇番晒成個track  
9 嘅commercial disputes，最少都要三日時間，如果我加一份witness  
10 statement去respond，要另外一日。

11 CHAIRMAN: Sorry, Mr Poon, but what we're talking about,  
12 essentially, now, is your agreement to destroy --

13 MR PENNICOTT: Indeed.

14 CHAIRMAN: -- and/or dispose of what you say would have been  
15 critical evidence to prove what you had seen. So that's  
16 the subject that we're looking at.

17 You have said that the reason you did it was because  
18 of an obligation in terms of this agreement, but with  
19 respect you must have known some time ago how important  
20 these bits of evidence that you say you destroyed were,  
21 and one would perhaps have expected you to canvass that  
22 with your lawyers, so that, in accordance with the rules  
23 of this Commission, there could be a written summary of  
24 what you intended to say, so that it would be known to  
25 everybody and nobody would be taken by surprise. Do you

1 see?

2 So we are not actually just talking about commercial  
3 terms. We are talking about your supposed destruction  
4 of important evidence going to defective coupling and  
5 defective construction.

6 Sorry, it was a bit long-winded. I just wanted you  
7 to understand entirely. I'm not particularly interested  
8 in the niceties of the commercial agreement, other than  
9 insofar as it relates to why you will have destroyed  
10 evidence.

11 MR PENNICOTT: Yes. And, Mr Poon, can I just follow that  
12 up, because I'm not clear in my own mind about what you  
13 have in fact destroyed. Other than the two photographs  
14 and the video, which you mentioned earlier -- I think we  
15 know about those -- you say that Mr Zervaas made another  
16 request, I think, for you to destroy  
17 material/photographs relating to bar cutting.

18 A. 係。

19 Q. So can you give us some help: when did you destroy this  
20 material? How did you go about destroying this  
21 material? How did you decide whether it was related to  
22 the bar cutting or not? And -- try that for starters.

23 A. 我首先回應番，我想答番Mr Chairman先，我明白Mr Chairman個問題嘅，  
24 但係我想委員會知道，其實由委員會嘅律師出封信要求中科畀證供，其實只係  
25 十幾日時間，我哋嗰個--我哋要答八頁紙嘅問題，中科並唔係--呢間公司並

1 唔係大到好似禮頓或者港鐵咁樣，或者唔係好似佢咁一早已經請咗律師，  
2 請咗大律師喺度幫佢鬥文件，中科係用中科自己公司寫字樓嗰四位同事  
3 去不斷去執資料，同時間又要搵律師...

4 CHAIRMAN: Mr Poon, I appreciate you have been under  
5 considerable pressure.

6 A. Just let me finish.

7 我係想儘量好詳細咁樣寫我witness statement嘅，我再講，如  
8 果我係可以憑我記憶寫晒成個witness statement，我相信淨係我份  
9 witness statement可能一百頁紙，但係我哋根本冇咁嘅時間，所以  
10 我就將啲重點，尤其是我覺得獨立調查委員會嗰個term of reference  
11 裏面要調查嘅資料，而又係我第一身嘅，我就寫仔細啲，而有關呢一個  
12 銷毀呢啲文件嗰方面，我當時我睇唔到一個好重要嘅weight，而我亦都  
13 覺得呢啲係不證自明嘅，係不可抗力嘅。份文件本身3.5段已經寫得好清  
14 楚禮頓要求我銷毀文件，禮頓最初係唔認添嘅，石大狀喺佢opening，喺  
15 23號opening講根本就冇叫我銷毀文件，呢份只係普通簽final account  
16 去attach一個平常不過嘅一個保密協議啫，而家我聽到委員會嘅counsel  
17 問我嘅時候，似乎你呢個方向同禮頓嘅方向唔係好同，但係我重申，而家  
18 我將我知道嘅嘢，當我面對委員會問我問題，我盡我能力仔細咁回答，所  
19 以唔好再質疑我有冇寫到嗰個witness statement度。如果你哋想我淨  
20 係講我witness有寫嘅嘢，請話畀我知，我就一句都唔多，一個字都唔會  
21 多，如果咁樣係幫助到公眾理解究竟禮頓同港鐵喺紅磡站做咗啲乜嘢而導  
22 致特首會同行政會議要動用獨立《調查委員會條例》去調查，如果你哋覺  
23 得咁樣係可以滿足呢個terms of reference嘅，我一定會尊重獨立調

1 查委員會嘅指示。

2 MR PENNICOTT: Mr Poon, park what's in your witness  
3 statement on one side for the moment. Can you please  
4 explain to the Commission what information -- whether it  
5 was documents, whether it was photographs -- that you  
6 actually recall destroying. And, if you can, please try  
7 to be as specific as possible as to what was destroyed.

8 A. 其實我哋做咗幾樣嘢嘅，第一樣，我哋返到去之後，我哋叫咗行政部將所有  
9 有關紅磡站嘅電腦format過一次，跟住其實我哋跟住就將我哋嘅寫字樓由  
10 紅磡站嘅地盤寫字樓搬咗去--部分搬咗去大埔，部分搬咗去港珠澳大澳我哋  
11 site office，有少部分搬咗去蓮塘，喺搬之前，我哋將全部電腦format  
12 過一次，呢個第一；第二--我解釋下第一添吓，因為其實我哋喺紅磡站有部  
13 分嘅load上去Dropbox嘅相片係經電腦load嘅，我哋format過佢，有部分  
14 已經冇咗喇，而喺Dropbox上面嘅嘢係由我自己花咗大概我諗個零月時間  
15 去粗略咁睇，而粗略咁刪除。我指粗略，因為逐個file揀係好費時，所以當  
16 我見到嗰度附近有，我就擺mouse highlight佢，delete佢，就係咁。而  
17 其他，我哋其實冇乜點文件上嘅紀錄嘅，我哋比較電子化，我哋唔會將啲電郵  
18 print出嚟，電郵上嘅紀錄我哋冇刪過。

19 Q. Okay.

20 CHAIRMAN: All right. So you're saying that in light of  
21 what you understood to be your obligation, you went  
22 back, you looked at your Dropbox, and any line of  
23 photographs or box of photographs that appeared to focus  
24 on the Hung Hom Station you simply deleted en masse?



1 A. 係喇。

2 MR PENNICOTT: All right. But, Mr Poon, when you gave your  
3 first police statement on 4 July, you took along a USB  
4 stick, we know, which, as I understand it, from the  
5 discussion we had yesterday, had about 40,000  
6 photographs on it; yes? Am I right?

7 A. 係，係，係。

8 Q. And those are 40,000 photographs, as I understand it,  
9 that do relate to the SCL1112 project?

10 A. 係。

11 Q. So you clearly didn't destroy everything or, if you had  
12 destroyed it, you managed to recover it somehow. What's  
13 the situation, Mr Poon?

14 A. 我再仔細講一次，頭先我講話取--即係delete，其實係當我見到嗰啲相片或  
15 者嗰啲video有機會影到嗰啲剪鋼筋嘅情況，我就會擺隻mouse highlight  
16 咗嗰堆相片或者video，然後delete，我係用Mac機嘅，即係我係用Apple  
17 嘅Mac機嘅，我哋個highlight方法可以打橫、可以打直，只要個mouse  
18 cursor拉落去掂到嘅，就可以delete 㗎喇，同window唔係好同。咁樣  
19 delete咗完之後，包括咗，因為我係咁拉個mouse cursor，其實我將部分  
20 嘅directory又overlap咁拉咗落去另外一啲directory度，所以喺跟住  
21 之後，即係話我做完呢個動作，大概喺2017年嘅10月或者11月嘅，我哋個  
22 server上面嘅相片庫係亂咗嘅，係畀我搞亂咗嘅，跟住我就冇再掂過喇。我  
23 哋嘗試過喺警察嘅要求之下去retrieve番，即係去擺番啲資料，但係唔成  
24 功，跟住我哋嘅做法就係將我哋當時嗰刻成個server，唔單只相片庫，我哋

1 相片庫係排喺05嘅，我哋仲有04、03、02、01，分別有啲係圖則，有啲係  
2 工人紀錄，有啲合約，有啲commercial文件，同埋後面，包括有安全嘅文  
3 件或者一啲commercial嘅文件，我哋成個係搵咗畀警察，所以喺警察嘅  
4 「手指」係好清楚睇到我哋7月初我哋個成個server嘅file structure  
5 嘅。

6 Q. So -- I'm just trying to understand this, genuinely,  
7 Mr Poon -- are you saying that you managed to recover  
8 all of which you had deleted or just some of that  
9 material that you had deleted?

10 A. 其實喺Dropbox recover嗰度，呢個動作係大約6月尾到7月初喺見警察之  
11 前做，我完全睇唔到recover啲乜嘢，我亦都唔得閒睇，總之我喺Dropbox  
12 度見到有關1112呢個directory嘅嘢，我都要recover咗落去，我就再有  
13 理究竟裏面recover啲啲係乜嘢，因為喺Dropbox recover度，我係睇唔到  
14 嗰個file係乜嘢嘢，我淨係見到大約粗個file名嘅咋，recover完之後，就  
15 係搵畀警察個資料。

16 Q. Mr Poon, I think it's come out on the transcript as  
17 "2011 and 2012". I think what you mean is  
18 contract 1112; is that right?

