	Page 1		Page 3
1	Thursday, 1 November 2018	1	MR PENNICOTT: Are we going to need our headphones on?
2	(10.02 am)	2	I don't know how it's going to come out.
3	MR POON CHUK HUNG, JASON (on former oath in Punti)	3	(Audio recording played)
4	(All answers given via simultaneous interpreter	4	INTERPRETER: I'm sorry, the recording is of very poor
5	except where otherwise specified)	5	quality, the interpreters can't really hear very well.
6	MR SHIEH: Mr Chairman and Mr Commissioner, may I start of		We will just try our best.
7	the day by making an application?	7	(Audio recording played)
8	By way of background, the Commission will recall	8	MR SHIEH: Can we rewind for ten seconds, and replay it
9	that yesterday afternoon, at about 3.23 pm, Mr Poon gave	9	loudly, please, because Mr Chairman will not know the
10	an answer concerning screwing of rebar onto couplers.	10	Cantonese, but it's actually for everyone in the room,
11	He went on for a while and then he gave an answer which	11	and for Mr Poon himself.
12	involved reference to the media.	12	(Audio recording played)
13	Then Mr Chairman intervened and said this is in	13	Thank you very much.
14	the transcript of yesterday at page 99, line 20	14	Cross-examination by MR SHIEH (continued)
15	Mr Chairman said:	15	MR SHIEH: Mr Chairman, I can now proceed to ask some
16	" with respect, when you say "the media", while	16	questions of Mr Poon, based on what we have heard.
17	I have the greatest faith in the media, indeed I started	17	Mr Poon, good morning.
18	life as a cub reporter"	18	A. (In English) Good morning.
19	Mr Poon said:	19	Q. You heard the playback of the recording yesterday
20	"I did not say 'media'."	20	afternoon?
21	And Mr To echoed:	21	A. Yes.
22	"He did not say 'media'."	22	Q. Did you or did you not say "(Chinese spoken)", being the
23	Then there was some exchange. The point I wish to	23	Chinese characters for "media"?
24	make because at the end, at page 100, line 23,	24	A. Having heard that, I did say so.
25	Mr Chairman said:	25	Q. You need not hear back before realising you have. You
	Page 2		Page 4
1	"Mr Poon, thank you very much. The matter has been	1	knew full well that you did and you lied in a courtroom,
2	resolved. It was a clarification. It was no more than	2	Mr Poon; did you?
3	that. Thank you very much."	3	A. No
4	The matter came as such a complete shock to all	4	CHAIRMAN: I'm sorry, you said here, "Having heard that,
5	Cantonese speaking members of this room and the TV room	5	I did not say so"?
6	next door, and I daresay members of the media outside,	6	A. (Chinese spoken).
7	that everyone took a while to digest the impact of that	7	MR SHIEH: He did.
8	about-turn within one minute. So I now make	8	MR WILKEN: He said he did.
9	an application, the relevance of which should be	9	MR SHIEH: He said it, "Having heard back, I did say so."
10	obvious. It is not just a matter of clarification. It	10	CHAIRMAN: Sorry, I have to go by the English translation as
11	is the ability of a person to say "media" in one minute	11	it appears.
12	and then immediately to say "I did not say 'media'" the	12	COMMISSIONER HANSFORD: It's incorrect on the screen.
13	next minute. It goes to credibility.	13	MR SHIEH: Yes. He said, "Having heard back, I did say so."
14	Ordinarily I can well see people saying why go	14	He admits that having heard back, he did say so.
15	through what may be regarded as something peripheral,	15	CHAIRMAN: Thank you.
16	but if this Commission had been a bilingual one, then	16	MR SHIEH: The question I put to you is: You don't need to
17	the lie would immediately have been incontrovertible,	17	hear back before knowing you said so. You knew all
18	and what I now seek to do is make incontrovertible that	18	along that you had said "media", and you lied in court,
19	which may have appeared to be a clarification only	19	Mr Poon, did you?
20	yesterday.	20	A. I did not lie. Mr Shieh, you put it wrongly. If you
21	May I ask for permission to play the recording from	21	said something wrong, are you lying? You said a lot of
22	yesterday afternoon at around 3.23 pm?	22	things wrong yesterday; were you lying?