19 A. 係，1112。

20 Q. You see, what I'm coming to a bit later is back to the  
21 topic of photographs, a little later on, I hope fairly  
22 soon. What I'm trying to find out from you, Mr Poon, is  
23 whether, when you turned up -- you may not know the  
24 answer -- when you turned up to the police station on

1           4 July with your USB stick and you passed it over,  
2           clearly it had a large quantity of photographs on it;  
3           yes?

4           A.   澄清下，當時警察為咗方便我，佢哋好好，佢哋嚟我寫字樓嘅。

5           Q.   All right. But when you gave them a USB stick, it had  
6           a large quantity of photographs on it, about 40,000, you  
7           told the police; yes?

8           A.   係。

9           Q.   Let's try to put it around the other way. Do you know  
10          whether any photographs that you had taken were missing,  
11          ie had been destroyed forever?

12          A.   嗰一刻未知，嗰一刻未知，嗰一刻未知。

13          Q.   What about now; do you know?

14          A.   知道，起碼有關A區堆滿垃圾喺個area A concrete嘅相係搵唔番，因為  
15          曾經想喺嗰度落口供，但係搵唔到相；亦都仲未搵到一幅，我曾經見過好多  
16          幅嘅，成地剪到嗰啲螺絲頭嘅相；仲有一種相，當時我都係見到嘅，就係有  
17          成堆拆咗出嚟coupler嘅相。

18          Q.   Okay.

19          A.   我好深印象有嗰啲相，但係我搵唔番出嚟。

20          Q.   Okay. So your evidence, in summary, therefore, is that,  
21          yes, you did destroy photographs; you recall that some  
22          of those photographs showed incidents of cutting, and  
23          also couplers, you recollect those photographs, and they  
24          are no longer available to us because of the destruction  
25          process? They have not been recovered?

1 A. 係，我再重申，我再去搵個相片嗰時，嘗試好多次，警察其實都有幫助我嘅，  
2 我而家我可以咁講，我仔細逐張相、逐張相去重溫，呢個咁嘅動作我係做到  
3 11月嘅，2015年11月。

4 Q. Okay.

5 A. 我仲未完成晒餘下嘅所有相。

6 Q. Right. Mr Poon, in view of the time, I'm going to try  
7 my best just to shortcircuit the next bit of the  
8 examination that I had for you. I don't know whether  
9 I will succeed.

10 Having signed up to the confidentiality agreement  
11 and the final account agreement on 18 September 2017,  
12 am I right in thinking that in terms of your commercial  
13 dealings with Leighton, the next part of the story  
14 commences in essentially March of this year, 2018?

15 A. 唔係，唔係，唔係，冇停過。

16 Q. It never stopped? All right. Let me try to speed it  
17 up. It probably isn't the right way of doing it, but  
18 let's see.

19 In March 2018, you sent an invoice to Leighton for  
20 approximately \$14 million.

21 A. 係呀，係根據嗰個協議上面，有關禮頓要還番晒我哋公司嘅地盤價值一千  
22 萬嘅通架畀我哋，但係禮頓唔肯還。

23 Q. As I understand it, Mr Poon, from the documents that  
24 I've had access to and that I've read, what you say  
25 is -- although you don't mention this in your witness

1 statement -- is that when you had entered into this  
2 deal, the settlement agreement, the final account  
3 agreement in September 2017, you had left a quantity of  
4 materials, scaffolding, formwork, and so forth, on the  
5 site, which you say Leighton used for a period of time,  
6 maybe five, six or seven months, and therefore you wish  
7 to be paid for either the depreciation in those  
8 materials or essentially some form of hire charge for  
9 those materials. Is that broadly what happened?

10 A. 其實事件就係咁樣嘅，喺2017年9月18號，我哋喺討論嗰個成個--呢組有  
11 六、七個content嘅協議嗰個時候，其中一點講到我哋起貨，禮頓係擺咗我  
12 哋好多架去畀其他判頭用或者禮頓自己用，而嗰啲通架係我哋公司嘅資產嚟  
13 嘅。

14 Q. I understand that. I'm trying to help you.

15 A. 喺7995頁嘅第12行有寫到，第C7995頁第12行有寫到，當時Anthony應承  
16 佢會馬上租番其他公司嘅架去replace番我哋嘅材料，令到我哋可以逐步將  
17 啲材料儘快可以搵走，但係結果冇做到，我哋不斷追，不斷有WhatsApp，  
18 不斷有電郵追，我哋收番啲嘢要，我哋唔係完全收唔到，但係我哋收唔到超  
19 過百分之十，所以去到3月，我記得係我落過地盤同John Kitching同埋  
20 Jayden開過會，佢哋當時話畀我聽「冇辦法，啲嘢仲用緊，拆唔到畀你，  
21 不如你上番張單畀我哋，我自己同上面寫字樓講。」所以我哋就用2017年  
22 9月18號嚟做開始日，去用市場價值嘅租金上番單畀禮頓，就係咁。

23 Q. In the sum of about \$14 million?

24 A. 差唔多。

1 Q. And, as I understand it, Mr Poon -- correct me if I am  
2 wrong -- that invoice wasn't paid?

3 A. 冇畀過，一貫禮頓嘅作風。

4 Q. All right. In parallel with the events of sending that  
5 invoice and discussing about your materials, you were  
6 also involved in a joint venture with another company --

7 A. 係。

8 Q. -- at Lian Tang, if I've got that pronounced correctly.

9 A. 係。

10 Q. And we know that on 24 April this year, your joint  
11 venture agreement with Leighton in relation to that  
12 project was terminated?

13 A. 係。

14 Q. That's saved me looking at about half a dozen emails.  
15 It might have taken a few minutes, but it's quicker.

16 Now, Mr Poon, I want to come back, I think, to the  
17 question of photographs.

18 For this purpose, I need to give you a document,  
19 indeed I need to give everybody a document. The  
20 Commissioners too.

21 A. 我想趁呢個少少機會，派緊文件嘅機會，有個請求，喺食飯之前，Mr  
22 Chairman問過我一個問題，就係有關如果個鋼筋根據禮頓嘅第七千幾  
23 頁嘅文件裏面所講，唔需要扭晒人去個coupler嗰度，係咪就剩番剪  
24 鋼筋嘅問題呢，其實喺lunch期間，我review番部分文件，我覺得對  
25 調查委員會係好大幫助，我希望講番啲文件畀巴畀調查委員會，喺跟住

1 嘅一啲訊問嘅時候可以有機會睇番。

2 CHAIRMAN: All right. What are the numbers?

3 A. Okay, 喺港鐵提交畀政府有關紅磡站cut鋼筋呢個報告上面, bundle  
4 B1 page B28, 有講到個mechanical coupler係需要BD審批, 有講  
5 到個mechanical coupler禮頓係申請使用BOSA spliced pieces  
6 嘅ductility coupler, 亦都有講到有一個文件叫做QSP, 喺而家螢  
7 幕show到嘅大概中下段。

8 "... a QSP for the couplers for the diaphragm wall  
9 reinforcement cage and slab construction at Hung Hom  
10 Station was submitted to BD on 12 August 2013. "

11 我嘗試去搵番呢個QSP, 我喺禮頓嘅文件C20頁開始搵到, 禮頓嘅  
12 bundle C1, C20頁, 呢個係禮頓佢report畀政府, 包括咗工務科, 包  
13 括咗發展局, 亦都係有關解釋番喺6月--5月尾畀報紙報道之後嘅一啲有關  
14 cut鋼筋--包括cut鋼筋嘅一啲報告, 我就唔詳細讀, 因為好長。但係我哋  
15 睇睇呢封信嘅尾, 佢有個attachment嘅, 個attachment H就喺page  
16 C31。

17 MR PENNICOTT: So you're in bundle C1.

18 A. C1, C31. Okay. You can see appendix H就係個QSP。

19 Q. Yes.

20 A. 個文件好長, 我唔想大家花時間喺度讀, 但係我跳幾個重要嘅文件畀大家睇。  
21 跟住我哋跳去C96, page C96, 呢個就係Building Department喺批核  
22 呢個ductility mechanical coupler嘅時候嘅一啲嘅requirement  
23 嚟嘅, 中間好長嘅, 我唔想逐個講, 但係我想講第C96頁嘅(a)段同埋(b)段,

1 佢哋講到嗰個驗收係要由T3--sorry，我而家講緊(b)段第五行，佢係  
2 講到“The minimum qualifications and experience of the  
3 quality control supervisor is to be the same as the grade  
4 T3 technically competent person, as stipulated in the  
5 Code of Practice for Site Supervision 2009.”

6 CHAIRMAN: Sorry, are you saying that there was not  
7 a competent person with those qualifications?

8 A. 有，有，有，有，有，Let me develop.

9 跟住我哋再睇文件，由C150開始，C148好清楚喇，就係呢個就係嗰  
10 個appendix H，就係個quality supervision plan，就係DB，  
11 Building Department批准呢個工程使用BOSA呢一隻款式嘅ductility  
12 coupler嘅一份指導性嘅文件。成份文件其實我嚟咗一次，我話完全搵唔  
13 到禮頓頭先present畀大家睇話嗰個coupler可以少幾個牙都可以收貨嘅  
14 兩張相，完全搵唔到。

15 而另一方面，我搵到第C164頁一啲比較具體嘅證據，C164，C164  
16 頁上面見到我哋有三個diagram嘅，我哋喺上面數落嚟第三個，即係最底嘅  
17 diagram，上面見到絞牙嘅長度係T，coupler嘅長係2T，喺呢個diagram  
18 話到畀我哋聽，我哋唔應該見到任何嘅threadings喺完成安裝之後會  
19 expose咗喺coupler外面，T加T就等如2T。

20 CHAIRMAN: Mr Poon, I don't want you to misinterpret the  
21 question I put this morning. I made it quite clear to  
22 you that if the two issues that I had spoken to were  
23 proved not to be issues by the experts, would you then  
24 agree that the only issue remaining was one of the cut



1 rebar. So it may well be, when the experts come in --  
2 I've not read a single expert report yet; I think  
3 they're still going about their good work -- that they  
4 will agree entirely with you, and they may say, "We  
5 can't understand how BOSA could possibly have done this  
6 or agreed to that."

7 So I'm not jumping to any conclusion. All right?  
8 I appreciate that there are a lot of brochures, there's  
9 a lot of technical guidance, there are no doubt a lot of  
10 opinions, and no doubt the experts will give their  
11 opinions in due course. All of that is open to the  
12 Commission to look at. All right? I was asking you  
13 a question within a very limited structure; okay?

14 A. Okay, 多謝主席。或者我rephrase下我嘅講法, 或者我淨係講--我回應  
15 番我見到--我第一次見到有關禮頓呈審界獨立調查委員會聲稱BOSA覺得  
16 coupler唔扭晒啲螺絲頭入去係可以收貨, 而我見到喺文件上大家應該要  
17 參照嘅一啲文件, 好快我就講完㗎喇。其實我哋跳到去C176頁。

18 MR PENNICOTT: Before you do that, Mr Poon, can we just go  
19 back to the page that you were on, at C165.

20 A. Okay.

21 Q. What you need to do, if you're being careful about  
22 reading this page, is not just look at the diagrams but  
23 look at the boxes above. There is one box which says,  
24 "Tolerance external thread (millimetres)", and if you  
25 have a 40 millimetre bar, the tolerance for external

1 thread is 4 millimetres; a 50 millimetre bar is  
2 6 millimetres. Do you see that?

3 So to say that this shows no thread should be  
4 showing, with respect, is wrong. There is still  
5 a tolerance by reference to this document.

6 A. 其實我就唔想同你講啲技術嘅爭拗嘅，不過如果你既然講，我又同你講，  
7 Mr Ian Pennicott，你錯...

8 Q. I'm not sure it's appropriate. I'm just pointing out  
9 what's on this --

10 A. 我解釋畀你聽，喺T40嗰個table上面好清楚嘅，佢話external thread  
11 嘅tolerance係4毫米，係咪？而metric thread per pitch，即係每  
12 一個紋圈個距離就係直徑40.5，metric 40.5乘4毫米，即係話呢個table  
13 已經話畀大家聽，呢個table係BD批嘅table，要話畀大家聽BOSA嗰另一張  
14 文件話可以兩、三圈唔絞落去已經out of tolerance㗎喇，如果呢個係  
15 tolerance limitation，一個圈嘅咋，或者唔多於一個圈，個pitch，  
16 pitch就係crest to crest。

17 Q. Mr Poon, as the chairman has indicated to you on more  
18 than one occasion, we are grateful for your input and  
19 your views, but this is a matter for the experts that  
20 will be considered in due course, and I accept that they  
21 will look at this document and they will look at the  
22 other document that we looked at this morning, they will  
23 put it all together and they will come up with  
24 a conclusion. But we can't, again -- and I accept  
25 this -- just look in isolation at one document. We've

1 got to look at all of the documents. So there are lots  
2 of pieces of jigsaw to this particular puzzle, and  
3 I accept that the experts will need to look at every  
4 relevant piece of paper that bears on this particular  
5 point, and you've drawn our attention to this, for which  
6 I'm grateful.

7 A. 喺建築界，喺香港建築界其實有procedure嘅，BD批嘅嘢，如果我哋要改  
8 嘅話，要BD去做resubmission，re-approval，唔係我哋可以僭越咗  
9 BD嘅批核，跟住返轉頭搵番一個專家，就話咁樣安全啲。

10 Q. All right.

11 A. 不過我都好快講完，我仲有兩張文件講啫，176頁，唔該，其實176我哋就  
12 搵到個T3，T3呢個人，T3嘅人叫黃志超（譯音），喺個table嘅最底嗰行，  
13 T3，Wong Chi Chiu（譯音）。跟住我哋睇番D426頁--B426頁，唔喺  
14 呢個文件，係Boy，B426頁。或者我喺呢度停一停先。呢個其實exactly就  
15 係黃志超做畀獨立調查委員會佢嘅證人口供。

16 Q. Yes.

17 A. 就係個T3做畀獨立調查委員會嘅證人口供。我哋去426頁，呢個就係黃志超  
18 解釋畀大家聽喺呢個地盤用嘅coupler嘅一啲技術上佢覺得佢認識嘅一啲參  
19 數。我哋向下，繼續向下行，我唔想改--再--即係喺呢個表度再太多演繹。  
20 我想睇28.3嗰段，嗰段裏面其實有幾個資訊嘅，我唔講其他資訊，我淨係  
21 想大家睇一睇第三行嘅尾開始：

22 "... and then use a pipe wrench to screw the rebar  
23 fully into the coupler. "

24 "Fully"，我喺呢度嘅演繹已經講完，我亦都希望...（說話含糊）喺睇禮

1 頓--尤其是由禮頓呈審嘅文件嘅時候，要睇多啲、廣闊啲文件，我講嘅係咁多。

2 Q. All right.

3 CHAIRMAN: Sorry, with respect, when you say "the media", --

4 A. 唔係傳媒，唔係傳媒。

5 CHAIRMAN: -- while I have the greatest faith in the media,

6 indeed I started life as a cub reporter, myself, --

7 A. 唔係，我有講過「傳媒」啲，我有講過「傳媒」啲。

8 CHAIRMAN: I would like to say nevertheless that --

9 A. 我有講過「傳媒」。

10 MR TO: He did not say "media".

11 CHAIRMAN: All right. Thank you very much. But insofar as

12 it's relevant, submissions are made to this tribunal.

13 They are not made directly to the media. Thank you.

14 MR PENNICOTT: Mr Poon, I'm not going to pursue --

15 A. I never, ever said the word of "media".

16 MR PENNICOTT: I've no idea what you said. Mr Poon, I'm not

17 going to pursue that anymore. Perhaps Mr Boulding will,

18 because we've actually read on in the statement and seen

19 what he says later.

20 CHAIRMAN: Mr Poon, you have given us those references.

21 You're completed on that, are you?

22 MR PENNICOTT: Yes.

23 CHAIRMAN: Thank you very much.

24 MR SHIEH: He may not have said the English word "media",

25 but he said "傳媒", which is "media".

1 MR PENNICOTT: All right. Let's all calm down.

2 MR SHIEH: Maybe playing with words -- obviously he didn't  
3 say the word "media", M-E-D-I-A.

4 CHAIRMAN: I read the translation as "media".

5 MR SHIEH: Yes. Obviously he didn't say "media", the word  
6 "media".

7 WITNESS: Then石律師，唔該你correct me喇，我喺邊度講咗「傳媒」個字？

8 CHAIRMAN: Mr Poon, thank you very much. The matter has  
9 been resolved. It was a clarification. It was no more  
10 than that. Thank you very much.

11 MR PENNICOTT: Mr Poon, my last topic, and I apologise for  
12 returning to it, but I'm a bit concerned about the whole  
13 photograph situation with regard to China Technology,  
14 about which you've given evidence on a number of  
15 occasions, both in your witness statements and police  
16 statements, and indeed orally. If you'll be patient  
17 with me just for one moment, Mr Poon, and turn to the  
18 first page of this, I will explain to you what it is.

19 Last evening -- this is a document that the  
20 Commission's solicitors have prepared, working late into  
21 the evening last night, and for which I'm very grateful  
22 to them for doing. What I'm going to tell you is simply  
23 this, and for everybody else's benefit, should it be  
24 helpful to them, what this is is an attempt to identify  
25 all photographs that you have provided to the Commission  
26 at any given time.

1           And, if I can summarise it, looking at the first  
2           page, what you see we've done is to put the photographs,  
3           firstly, in chronological order. We decided that that  
4           perhaps was the best approach. We could have tried  
5           subject matter but it got a bit messy.

6           What we've then done is provided a bundle reference  
7           to each of the photographs. Where you have said, either  
8           in your witness statement, a police statement or  
9           an observation on a photograph, we have identified the  
10          area that you, Mr Poon, have indicated, and where you've  
11          identified more than one area we've identified all of  
12          them. You can see that in the "Area" column.

13          Sorry, I should have said that the red asterisk is  
14          explained right at the end, and if it has a red asterisk  
15          it means you have helpfully provided us with the  
16          original digital photo. So if there's a red asterisk,  
17          we've got the original digital; okay? Do you  
18          understand?

19        A.  明。

20        Q.  Then in the next column, we've got the subject matter,  
21          and again we've tried to use the words that you've used  
22          in each occasion, although we have, I accept, added the  
23          word "alleged" in certain of them.