23	CHAIRMAN: Yes.	23	Q. Mr Poon
24	MR SHIEH: So Cantonese-speaking members could listen to the		A. Allow me to clarify, let me clarify. I mentioned
25	Cantonese, maybe.	25	I said "media", but I said it wrong, I meant the

1	Page 5		Page 7
	Commission. I said the Commission should look clearly	1	the opportunistic self as you are, you immediately
2	at the documents submitted by Leighton and the	2	denied saying "media" to appease the chairman. Do you
3	Commission should look at all the documents to verify	3	accept that or not accept that?
4	whether they are true or not.	4	A. I totally negate what you said. You make two
5	Q. There is a difference between saying, "Sorry, it's	5	assumptions in your paragraph. That is I'm
6	a slip of the tongue, it's a Freudian slip, I am too	6	an opportunist and the other, you said my intention was
7	used to blurting my mouth off to the media, I meant to	7	to mention the media. How would you know what my
8	say 'the Commission'"; and on the other hand "I did not	8	intention is?
9	say 'media'", a complete denial. Yesterday you said you	9	Q. Let's move on. Yesterday, when I started my
10	did not say "media". Mr Poon, is that correct? You	10	cross-examination, I asked you about your attitude
11	said yesterday, in the transcript, and as we have	11	towards making changes or amendments to your witness
12	heard you said you did not say "media". Was that	12	statement? Do you remember that?
13	what you said?	13	A. When?
14	A. Yes, I said that, but I meant the Commission, not the	14	Q. Yesterday afternoon, when I started my cross-examination
15	media.	15	of you, I asked you about your thinking, your attitude,
16	Q. You did not say yesterday, "I'm terribly sorry, I had	16	towards making amendments or changes to your witness
17	a slip of the tongue, I correct myself." You went on	17	statement, when you said you prefer to make changes when
18	combative mood, as always, targeting everybody and even	18	you are actually giving evidence. Do you remember that
19	asking rhetorical questions back to me, "When did I say	19	line of questions?
20	'media'?", didn't you?	20	A. Yes, I recall that.
21	A. I did not target everybody. Mr Shieh, don't take things	21	Q. I was told I don't know whether it can be shown on
22	out of context.	22	the screen that on 18 October, the Commission, either
23	(In English) You are out of context.	23	the Commission Secretariat or solicitors for the
24	Q. You only target people who you want to target at that	24	Commission, sent an email to solicitors for all the
25	point in time?	25	parties, asking them I don't know whether or not that
	Page 6		Page 8
1	A. I did not target everybody. Mr Shieh, you were just	1	email can be pulled up and shown on the screen. It's
2	telling a lie again. I didn't target everybody.	2	an email of 18 October.
3	Mr Shieh, did you just say that I targeted everybody?	3	MR PENNICOTT: We have a couple of hard copies, if that
4	Tell me.	4	helps.
5	Q. I'll give you a list when I get to the end of my	5	MR SHIEH: There are hard copies, if that helps.
6	cross-examination. You asked for it, you'll get it.	6	
			MR PENNICOTT: I can give one to the witness; I can't give
7	But answer my question first. You did not say on the	7	many around. You've got it?
7 8	spot, by way of clarification, "I had a slip of the		many around. You've got it? MR SHIEH: It's on the screen now.
8 9	spot, by way of clarification, "I had a slip of the tongue, sorry, I meant to say 'the Commission'." You	7 8 9	many around. You've got it? MR SHIEH: It's on the screen now. It's an email on 18 October, the week before the
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8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 spot, by way of clarification, "I had a slip of the tongue, sorry, I meant to say 'the Commission'." You did not clarify that; correct? A. First, to the Chairman, to the Commissioner, to all present, I would like to offer my apology. I said it wrong. I did say "media" but by "media" I meant "the Commission". Secondly, if I could clarify the lie Mr Shieh just told, I didn't point to everybody. I just said I did not say the media. Mr Shieh said I was pointing at everybody but Mr Shieh is telling a lie himself. What you said in nature is not different than what I said. CHAIRMAN: All right. MR SHIEH: Thank you very much. I suggest to you before I leave this topic it's a very short point 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 many around. You've got it? MR SHIEH: It's on the screen now. It's an email on 18 October, the week before the hearing commenced, to everyone on a mailing list. I think we should actually skip all the addresses for privacy problems. Can we just move on? This is from Gloria Abdullah, solicitor for the Commission: "Dear All, [All] witness statements will not be read out at the hearing but will be uploaded onto the Commission's website after the witness has given evidence, the Commission has directed that minor amendments (if any) to witness statements and responsive witness statements should be set out in writing and provided to the Commission before the witness enters the box to give

	Page 9		Page 11
1	Mr Poon, are you aware that this email had been sent	1	you on 22 September on site have been taken by you at
2	to the parties beforehand?	2	all; do you accept that?