24          Then what we've done, under the "Other comments"  
25          column, is to indicate where one will find each of the  
26          photographs. Do you see that, Mr Poon?

1           So, as I say, whether you exhibited it formally to  
2           your witness statement, the seven photographs that we  
3           looked at yesterday, whether they are photographs that  
4           were attached to any of your police statements, whether  
5           they were photographs that you provided to us in the  
6           bundle that came with your witness statement, or whether  
7           they indeed were the photographs that you provided with  
8           your witness statement on Sunday, they are all here,  
9           every single one that we've managed to find that you  
10          provided.

11          Now, you can see, just glancing down the "Bundle  
12          reference" column, that of course there are lots of  
13          duplicates.

14          A. Yes.

15          Q. So look at number 4; we will find it in three different  
16          places. Sort of going through the bundle, one gets the  
17          impression that there are loads and loads of  
18          photographs, but in fact, when one boils it down, what  
19          you have helpfully provided to the Commission are  
20          39 photographs, 39 different photographs. You see that  
21          at the end. All right?

22          A. 唔。

23          Q. Of course, it's open to anybody to go through this  
24          schedule and find out whether -- where or whether we've  
25          gone wrong. But can I just -- I'm not going to go  
26          through each of these with you, Mr Poon, but can I just

1 ask you first of all to look at the front sheet, the  
2 first page. It's quite clear, I think, that if you look  
3 at item numbers 1 and 3 by way of example, those are  
4 photographs that show, you say, the chiselling of the  
5 retaining walls; yes?

6 A. 係。

7 Q. As I understand it, and you can see from the right-hand  
8 column, those photographs were attached to two of your  
9 police statements; do you see?

10 A. 係。

11 Q. So I infer that the police asked you whether you had any  
12 photographs about the chiselling, or you volunteered  
13 that information to the police, one or the other. In  
14 any event --

15 A. 唔係，警察係想知點解嗰啲coupler會爛咗，扭唔到入去。

16 Q. I see.

17 A. 而呢啲相片show到其實禮頓嘅工人係用大風炮去打落啲coupler度。

18 Q. All right. That's fine. That's your explanation for  
19 those.

20 Then if you go, please, to items 24 to 27, the  
21 subject matter there recorded, you will see, Mr Poon, is  
22 "Through-bars"; do you see that?

23 A. 係。

24 Q. Again, those are either photographs that came in the  
25 bundle with your witness statement, or they were, as we



1 can see, attached to your police statement of 9 August,  
2 your last police statement; do you see that?

3 A. 睇到。

4 Q. So did the police ask you to provide some photographs of  
5 through-bars or did you volunteer those photographs?  
6 What happened about through-bars?

7 A. 其實我同警方嘅口供未落完嘅，我同警方係預本來約咗每一個禮拜落一次口  
8 供，當時同警方list出嚟嘅一個紅磡站嘅一啲結構問題，我記得identify  
9 咗五至七個，我哋係逐個落口供嘅，最初第一個就係落剪鋼筋，第二個就係  
10 亂咁改圖，呢一個相就係我哋呈審完亂咁改圖嗰啲圖片--嗰啲圖則之後，警  
11 方要搵番一啲具體證據係證明到有跟圖則施工而搵出嚟嘅。

12 Q. Okay. Understood.

13 Then, from number 39 to the end, we have put in  
14 chronological order the 11 photographs that you supplied  
15 with your witness statement on Sunday, last Sunday, four  
16 photographs of which we had obviously received on the  
17 Friday, and that's what we've done.

18 So this is a record of all the photographs that you  
19 have supplied to the Commission to date.

20 Now, Mr Poon --

21 A. 即係話有三十九張相。

22 Q. That's right. There they all are, all here, recorded  
23 here, and they are all part of the evidence, the  
24 documents that have been submitted to the Commission.  
25 What weight one pays to any particular photograph will

1 be a matter for debate in due course, but they are all  
2 recorded here; they are all in the documents.

3 Now, let me tell you this. I'm going to invite  
4 you -- we are going to be here for a number of weeks.  
5 I'm going to invite you, Mr Poon, if you wish -- you  
6 don't have to accept the offer --

7 CHAIRMAN: I'm sorry, I do apologise. Something has gone  
8 wrong here. There we are.

9 I can't hear you, sorry.

10 MR PENNICOTT: I'll start again. Mr Poon, we are going to  
11 be here for a number of weeks, and I'm going to invite  
12 you to do this. If you wish -- you don't have to take  
13 up my invitation, but if you would like you -- in the  
14 next two weeks, approximately, let's say to 16 November,  
15 which is the date we are going to have a short break  
16 from this hearing -- up to 16 November, we give you the  
17 opportunity to go away, look at your photographs again,  
18 if you wish, and provide us with any photograph which is  
19 to do with bar cutting, no other subject, just bar  
20 cutting; all right? That's an invitation I grant to  
21 you, I give to you, if you wish to take it up.

22 So you've got two and a half weeks to think about  
23 that. I appreciate that the next couple of days you  
24 might be stuck here, but there's no reason why  
25 presumably you can't, with my permission, instruct your  
26 employees to start looking again, if that's what you

1 want them to do.

2 But I give you the opportunity to provide the  
3 Commission with any other photograph that is about bar  
4 cutting or shortening.

5 With that, Mr Poon -- you can comment if you want --

6 A. 點解會有限制？點解會有限制？

7 Q. Because, Mr Poon, this process has got to be brought to  
8 an end at some point, and two and a half weeks seems to  
9 me, as we stand here today, a fairly generous period,  
10 given the opportunities that we know that you have had,  
11 and indeed have taken historically over the last few  
12 months.

13 A. 咁我又唔係好同意，如果你畀我去入埋我啲我review相嘅時候我見到任何  
14 結構問題我都可以入嘅，我會通宵，我都睇埋佢，但係如果你話只係限制  
15 畀剪鋼筋嘅話，而我搵到其他結構問題係唔可以submit畀個commission  
16 嘅話，我反對。

17 Q. You can object if you like. The offer I'm making you,  
18 Mr Poon, is in relation to photographs relating to bar  
19 cutting and shortening, which is frankly the primary  
20 reason we are all here.

21 CHAIRMAN: I would also add, Mr Poon, that this is an open  
22 invitation from counsel for the Commission. It means  
23 you don't have to seek permission. You can put them all  
24 together. You can explain their provenance in the  
25 correct way, as will be directed by counsel, and they

1           come before us for consideration.

2           If you should find other photographs which you  
3           consider to be compelling, then no doubt your counsel  
4           can make an application to put them before the  
5           Commission, and the Commission will consider its  
6           position. But those other photographs would have to be  
7           compelling.

8           WITNESS: 我會考慮。

9           MR PENNICOTT: Okay. You do that, and of course that may  
10          require you to come back.

11          CHAIRMAN: You can consider it, Mr Poon. This is not  
12          a bargaining shop; all right? You've been told what is  
13          open to you, and that ends it, on that particular  
14          matter.

15          MR PENNICOTT: Thank you, sir.

16          CHAIRMAN: Those are directions from counsel, supported by  
17          this Commission.

18          Yes, you have completed now, Mr Pennicott?

19          MR PENNICOTT: I have, sir. That will be an appropriate  
20          moment for ten minutes.

21          CHAIRMAN: Is this an opportune moment?

22          MR PENNICOTT: Yes.

23          CHAIRMAN: Ten minutes. Thank you.

24          (3.39 pm)

25    (A short adjournment)

26          (3.56 pm)

1 MR PENNICOTT: Sir, I've completed the questions that

2 I wanted to ask Mr Poon, certainly at this stage.

3 I don't know whether anything else will arise.

4 I understand from the interested parties that,  
5 having discussed matters, Mr Shieh is going to go first.

6 CHAIRMAN: All right. Good. Thank you, Mr Shieh.

7 Cross-examination by MR SHIEH

8 MR SHIEH: Mr Poon, you will know I represent Leighton.

9 Good afternoon.

10 A. Good afternoon.

11 Q. Can I ask you to look at the transcript of yesterday's  
12 hearing page 16, line 20. Just to explain to you the  
13 background of this exchange, this is at a point in time  
14 of yesterday's hearing when the subject matter of  
15 mistakes or errors or inaccuracies in your witness  
16 statements, and how they should be dealt with. Okay?  
17 This is the background against which this passage came  
18 about.

19 I want you to look at page 16, line 20, when

20 Mr Chairman said:

21 "Sorry, Mr Poon, are you saying that you've  
22 identified, in your copious statements, mistakes which  
23 are of some materiality, discussed it with your lawyers  
24 -- that's your evidence; it's not for me to impinge on  
25 lawyer confidentiality -- but you've made a decision, in  
26 the light of advice received, that you wouldn't put

1 anything in writing to identify the errors and explain  
2 them and correct them, so that we're left with known  
3 errors floating in the various statements that you've  
4 put forward as being correct?"

5 Then came your answer:

6 "In fact, let me explain. For the witness  
7 statements, basically they went in parallel with the  
8 statements given to the police, and the Commission of  
9 Inquiry requested us to provide not only statements  
10 given to the police but also the statements relating to  
11 other personnel of China Tech given to the police for  
12 the purpose of criminal investigation, and over this  
13 matter there was an internal dispute in my company.

14 For the criminal investigation work of the police,  
15 if we disclose the relevant information to the other  
16 parties, it wouldn't be fair to the police's  
17 investigation. And the police investigation started as  
18 early as July, I mean early July 2018. As far as I'm  
19 concerned, it was very intensive. At least I would  
20 spend one day every week to assist in police  
21 investigation.

22 At that time, my schedule got even more compressed.  
23 When I found out, in relation to witness statements  
24 given to the Commission of Inquiry, that there were  
25 quite important mistakes made, especially in relation to  
26 the month, I would need to correct this mistake, as well

1 as the same mistake which I identified in the statement  
2 given to the police. But in fact even the police was  
3 aware of this.

4 In the middle of August 2018, I already refused --  
5 I mean starting from the end of August 2018, I already  
6 refused spending one day each week working with the  
7 police and assisting them in their criminal  
8 investigation, because whenever I make a fresh witness  
9 statement, I needed to submit it to the Commission of  
10 Inquiry as well.

11 Now, in relation to the subject of the  
12 investigation, it's actually benefitting them, and that  
13 is why I suspended this approach. And after discussing  
14 with the lawyer, I would rather clarify the matters  
15 during the Inquiry."

16 Now, Mr Poon, from this passage, does it mean that  
17 when you affirmed your evidence in the witness box on  
18 oath, you were knowingly affirming, on oath, witness  
19 statements prepared for this Inquiry which you knew to  
20 contain inaccurate evidence?

21 A. It depends on how is the accuracy.

22 Q. I'm sorry, can you repeat it? It depends on what?

23 A. 要視乎個準確度，如果用個放大鏡去睇，串錯字又係錯，月份打錯又係錯，  
24 年份，typo，6同7打錯又係錯，咁你可能啱嘅。

25 Q. Well, those are not my words, Mr Poon. Look at page 17,  
26 line 22:

1            "When I found out, in relation to witness statements  
2            given to the COI, that there were quite important  
3            mistakes made, especially in relation to the month, I  
4            would need to correct this mistake, as well as the same  
5            mistake which I identified in the statement given to the  
6            police. But in fact even the police was aware of this."

7            So let's not talk about which specific mistakes or  
8            inaccuracy. I'm talking about the approach in principle  
9            that you have adopted to the question of how you would  
10           address inaccuracies known to you in your witness  
11           statement. Right? Let's not talk about examples of how  
12           important. Those are your words, "important mistakes  
13           made". Are you suggesting that even if you are aware of  
14           mistakes which you regard to be important, for some  
15           reason you would not put in a corrective witness  
16           statement, but you would affirm the witness statement  
17           which contained whatever important mistakes there were,  
18           and wait until people ask you questions before  
19           correcting those mistakes?

20        A. 我覺得石律師扭轉嚟講，我做oath嘅時候，係話畀...

21        CHAIRMAN: Sorry, I really don't think that it's necessary  
22           for the advancement of the Inquiry that matters be  
23           reduced down to a personal level. If I think a question  
24           constitutes a distortion of the facts, I will say so.  
25           But what you should attempt to do, as best you can,  
26           Mr Poon -- and all other witnesses will be put to



1 testing questions too -- you should attempt to answer  
2 the question to the best of your ability.

3 A. 我意思唔係「扭曲」，係「反轉」。我而家答石律師嘅問題，我企喺個證  
4 人欄，我進行個oath，我係話畀大家聽我喺證人欄將會講我真話，亦都喺  
5 問問題嘅初段，我都話咗畀大家聽我其實係睇到嗰個witness statement  
6 上面有需要修改嘅地方，我亦都話畀大家聽我將會用oral形式去話畀大家  
7 聽我嘅修改。

8 MR SHIEH: Only when those inaccuracies were put to you or  
9 shown to you, before you would amend them; correct?

10 A. No, you are incorrect .

11 Q. When your counsel asked you to affirm your witness  
12 statements on oath in the witness box in  
13 evidence-in-chief, you did not then take the opportunity  
14 to say, "I have the following inaccuracies in  
15 paragraphs X/Y/Z of my witness statement which I now  
16 want to amend before I affirm my statements on oath"?  
17 You did not do that, correct, Mr Poon?

18 A. 當日就正正係石律師打亂咗，就正正係石律師企起身三次，長篇大論咁樣  
19 唔畀我嘅主問去問有關相片問題，其實就喺相問題之後我就要講㗎喇。石  
20 律師係咪呀？

21 CHAIRMAN: Mr Shieh doesn't have to answer any questions.

22 The system works on the basis that questions that are  
23 rational and relevant will be put to you, in a polite  
24 manner, as they are, and you will do your best to answer  
25 in a rational, concise way, and politely too, and then

1 we move ahead. Okay?

2 MR SHIEH: What was my question? Don't look at the screen.

3 What was my question?

4 A. Please repeat.

5 Q. Thank you. You see, from time to time a witness  
6 actually takes a long time to answer a question, to the  
7 extent that counsel forgets about -- sorry, the witness  
8 forgets about the question.

9 My question is, when you took the oath in  
10 evidence-in-chief, you did not take the opportunity to  
11 say, "I have the following errors that I have spotted in  
12 my witness statement and I want to correct them before  
13 I formally affirm the correctness of my statement." You  
14 did not do that; correct?

15 A. I did.

16 Q. You did? Okay. But let me give you examples. In the  
17 course of your examination by Mr Pennicott, you remember  
18 that the question about the brand of the telephone that  
19 you used to take the photographs on 22 September was  
20 raised. You said "Huawei" in your witness statement,  
21 and you then corrected it in the witness box?

22 A. 我係講，我係話喺police statement我係講第二個電話，亦都寫得好  
23 清楚，而喺個witness statement寫「華為」係錯嘅，我係用Xperia  
24 Z2。

25 Q. You did not correct that in your evidence-in-chief;  
26 correct?

1           You did not correct that when Mr To, China Tech's  
2           counsel, asked you to affirm your witness statements?

3       A.  我再一次解釋，喺我主問，頭先講盤問，我喺主問嘅時候，其實我哋係準備  
4           咗要解釋我哋見到喺我哋嘅witness statement上面應該需要澄清嘅地方，  
5           不過當我哋主問喺討論第一個問題，就係討論第一、第二、第三張相片嘅時  
6           候，跟住我哋就遇到在席嘅一啲律師企起身反對，跟住喺講咗一輪之後，就  
7           我哋暫停咗，因為咁樣，而打亂咗我喺主問解釋個witness statement上  
8           面有咩嘢問題嘅地方，其實我當時準備嘅係有兩個，最少有兩個嘅解釋，第  
9           一個就係喺個月份上面，事實上嗰個句子都唔通順嘅，就係9月同12月嘅分  
10          別；第二個就係我話第二個電話嗰個，即係話你頭先所講第一個華為同第二  
11          個華為。

12       Q.  Can I ask you to look at the transcript of Monday,  
13           that's Day 6, page 115.

14       A.  Yes.

15       Q.  Line 2.  That is during your examination-in-chief.  The  
16           question was posed by your counsel:

17               "Mr Poon, do you wish to adopt these witness  
18               statements, the five of them, including the last one,  
19               the amended one" -- so you knew how to amend  
20               statements -- "as part of your evidence?"

21               Your answer:

22               "Yes, correct."

23               Then came numerous Qs and As, leading on to,  
24               page 116, Mr Pennicott raising the question of "don't  
25               give a prepared speech", et cetera.

1           So, Mr Poon, it appears from this transcript that  
2           you had already affirmed, adopted the witness statement  
3           as your evidence, without qualification, before Mr To  
4           asked you questions about photographs which led to  
5           subsequent exchanges, correct or not correct, according  
6           to this transcript?

7           A. As part of my evidence, yes.

8           Q. You were obviously then going to give additional  
9           evidence. Are you suggesting that what you had intended  
10          to do was actually to say, "Hang on, paragraph X  
11          contains an error and I want to correct it"? Is that  
12          what you say you were intending to do?

13          A. 當時我意圖係問到最尾嘅時候，當我哋嘅主問proceed，問我有咩嘢補充  
14          嘅時候，我就會講。

15          Q. So your lawyer forgot to ask you whether you had  
16          anything to add?

17          A. 我唔想答呢個揣測性嘅問題。

18          Q. Very well. Can I suggest to you that you had not taken  
19          the opportunity, in your evidence-in-chief, to amend or  
20          correct any inaccuracies, not because you forgot or  
21          somehow were disrupted, but because you wanted to take  
22          your chance to see whether anyone could spot the  
23          loopholes or gaps in your evidence and put to you,  
24          before you could say, "I'm sorry, that's a mistake"? Do  
25          you accept that?

1 A. 唔接受。

2 Q. And if no one spotted a mistake or an error, you would  
3 just let it lie as if nothing had happened? Is that  
4 your state of mind when you gave your evidence-in-chief?

5 A. 當時唔係喇，如果咁，我侮辱緊石律師喇。

6 Q. All right. Can I just follow up: by not amending or  
7 correcting any inaccuracies, you are keeping to yourself  
8 the advantage of not alerting other people of first of  
9 all gaps you have spotted in your evidence and also you  
10 preserve to yourself the opportunity to make things up  
11 as you go along, without having to commit them in  
12 writing; do you accept that?