3	A. I don't remember that.	3	A. I don't want to repeat, going in circles. I already
4	Q. You are not suggesting that your solicitors have failed	4	said those seven photos were taken by me and have also
5	in their duties to apprise you of requests or	5	explained why I could recognise these seven photos. Two
6	requirements from the Commission which must be treated	6	of the photos showed workers stopping me from taking
7	seriously, are you?	7	photos.
8	A. I believe our solicitor would send every email to our	8	Q. Can you look at page 228. Do you see that, Mr Poon?
9	account, I believe.	9	A. Yes.
10	Q. Thank you. Therefore, I suggest to you that if you have	10	Q. This is one of the seven photographs. We see a man
11	any minor amendments such as errors in the date or the	11	kneeling down or squatting, holding a kind of equipment.
12	month, you ought to have put that in writing beforehand,	12	Then we actually see a spark; do you see that? There is
13	before you entered the box to give oral testimony. Do	13	a spark.
14	you accept that?	14	A. No, I don't see any spark.
15	A. Yes, this is what this email says.	15	Q. No, some reflection, I reframe myself, yes, you are
16	Q. If it's anything major, then I suggest you should	16	right. There's some reflection, bright reflection?
17	actually do it by way of a further witness statement,	17	A. (In English) Not a spark.
18	backed up with a statement of truth, to be verified on	18	Q. A bright spot on this photograph; do you see that?
19	oath in the witness box. Do you accept that?	19	A. Why don't you point it out for me, if you referring to
20	A. For major amendments, where do they appear here?	20	this blueish white part in the middle of the photo?
21	Q. No, it's not in this email. I'm suggesting to you as	21	Q. Yes, the part in the middle, I think we are all thinking
22	a matter of common sense and procedure. If you don't	22	about the that part which you say represents the
23	agree or if you don't understand, you can just tell me;	23	thread, there is a bright spot there; correct, Mr Poon?
24	I will move on. The record speaks for itself.	24	A. Yes, I see that.
25	I repeat my question. If it is something which is	25	Q. That is what you say to be the part of the thread; that
	Page 10		Page 12
1	not minor, then you ought to have put it in the form of	1	is your evidence, correct?
2	a proper witness statement, backed up with a statement	2	A. Yes.
2 3	a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness	2 3	A. Yes.Q. Slightly to the left, we can see there is actually the
2 3 4	a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness box? You can either say, "I know it", or you can say,	2 3 4	A. Yes.Q. Slightly to the left, we can see there is actually the end of a rebar; do you see that? To the left of that
2 3 4 5	a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness box? You can either say, "I know it", or you can say, "I don't know, nobody ever told me", or you can say,	2 3 4 5	A. Yes.Q. Slightly to the left, we can see there is actually the end of a rebar; do you see that? To the left of that spark, there is actually you can see what appears to
2 3 4 5 6	a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness box? You can either say, "I know it", or you can say, "I don't know, nobody ever told me", or you can say, "I don't agree."	2 3 4 5 6	A. Yes.Q. Slightly to the left, we can see there is actually the end of a rebar; do you see that? To the left of that spark, there is actually you can see what appears to be the end of a rebar, to the left, (Chinese spoken),
2 3 4 5 6 7	 a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness box? You can either say, "I know it", or you can say, "I don't know, nobody ever told me", or you can say, "I don't agree." A. Mr Shieh, this email refers to minor amendments, minor 	2 3 4 5 6 7	A. Yes.Q. Slightly to the left, we can see there is actually the end of a rebar; do you see that? To the left of that spark, there is actually you can see what appears to be the end of a rebar, to the left, (Chinese spoken), left?
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2 3 4 5 6 7 8 9	 a proper witness statement, backed up with a statement of truth, signed by you, verified on oath in the witness box? You can either say, "I know it", or you can say, "I don't know, nobody ever told me", or you can say, "I don't agree." A. Mr Shieh, this email refers to minor amendments, minor changes. I don't see "major" here. Please, if you are talking about two separate points, please separate them. 	2 3 4 5 6 7 8 9	 A. Yes. Q. Slightly to the left, we can see there is actually the end of a rebar; do you see that? To the left of that spark, there is actually you can see what appears to be the end of a rebar, to the left, (Chinese spoken), left? A. (In English) Top left. Q. A little bit 8 o'clock. 8 o'clock to that spark,
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	Page 13		Page 15
1	MR SHIEH: Yes.	1	a few days earlier, two staff members of Leighton, Mr So
1		1	
2	CHAIRMAN: I can see the brightness in the middle, which has		and Mr Rodgers, actually promised you that cutting of
3	been variously described as a spark or a light patch or	3	threaded ends of rebar would stop. Do you remember saying that? That is in your witness statement.
4	the thread. 8 o'clock to that, there is what appears to	4	I don't think we need to turn it up.
5 6	me to be the end of a rebar which is resting just on top of a wooden block or what appears to be a wooden block	5 6	Is something wrong with the headphones?
	or the edge of that wooden block.		
7 8	If you continue the 8 o'clock direction down, you	7 8	A. It seems that there is a discrepancy I haven't heard the English version in Chinese version it said a faw
8 9	will then come to a second rebar which is clearly	0 9	the English version in Chinese version it said a few days later.
10	underneath the wooden block.	10	Q. "(Chinese spoken)". I corrected myself. I have slips
11	MR SHIEH: That is precisely what I suggest one can see from	11	of the tongue sometimes but I admit it.
12	this photograph and which I want to suggest to this	12	A. (Chinese spoken).
12	witness. Thank you very much.	12	(In English) So do I.
14	A. (In English) I'm sorry	14	Q. Thank you. A few days before, you said two members of
15	Q. Perhaps you can	15	Leighton promised you that cutting of threaded ends of
16	A. Sorry. In my experience, I'm still inclined to think	16	the rebar would stop. It's Mr So and Mr Rodgers. Do
17	that the wooden plank is actually placed here	17	you remember saying that?
18	(indicating), on top of these two rebars.	18	A. Yes.
19	Q. All right, okay. So visually there seems to be	19	Q. If what you say about the 22nd incident, 22 September
20	a difference in observation between you and Mr Chairman	20	incident of cutting, is true, it would mean that
21	or maybe myself as to the positioning of that rebar	21	Leighton had gone back on its promise to you. Is that
22	a little bit 8 o'clock to that bright spot. You say	22	correct?
23	that that entire rebar is actually underneath the wooden	23	A. The site management went against their promise, correct.
24	block; is that your evidence, Mr Poon? It's	24	Q. Now, if that were to be the case, it would be a matter
25	underneath the entire rebar is underneath the wooden	25	of concern to you that Leighton would go back on their
	Page 14		Page 16
1	block; is that your observation, Mr Poon?	1	words so quickly; is that so?
2	A. Right.	2	A. That's right.
3	Q. I suggest to you that if we look at it, actually it	3	Q. But you did not immediately do anything in writing to
4	shows a rebar resting, as Mr Chairman said, on the edge		
5		4	raise your concern with Leighton management did you
	of or on top of that wooden block.	4	raise your concern with Leighton management, did you, immediately after 22 September?
6	of or on top of that wooden block. CHAIRMAN: Actually, I'm looking at that again and I'm	5	immediately after 22 September?
6 7	CHAIRMAN: Actually, I'm looking at that again and I'm		immediately after 22 September?A. Correct, I did not do it immediately in writing.
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	Page 17		Page 19
1	Mr Paul Shieh would mince words and we would not want to	1	Q. You did not raise it with the government?
2	put in too much time other than on the subject matter.	2	A. Agree. Agree.
3	The subject matter is whether rebars were being cut,	3	Q. Can I then move on quickly, the last incident of rebar
4	and in this photo we see very clearly that rebars were	4	thread cutting that you personally witnessed was in
5	cut. So, as far as I am concerned, I think this should	5	September 2015; correct?
6	suffice.	6	A. Correct.
7	MR JAT: There may be a translation issue at draft	7	Q. Concrete was poured or completed pouring sometime in
8	transcript 16:12, I think the witness started off saying	8	2016 for EWL slab, areas A, B and C; correct? I'm
9	he accepts he did not mention it in the witness	9	talking about EWL slab, areas A, B and C.
10	statement, and then he went on to explain.	10	A. The track slab, correct.
11	MR SHIEH: I suggest to you that you just made up that oral	11	Q. Anyway, in the areas which you say threaded ends of
12	complaint or conversation with Mr Plummer which you have	12	rebar cutting took place, China Technology proceeded to
13	never mentioned before. You can either agree or, as	13	pour concrete; correct?