13 A. 當然唔同意喇。

14 Q. Very well. Let us move on.

15 Please look at bundle D, page 765.4, paragraph 10.  
16 That's the English version of a police interview. The  
17 Chinese version is at 762. The date of the interview is  
18 10 July this year.

19 A. 係。

20 Q. I want to direct your attention to paragraph 10.

21 A. 係。

22 Q. It's up to you whether you look at the Chinese or the  
23 English version. I don't believe anything should turn  
24 on niceties of translation.

25 "I carried out site inspection of Hung Hom Station

1 starting at 4 pm on 22 September 2015. At around  
2 6.17 pm during this inspection, I again saw two Chinese  
3 men (about 30 to 40 years old, medium built, I believe  
4 they were staff responsible for carrying out welding  
5 process, other details could not provided) wearing royal  
6 blue [et cetera] bearing the logo of Leighton using  
7 hydraulic cutter to cut short the threaded heads of  
8 rebars in bay C1-4 and bay C1-5 ... They used hydraulic  
9 cutter to cut short threaded heads of rebars, each time  
10 cutting short either one rebar or a bundle of 10 or more  
11 rebars wrapped together. I asked the 3 persons to stop,  
12 but the 3 persons ignored me, and hence I use my own  
13 Huawei mobile phone [which was defined here as phone 2]  
14 to take 3 photos ..."

15 Do you see that?

16 A. 睇到。

17 Q. So it looks as though, even in your police statement,  
18 you have already identified the second phone used to  
19 take these pictures on 22 September as a Huawei brand  
20 telephone. Do you accept that?

21 A. 當時我喺呢個係7月落嘅口供，當時我以為係嘅。

22 Q. So are you saying that not only were you mistaken when  
23 you signed your witness statement for the Commission of  
24 Inquiry, the mistake about the brand of the telephone  
25 was made also at the time of your police interview?

26 A. 係因為警方會面嗰陣時候犯咗錯誤，而我哋其實嗰個--我另一份witness

1 statement, 即係話9月畀獨立調查委員會嘅witness statement其實  
2 有好多係基於於呢份口供嘅, 幾乎係超抄落去嘅。

3 Q. So a mistake made in the police interview record got  
4 carried over to the witness statement which was prepared  
5 for the purpose of this Commission of Inquiry?

6 A. 係呀, 亦都可以睇到嘅, 喺警方落口供嘅時候, 我係好記得係另一部電話,  
7 所以我話「另一部」嘅。

8 Q. Yes, because in the previous paragraph in the police  
9 statement, you talked about using a Huawei mobile phone  
10 of your company, which was defined as "phone 1", which  
11 took two photos and took a video clip.

12 A. 唔。

13 Q. So, yes, we know you are talking about a second or  
14 different telephone being used on the 22nd.

15 A. 唔。

16 Q. But my question is a simple one. I hope there's no  
17 difference between us. I understand you to be saying  
18 you made a mistake in your police interview as to the  
19 brand of the telephone?

20 A. Yes.

21 Q. And that mistake got carried over to the Commission of  
22 Inquiry witness statement. Is that a fair way of  
23 putting your evidence?

24 A. Yes.

25 Q. Can I ask you to look at the transcript of yesterday,

1 page 114, line 16.

2 The question, that's by Mr Pennicott, I think:

3 "Can you explain the position? What is your  
4 explanation?"

5 That is, for your help, after the metadata analysis  
6 of the various photographs of the 22nd had been shown to  
7 you, after they showed that the photograph of the 22nd  
8 was taken on a Sony camera.

9 The question at line 16:

10 "Can you explain the position? What is your  
11 explanation?"

12 You said:

13 "This instrument is different from my Huawei mobile  
14 phone. I already told the police that it was from  
15 a second -- another device. We can take a look at the  
16 statement given to the police. I explained to the  
17 police, when the statement was taken, that at first  
18 I took the photos with my Huawei phone" -- I believe  
19 that is a reference to what you call "phone 1" in  
20 paragraph 9 of your witness statement -- "and then  
21 I took seven photos with another device, not with my  
22 Huawei phone."

23 Mr Pennicott then asked:

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

26 '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 Answer: It's a second device. I told the police  
8 that it was not a Huawei phone, it was the Z2 kept in  
9 the site office."

10 So there you were telling us that you told the  
11 police it was not a Huawei phone. Do you have any  
12 reason to doubt the accuracy of the transcription  
13 service as to what you said?

14 A. 你講得好長、好長、好長、好長，我再重...

15 Q. Did you say to this Commission that you told the police  
16 that when you took the photos on 22 September, that it  
17 was not with a Huawei phone but with a Sony Z2? This is  
18 what the transcript says.

19 A. 我當時同警方講，先講番警方我口供嗰時講，因為警方嗰陣時候其實問完第  
20 一部華為電話之後，就喺第二段問另外七張相，就係我嗰口供上面英文D762  
21 頁或者--中文D762頁或者英文嘅765.4頁第10段，我係講得好清楚畀警方  
22 聽我記得我唔係用華--我唔係用嗰部電話--即係第一部嗰個電話去影另外七  
23 張相嘅，係用地盤嗰部電話，所以係「另一部電話」。喺警方嘅口供，用中  
24 文版去睇，佢喺第10段嘅第六行寫得好清楚嘅，「於是我就用自己另一部的  
25 華為手提電話（下稱「電話二」）去拍攝咗三張相。」跟住三張相，又有拍咗再

1           另外四張相。當然多咗「華為」呢個字，當時我簽口供嗰時，我係冇留意到，  
2           但係其實我一開始已經話畀警方聽係用另一部電話，而警方都知道係電話二。

3           Q. In case it is thought why we are interested in the  
4           brand, it will become clear very soon, Mr Chairman and  
5           Mr Commissioner.

6                     But my question to you is this. You told this  
7           Commission that you told the police it was not a Huawei  
8           phone, but in fact, according to the police statement,  
9           you did tell the police that it was a Huawei phone,  
10          albeit a different one. Do you accept that? Or are you  
11          saying the police actually got it wrong; they should not  
12          have written the word "Huawei" in the statement?

13          A. 我相信我哋落口供時間太長，因為嗰日落咗一日時間，所以大家，我同警方  
14          都覺得劫，所以喺嗰度，喺「第二部嘅電話」，其中「華為」兩個字係多咗。

15          Q. So the police maybe make a mistake when they transcribed  
16          your interview into written form and you missed out that  
17          mistake when you signed the police interview record? Is  
18          that what you are trying to say?

19          A. 係，係。

20          Q. So that is actually a double mistake, a mistake made at  
21          the stage of signing the police interview record, and  
22          a mistake made at the time when you signed your witness  
23          statement; correct?

24          A. 係。

25          Q. Was it your intention to correct that in your

1 evidence-in-chief, before you say you were unfortunately  
2 disrupted?

3 A. 係呀。

4 Q. So you did want to correct that but it's my fault in  
5 disrupting you so that you failed to correct it; is that  
6 what you are saying?

7 A. 我相信如果你尊重下其他律師，當日可能呢件事就唔會而家大家嘍多成三個  
8 字、四個字去再糾纏。

9 Q. Can I ask you to look at bundle D, page 766. Just to  
10 tell you what these photographs are, in your interview  
11 with the police, 765.4, paragraph 10, you referred to  
12 a number of photos that you had taken with "phone 2",  
13 and you numbered them "photo 4", "photo 5", "photo 6"  
14 and then "photo 7".

15 A. 你而家想問766定係其他照片呢？

16 Q. At 765.4, where you introduced various photographs; do  
17 you see?

18 A. 係。

19 Q. Sorry, my mistake, because after you mentioned phone 2,  
20 in the middle of paragraph 10, you said "to take 3  
21 photos (referred to as 'photos 1 to 3' below)", so  
22 I want you to look at "photos 1 to 3 below", three  
23 photos taken with your own phone. Forget about what  
24 brand:

25 "Photos 1-3 showed a Chinese man wearing royal blue,

1 orange and yellow coloured polo T-shirts", et cetera.

2 So can I ask you to look at 766.

3 A. 係。

4 Q. 767.

5 A. 係。

6 Q. 768.

7 A. 係。

8 Q. These are photos 1 to 3; correct?

9 A. 係。

10 Q. You then said:

11 "Afterwards that Chinese man expressed his  
12 resentment to me taking photo of him ..."

13 A. 係。

14 Q. "... and hence I pretended to take photos of other  
15 locations, as a result of which I took 3 additional  
16 photos (referred to as 'photo 4', 'photo 5' and  
17 'photo 6' below)."

18 Now, 4, 5 and 6 would be 769, 770 and 771?

19 A. 係。

20 Q. Then you said:

21 "Photo 4 and photo 5 do not serve any meaningful  
22 purpose."

23 And you said:

24 "Photo 6 coincidentally took photo of the retaining  
25 wall ... After examining photo 6, I discovered that

1 photo 6 showed some damaged couplers."