14	I would expect, you can disagree. My suggestion to you	14	A. Correct.
15	is you have just made up that conversation with	15	Q. Your evidence in your witness statement is that
16	Mr Plummer. You can either agree with me or disagree	16	China Tech actually had little choice but to pour
17	with me.	17	concrete because after hold point inspections, as
18	A. I disagree.	18	a matter of procedure, China Tech had to pour concrete;
19	Q. Mr Poon, I don't know whether your lawyer has explained	19	is that your evidence?
20	to you, but in a setting like this, very often lawyers	20	A. Correct.
21	have a responsibility, when they want to suggest	20	Q. So, at the time of hold point inspection, you did not
21	something to a witness which is contrary to what the	21	actually say or alert people to the fact that, "Hang on
23	witness says, we are under a duty to put or suggest that	23	a second, I saw some threaded ends of rebar being cut;
24	to you, so you have a chance to agree or disagree. So	23	can you check the connections to see whether there are
25	that is what I am trying to do now. Do you understand?	25	any problems?" You did not do that or say that during
23	Page 18	23	Page 20
1	A. (In English) Understand.	1	relevant hold point inspections; correct?
2	Q. So when I say "I put it to you" or "I suggest to you",	2	A. I personally would not take part in the hold point
3	I'm inviting you to either say "yes" or "no" or "yes,	3	inspections. I did not personally take part in them.
4	but" or "no but". It's not a matter of whether I am	4	So, objectively speaking, I think you can refer to the
5	lying or not. I'm just doing my duty to test your	5	MTRC report, D5 and D6, those pages. During
6	evidence. Do you understand?	6	investigation, according to the MTRC report, the
7	A. Yes, I understand. Is it that just now you weren't	7	inspectorate staff also explained that somebody had told
8	happy about my saying that the subject matter was	8	them about the cutting of rebars.
9	cutting rebars?	9	Q. At the time that you poured concrete, you had no reason
10	Q. No.	10	to believe that whatever cutting of the threaded ends of
11	A. (Chinese spoken).	11	the rebar that might have taken place, they had not been
12	Q. You can. You can.	12	spotted and remedied at the hold point inspection; is
12	A. Then let me put it this way. Apart from answering "yes"	12	that right?
14	or "no", I think I can answer that the subject matter is	14	A. It was possible that it happened.
15	about cutting rebars; we should focus on it.	15	Q. Sorry, what is possible?
16	Q. The subject matter is whether there is any planned,	16	A. (Chinese spoken).
17	systematic cutting, Mr Poon; correct?	17	Q. At the time you poured concrete after the hold point
18	A. (In English) Of Leighton?	18	inspections, you had no reason to believe that any
19	Q. Whether there is any planned or systematic cutting of	19	defects in the connection had not already been spotted
20	rebars.	20	and remedied as part of the hold point process?
21	A. (In English) Okay.	21	A. In fact, it was in the end of September, we started
21	Q. Thank you. Can I then move on? You did not raise any	21	work, and it was about two months since we started work.
22	complaint in writing upon seeing the incidents of the	22	Well, in fact, we started working on a large scale in
			· · · ·
24 25	22nd with the MTR; correct? A. Correct. Agree.	24 25	the end of July, and my understanding is that ever since we knew about it, we did ask the frontline staff to

	Page 21		Page 23
1	secretly tell the MTRC. And	1	complaints, Mr Poon, in your witness statement or in
2	CHAIRMAN: I think that's a different answer, with respect.	2	your interviews.
3	I think what you're being asked is that after the hold	3	A. Well, yesterday, when I gave evidence, I said I went to
4	point inspections had been conducted, whether you were	4	Malcolm Plummer and at that time Malcolm Plummer was
5	there or not, you began your pouring exercise because	5	soon to leave.
6	you would have been satisfied, in your own mind, at that	6	Q. Can I ask you to then look at what you said yesterday
7	time, that any rebar cutting issues had been remedied,	7	about Mr Plummer. First of all paragraph 45 of your
8	that is dealt with.	8	witness statement at D23.
9	A. Yes, that's the mindset in September.	9	CHAIRMAN: Mr Shieh, just one small thing. Because you have
10	MR SHIEH: September of what? 2015?	10	a palpable advantage over me of being bilingual and I'm
11	A. September 2015.	11	not, much to my shame, the fact remains that what you're
12	Q. No, I'm asking at the time you poured concrete, whatever	12	tending to do very slightly is, because you've heard the
13	time it was that you poured concrete. Whatever time it	13	answer in Cantonese
14	was that you poured concrete, you had no reason to	14	MR SHIEH: Sorry, I should wait. I'm sorry.
15	believe that there's still anything wrong with the	15	CHAIRMAN: Yes, so I'm losing the last couple of
16	connections?	16	MR SHIEH: I'm terribly sorry, I should wait.
17	A. At that time, I believed the MTRC would have spotted the	17	COMMISSIONER HANSFORD: It would be helpful.
18	problems and would have found remedies to the problems.	18	CHAIRMAN: Thank you.
19	Q. And there's nothing subsequently that somehow alerted	19	MR SHIEH: At paragraph 45 of your witness statement, you
20	you to the fact that things might have slipped through	20	said:
21	the hold point connections?	21	"Between September 2016 to January 2017, I had
22	I'm suggesting to you that there was nothing	22	a discussion with Mr Anthony Zervaas of Leighton about
23	subsequent to the pouring that alerting you that things	23	the possibility of drilling", et cetera. "I urged
24	might have slipped through, defects might have escaped	24	him to find a solution to rectify the defective steel
25	the hold point inspection; is that right?	25	works."
	Page 22		Page 24
1	A. Right, there were things that troubled me, first because	1	Do you see that?
2	I was still hearing about the cutting of rebars. The	2	A. Yes.
3	second point is that there was a serious seepage of	3	Q. Paragraph 46:
4	water at the site.	4	"Until in or about late November 2016, Mr Zervaas
5	Q. Stop there, Mr Poon. If concrete had already been	5	
6			orally admitted to me that there were practices of
	poured, then you could not have heard concrete	6	cutting Mr Zervaas also, on behalf of Leighton,
7	threaded ends of rebar cutting in respect of the rebars	6 7	cutting Mr Zervaas also, on behalf of Leighton, agreed to find a solution"
8	threaded ends of rebar cutting in respect of the rebars that had already been covered by concrete.	6 7 8	cutting Mr Zervaas also, on behalf of Leighton, agreed to find a solution" Do you see that?
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	Page 25		Page 27
1	I'm going to ask you anyway: did you have any similar	1	page 140, line 15 Mr Pennicott asked you:
2	discussions with Mr Plummer?"	2	"I'm just trying to again understand what's going
3	Your answer was "No", Mr Poon; you saw that?	3	through your mind, Mr Poon. Between September 2016,
4	A. What I meant was in my conversation with Mr Plummer, we		So/Rodgers discussion, September/October, a year passes
5	didn't discuss any solution. The conversation was	5	until you raise the point with Mr Zervaas; it just seems
6	different. I explained it. Mr Plummer usually didn't	6	almost incredible if this is so important, so
7	respond after what I told him, and Mr Zervaas was more	7	critical, such a big public safety matter that
8	positive, in a way. Well, Mr Plummer and Mr Zervaas had	8	there's this year's gap where you do absolutely nothing.
9	different characters. I thought I said that	9	Answer: For the period you refer to, September
10	Q. You went on to say in the transcript Mr Pennicott	10	2016" and that, you accept, should be a mistaken
11	asked you:	11	reference to 2015 "until October 2016 When I
12	"I find that slightly curious, Mr Poon, because	12	first knew about it, my estimate was always that it's
12	Mr Zervaas is new on the scene, new to the project	12	just a few per cent. So is it really a major public
13	Mr Plummer has been the project director in place	13 14	issue? No. In the interim, I came to learn more. I
14	throughout the relevant period, so far as I can work	14	never told the press or anyone about it, and that caused
	-	15 16	me more concern that there might be a problem. There
16	out, yet you don't have any discussions with him about		o i
17	it. Can you explain why that is, or why that was?	17	were Leighton staff who told me, that is after we
18	Answer: They are very different. Malcolm is more	18	started work, RDO and BD were hammering Leighton because
19	senior in age. He's someone approaching a stage of	19 20	they did not follow the plans I kept seeing that
20	retirement. When I told him anything about the site, he	20	there were changes It's just that at the time I
21	wouldn't descend to the level of doing something about	21	misunderstood it to be remedial measures for changing
22	it. Anthony gave me the feeling that he would try to	22	those plans. That's what I thought all along, until
23	resolve the problems. Very different."	23	until someone told me that's not the case There were
24	So you were not saying that you tried to talk to	24	two middle to senior management, actually senior
25	Mr Plummer but he brushed you away. You were saying	25	management staff of Leighton, that were chased away in a
	Page 26		Page 28
1	that because Malcolm doesn't want to know anything	1	row, and then I realised it was something major."