2 Do you see that?

3 A. 係，係。

4 Q. Then we move down, and then photo 7, you talked about  
5 photo 7. Photo 7 is 772; that is right?

6 A. 係，yes.

7 Q. Okay. So we have now identified the seven photographs.

8 Incidentally -- let me see. You remember  
9 Mr Pennicott took you to the site in/out record of  
10 Leighton?

11 A. Yes.

12 Q. Can we look at bundle C8, page 5720.

13 A. Yes.

14 Q. Do you remember Mr Pennicott took you to the second-last  
15 row at the bottom, with your name?

16 A. Yes.

17 Q. And when he showed you, from 19 September 2015, all the  
18 way down to 28 September 2015, there's no in or out  
19 record of your goodself at the site; do you remember  
20 that?

21 A. Yes.

22 Q. You then gave some evidence that the system was  
23 unreliable; do you remember that?

24 A. Yes.

25 Q. And you then gave some examples, such as you rarely, if  
26 ever, left after midnight --

1 A. Yes.

2 Q. -- so how come there's one entry that shows you left  
3 after midnight; do you remember that? Yes?

4 A. 係，yes.

5 Q. We don't need to turn up the transcript because I think  
6 it should be uncontroversial.

7 You also talked about 29 September, when you said,  
8 unless you're a ghost, how come you left without  
9 entering; do you remember that?

10 A. Yes, yes.

11 Q. I suggest to you that it's one thing for there to be  
12 an odd glitch here or there, about not recording  
13 a traffic in one particular direction. It is another  
14 thing for there to be a whole chunk of days when there  
15 is no in/out entry at all. Do you accept that?

16 A. 唔同意，你睇一睇冠四嗰行，佢個title係“Work days”，佢似乎就係  
17 count咗有出入紀錄嘅日子，我哋睇一睇第一行，「文忠坤」，好唔好？  
18 由1至30號，佢幾乎full day，佢數咗佢有26.5日有返工嘅，差唔多嘅  
19 紀錄，你睇番我，喺冠二嗰行，5097「潘焯鴻」，我哋數一數囉嗰，1號  
20 有返喇佢話，4號、5號、7號、8號，我哋數下，1、2、3、4、5、6、7、  
21 8、9、10、11、12、13、14、15.5，點解會寫“9.5”呢？

22 Q. It could well have to do with whether or not on  
23 a certain day you attended for such a short time that it  
24 counted as a half-day.

25 A. 又似乎只有5號嗰日喺中午走，8號嗰日喺朝頭早走，冇囉，好正常啫，

1 日日都係七點零、八點出現，有一日9點，有一日3點，都係得四日唔正常啫。

2 Q. 18th, you were there only a couple of hours?

3 A. 唔，唔，唔係，我想話一樣嘢畀石律師聽，當然，石律師你一定要信你嘅  
4 client畀你嘅information，但係我哋公司對住呢啲出入閘紀錄已經對  
5 咗幾年，我哋知佢唔reliable，如果佢reliable，我哋計糧唔使計得  
6 咁慘。

7 Q. So what you are saying, Mr Poon, is that when the in/out  
8 records show you are not in, you could be in; yes?

9 A. 係呀。

10 Q. When the in/out record shows that you had left at  
11 a particular hour, you could have left earlier,  
12 correct -- about the midnight thing, you say you rarely  
13 left at midnight, so when it says you left at midnight,  
14 you say you must have left earlier. Is that what you  
15 say?

16 A. Midnight嗰日，我肯定就唔會留到去即係喺凌晨時間未離開地盤，我肯定冇。

17 Q. I know. So that is exactly what I --

18 A. 但係我想少少解釋，好唔好？

19 Q. Okay, go ahead.

20 A. 我有啲相信work day嗰9.5日係正確嘅，因為我真係唔係成日打卡嘅，我  
21 相信嘅，我反而覺得有啲日子係人為擺落去添，又有啲日子係人為remove  
22 咗，就造成好似個現象我日日打卡，係零零舍舍唔打19至到28號嗰個日子  
23 咁樣。我最簡單講，我就係唔信呢份紀錄。

24 Q. Thank you. So, to answer me, when it says you left at

1           midnight, you are saying that you were not there at  
2           midnight; you have left sometime before midnight  
3           already?

4           A. 我通常都係晚飯前走，我一定返去食飯嘅。

5           Q. Thank you. So what it says about not being there is  
6           unreliable; correct?

7           A. 我講12點26分，即係話喺9月7號星期一，我睇唔到9月嘞，sorry。我係  
8           7號星期一凌晨26分，我離開地盤嗰個數據肯定唔reliable，我唔係工人，  
9           我唔需要留喺地盤留到凌晨12點26分先離開。

10          Q. And if you look at yesterday's transcript at page 44.

11          A. 係。

12          Q. Let me tell you. This is when Mr Pennicott asked you  
13          questions about the personnel chart attached to your  
14          witness statement; you remember that?

15          A. 係。

16          Q. There is a question over when Mr Leung, the man whom you  
17          say left under some controversial circumstances -- and  
18          you were asked at line 6:

19                 "Find Mr Leung and tell me when he started.

20                 Answer: 18 August 2015 --

21                 Question: Precisely."

22                 And then you say:

23                 "That's records retrieved from the sign-in/sign-out  
24                 records by our HR staff.

25                 Mr Leung is a special case, as I said, because it



1 was until the stage when the police was called, we never  
2 tried to contact Mr Leung. Mr Leung left our company  
3 because of embezzlement.

4 Question: So are you saying now that -- let's take  
5 this in stages -- the Leighton sign-in/sign-out record  
6 for China Technology which they have given to the  
7 Commission, and which we have been looking at from time  
8 to time with the other witnesses -- first of all, were  
9 you, China Technology, given a copy of those documents  
10 by Leighton?

11 Answer: Yes, because we relied on this document as  
12 one of the documents for payroll."

13 Do you see that?

14 A. Yes.

15 Q. So are you saying there that China Technology relied on  
16 these in/out records for the purpose of preparing its  
17 payroll to its workers?

18 A. One of the documents.

19 Q. But if it's unreliable then what use does it have?

20 A. 我再講一次，第一，我懷疑禮頓呈去畀獨立調查委員會嘅呢一個version嘅  
21 文件當中，我特別講我自己嗰二十幾個entry，我懷疑係manipulate嘅，  
22 懷疑；第二，第二呀，我而家講定先喇，其實我哋準備緊啲我完成口供之後，  
23 我哋會做第六--我會做我自己第六份證人口供嘅，嗰份口供裏面會包咗禮頓  
24 同分判商喺地盤每一個禮拜嘅會議上面嘅會議紀錄，我特別講番2015年--  
25 2016年2月1號禮頓同分判商--所有分判商，唔係我哋淨係公司--唔係淨係

1 我哋公司，開嘅會議紀錄，第6.1同埋6.2項，如果我記錯，都係有少少出  
2 入，6.1、6.2應該，禮頓都係訓策啲分判商冇去上堂、出入閘紀錄同埋實  
3 際返工紀錄嚴重唔符合。嗰份文件都好清楚話畀大家聽其實喺禮頓開地盤去  
4 到做個diaphragm wall完成，其實好少人，到diaphragm wall完成，  
5 即係話2015年嘅大概5月開始，個地盤開始多人，開始多分判商，包括中  
6 科，包括泛迅，包括其他分判商出現嘅時候，禮頓係遇到好大壓力嘅，因  
7 為當時根本冇辦法安排到足夠嘅大堂，即係葵涌上嘅堂畀分判商，個個分  
8 判商都要排隊去上堂，仲要收每一個人400蚊。對所有分判商嚟講...

9 Q. Can you look at the Chairman and Commissioner --

10 A. Okay, sorry.

11 Q. -- when you give your evidence, because they have to  
12 assess the veracity of your evidence.

13 Go ahead, continue.

14 A. 我淨係講喇，第2016年2月1號，禮頓同分判商開會嘅會議紀錄上面第6.1  
15 同6.2項，禮頓都complain 所有分判商都唔跟個出入閘紀錄系統，唔去  
16 上堂、唔打卡。

17 Q. Have you finished?

18 A. Yes.

19 Q. What was my question?

20 A. Please repeat.

21 Q. My question was, if it was unreliable, what use does it  
22 have for the purpose of preparing your payroll?

23 A. One of the documents.

24 Q. Thank you. Can I move on?

1           Remember yesterday, when Mr Pennicott took you  
2           through the seven photographs that you exhibited to your  
3           witness statement, he pointed out that one of them was  
4           actually taken on 4 September.

5     A.   唔。

6     Q.   And you said, "Oh, it was inserted by mistake."

7     A.   Yes.

8     Q.   So in fact that one of 4 September was not actually  
9           given to the police either.

10    A.   我當時係講嗰張相係另一個series嘅相嚟。

11    Q.   I know, but I'm trying to help because I suspect what  
12           happened was you say you mistakenly put in the  
13           4 September photograph as your exhibit in your witness  
14           statement. I suspect that if you look at D1/767 --

15    A.   Yes.

16    Q.   Now, this one was not attached to your Commission  
17           witness statement, but was among the seven that was  
18           given to the police. So could it be that you actually  
19           had wanted to include this one in your Commission  
20           witness statement but somehow you inserted the wrong  
21           one --

22    A.   Yes.

23    Q.   -- of 4 September?

24    A.   Exactly.

25    Q.   I'm not so horrible; I'm trying to help you, you see,  
26           Mr Poon.

1 A. I don't think horrible.

2 Q. Can I ask you to look at certain correspondence or  
3 letters, first of all a letter from Lo & Lo to your  
4 solicitors, in bundle D2, page 1018.

5 A. Yes, I got it.

6 Q. Now, that is a letter from Lo & Lo --

7 A. Yes.

8 Q. -- asking for information concerning certain  
9 photographs, and it says:

10 "We refer to the photographs produced by your  
11 client", and then "listed below".

12 Then let me tell you: D1/226 to 232 are the seven  
13 photographs that you exhibited as exhibit 5 to your  
14 Commission witness statement; right? Take it from me.  
15 I've checked.

16 A. Okay.

17 Q. Because 226 to 232, there are seven, right, seven  
18 numbers?

19 A. Okay.

20 Q. So there are seven photographs in your Commission  
21 witness statement?

22 A. 唔，唔，唔，唔。

23 Q. D1/766 to 775 were the seven photographs attached to the  
24 police interview record. Do you follow me?

25 A. Okay.

26 Q. Now, these two batches of photographs, six of them

1 coincide. Do you understand?

2 A. Yes.

3 Q. Then, of course, in D1/226 to 232, there is one, the odd  
4 one out, which was 4 September.

5 A. The second one.

6 Q. Then 766 and 775, we have identified what we suspect to  
7 have been what you intended to be the correct  
8 photograph.

9 A. Correct. A series of photos.

10 Q. Right. Thank you.

11 The questions asked were -- you were asked:

12 "Original digital version of the photographs have  
13 been provided. With reference to the relevant pages in  
14 bundle D1, please provide the information requested  
15 below:

16 (1) Identify the person(s) who took each of the  
17 photographs.

18 (2) Identify the device(s) used to take each of the  
19 photographs.

20 (3) Identify the owner of the device(s) listed under  
21 (2) above.

22 (4) Confirm whether the device(s) may be made  
23 available for inspection by other involved parties ...",  
24 et cetera.

25 Do you see that?

26 A. Yes.

1 Q. So they were asking for who took which photograph and  
2 what device.

3 Can you turn to D2/1054. 1053 actually is the  
4 starting page. It talks about Dropbox and your  
5 company's system of keeping photos on Dropbox.

6 But the answer actually came at the next page.  
7 Sorry, can we look back at 1053:

8 "In the Hung Hom ... project, our client discovered  
9 duplicate files in mid-September 2018 to early October  
10 2018, which we subsequently deleted from our server.  
11 The remaining number of photos and videos ... are  
12 approximately 21,718."

13 Do you see that?

14 A. Yes.

15 Q. I'll come back to that later, but at 1054, paragraph 5:

16 "At the time the photographs were taken (September  
17 2015), our client had around 20 managerial engineering  
18 staff members ... Only 9 were currently working ...  
19 unable to identify each individual responsible for  
20 uploading the photographs.

21 6. Our client's existing 9 staff members all  
22 confirmed that the smartphones they were using in  
23 September 2015 had been traded in second-hand shops for  
24 new phones. This was only a natural process. Some of  
25 them have even changed their phones for 2 to 3 times  
26 already since September 2015.

1           7. As such, our client is unable to provide the  
2 original smartphones for inspection. Nevertheless, to  
3 check whether the photographs are genuine, one can  
4 easily check the metadata of the original files which  
5 has been provided to the Commission.

6           8. Upon investigation, our client is able to  
7 identify, out of the photographs, those that have been  
8 taken by Mr Poon, using his Huawei Ascend Mate 7. They  
9 are ..."

10           Then we see a series of page numbers. D227 is the  
11 one dated 4 September --

12       A. 唔。

13       Q. -- which the metadata analysis showed to have been taken  
14 by a Huawei telephone.

15           Do you remember we looked at that yesterday? The  
16 4 September letter, it was taken by a Huawei phone, the  
17 metadata analysis showed that; yes?

18       A. 唔，唔。

19       Q. But your solicitors did not actually then list out any  
20 of the other photographs supposed to have been taken on  
21 22 September --

22       A. 唔。

23       Q. -- as having been taken by you on your Sony phone.

24       A. 唔。

25       Q. Right?

1 A. 唔。

2 Q. Paragraph 8 is the sum total of your solicitors'  
3 response in relation to who took what photos. And your  
4 solicitor, among the two clips that we are interested  
5 in, the seven in your Commission witness statement and  
6 the seven in your police statement, only identified the  
7 one taken on the 4th.

8 So does it mean that you did not take any  
9 photographs, among those that we have looked at, on the  
10 22nd, because your solicitor did not identify any?

11 A. 有，其實我...

12 Q. But your solicitor did not identify any in this letter.

13 A. No, no, no. It is a status as of 24 October.

14 其實我哋個搵相嘅調查，到而家仍然係進行中嘅，點解我哋喺24號  
15 突然間覆呢封信呢？就係因為當時我哋喺度聽庭嘅時候，就聽到你哋就話我  
16 哋唔肯交呢啲資料，所以就我哋當時將我哋當時最update嘅information  
17 交出去，而跟住其實當我去解釋個個Xperia Z2個相機嘅時候，個個相機其  
18 實就係擺喺地盤嘅咋，唔係淨係我，我間房嘅幾個人都可以擺出去影相嘅。  
19 當時其實我哋搵到個個Z2影咗好多相嘅，我係冇辦法認番三年前邊啲相係我  
20 影、邊啲相係其他人影，但係我好記得，我好記得，特別記得Joe曾經喺影  
21 呢七張相嘅時候嚟阻止我，我亦都有講畀Mr Ian Pennicott聽嘅，所以  
22 我係分得番個七張相係我影嘅。

23 Q. But none of those dated the 22nd were listed in  
24 paragraph 8 of your letter.



1 A. 呢個喺10月24號之後，我哋先至確定嘅，喺24號之前，我哋仲係想全部一次  
2 過嗰四十一張相，雖然duplicate喇有，一次過回覆嘅，即係我哋本來想回  
3 覆就係話呢啲最靚搵唔到，呢個可能係邊個，可能係嗰個，呢個係confirm  
4 邊個，我哋本來想咁回覆嘅，但係因為就係聽到我哋畀人質疑，我哋冇去回  
5 信，所以我哋就喺24號就最update，當時confirm左嘅information攞  
6 咗出嚟先，但係我哋冇話佢啲相--冇話其他啲相--我哋冇話係另一個人影，  
7 又或者我冇認佢、唔係我影，我冇講嘍，我仲喺調查緊吓嘛。

8 Q. But, Mr Poon, 227 is one of -- 227 is right in the  
9 middle of -- well, not in the middle -- 227 is somewhere  
10 between 226 and 232, correct, numerically, on a number  
11 line; yes?

12 A. 係，係，係。

13 Q. To identify 227, you've got to have gone through 226,  
14 227, 228, 229, all the way down to 232; correct?

15 A. 係，係。

16 Q. If you have indeed taken photographs on 22 September,  
17 you would have seen 226, 228, 229, and then said in this  
18 letter, "226 was Huawei on the 4th, the others were Sony  
19 Xperia on the 22nd"?

20 A. 除咗Sony Xperia，仲有其他相機，即係唔係淨係嗰架。不過227同埋其他  
21 相，我哋當時好明顯發覺係完全唔同series嘅，因為影嘅地方都唔同。227  
22 零零舍舍係影垂直嘅coupler，垂直嘅coupler，226至到232本來嗰個  
23 series係影擋土牆同埋個track slab之間嘅coupler。亦都證明我哋係  
24 好清晰咁樣分，即係冇亂咁講。

1 Q. Well, Mr Poon, could it be that you did not take the  
2 Sony photographs on the 22nd; your mind was fixated with  
3 your story that you took photos on the 22nd with  
4 a Huawei, so that when you gave instructions to your  
5 solicitors to list out photographs, you simply had not  
6 told them, "Oh, hang on, I actually used a Sony phone to  
7 take photographs"? Is that what happened, and that's  
8 why your solicitors simply did not count any photographs  
9 using Sony?

10 A. 我哋喺同律師傾嘅時候，喺...

11 Q. You don't need to tell us actually what transpired  
12 between you and your lawyers.

13 A. No.

14 Q. It's privileged, I have to say that.

15 A. No. No.

16 Q. So you're not answering?

17 A. I said your allegation is not -- it's not true.

18 Q. It's not true? Okay. Fine.

19 Could we come back to one small point about the  
20 sign-in/sign-out records. C8/5720.

21 A. 係。

22 Q. You said that in the entire month of September you  
23 worked for 10.5 days, and it only showed 9.5 here?

24 A. 我話我係十五日半，佢而家show咗九日半，跟住就話我遲到七十六分鐘。

25 MR SHIEH: It's quite late in the day to chase down a number  
26 point like this, and I can move on to the next topic,

1           but the next topic would take a little bit of time, so  
2           perhaps it's time for us to call it a day, Mr Chairman.

3   CHAIRMAN: Yes. It's just one minute to 5 o'clock, so  
4           that's fine. Thanks very much indeed.

5           Mr Poon, again, the normal reminder. You are in the  
6           middle of giving your evidence. All right? Thank you  
7           very much.

8           Tomorrow morning, normal time. Thank you.

9   (5.00 pm)

10          (The hearing adjourned until 10.00 am the following day)

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