2	anyway, "he wouldn't descend to the level of doing	2	Do you see that, Mr Poon? Do you see that? That's
3	something about it", you actually chose to speak to	3	the transcript; do you see that?
4	Anthony Zervaas. Was that what you meant to say?	4	A. (In English) See that.
5	A. Well, maybe I had a slip of the tongue in Cantonese.	5	Q. Do you remember giving evidence along those lines, that
6	What I meant was I did talk to Malcolm Plummer and this	6	you thought initially that there were going to be some
7	was the first time that I mentioned the name Mr Malcolm	7	remedial works to be done, and it's only after a while
8	Plummer and I agreed that Mr Malcolm Plummer is more	8	that you realised that in fact no remedial works were
9	senior in age and normally didn't respond that well.	9	done, and that's why you raised the matter with
10	Well, that's for everything I told him, he responded	10	Mr Zervaas; that was the effect of your evidence,
11	like that. And he understood what I said and he would	11	correct?
12	try to use his own ways to resolve things internally.	12	A. Maybe you have misunderstood me. Let me explain again.
13	I remember that Malcolm Plummer and Mr Zervaas had	13	What is the screen page now? It's 141, and line 12.
14	an overlapping period, but actually what is the	14	Q. Yes.
15	overlapping period I don't recall.	15	A. The "remedial measures" here referred not to remedial
16	Mr Zervaas well, until the day when he actually	16	measures for rebar cutting. These are the remedial
17	sat in that office did I start talking to him, and	17	measures in relation to the hammering of BD by Leighton
18	actually Leighton didn't issue official officially	18	for not following the plans, and they are changing the
19	tell us that there was this novation of the post, but	19	plans all the time. The D-wall capping zone, the plans
	1 · ·	•	related, and the construction method related to D-wall
20	when I talked to Mr Zervaas, his response was rather	20	related, and the construction method related to D-wan
20 21	× ·	20 21	capping zone, the remedial measures refer to those
	when I talked to Mr Zervaas, his response was rather		
21	when I talked to Mr Zervaas, his response was rather positive, so I talked more to Mr Zervaas as a result.	21	capping zone, the remedial measures refer to those
21 22	when I talked to Mr Zervaas, his response was rather positive, so I talked more to Mr Zervaas as a result. So that's very natural.	21 22	capping zone, the remedial measures refer to those works.

7 (Pages 25 to 28)

	Page 29		Page 31
1	provide or offer any explanation as to why it was that	1	subjects which is of concern to me and I must remember
2	you waited until October 2016 to raise it or to raise	2	it.
3	the question of remedial measures with Mr Zervaas; that	3	Q. You asked your foremen to take pictures if they were to
4	is correct, yes?	4	see threaded ends being cut; correct?
5	A. Can you repeat your question? I'd rather listen to your	5	A. Yes.
6	question in English.	6	Q. And we do not see any photograph taken by foremen being
7	Q. In your witness statements prepared for this Commission,	7	adduced as evidence for China Tech; correct?
8	you have not provided any explanation as to why you have	8	A. The reason is simple, because we have already locked the
9	not complained to Leighton in writing until January 2017	9	Dropbox. For the Dropbox 1112, that was confined in the
10	or orally until October 2016. You did not provide any	10	head office at my desk and other people do not have
11	context or reason for people to understand why that time	11	access. Since Apple Daily sent us an email, we were
12	gap; correct?	12	also concerned there was leakage of information, so we
13	A. The Commission's requirements were listed in the	13	asked everybody to leave and log out of the Dropbox and
14	eight-pager of Lo & Lo. I recalled that when I drew my	14	Dropbox 1112 was locked. As of now
15	witness statements, there were 102 paragraphs in	15	CHAIRMAN: Sorry, I have a little difficulty there. Would
16	30 pages and we did follow the instructions. I couldn't	16	it be correct to say that there was a time when you
17	recall that there was no question asking me to explain	17	alerted your senior staff to the fact that there was
18	why I just raised a concern with Mr Zervaas in October.	18	rebar cutting, and you asked them to keep an eye out for
19	Q. As a matter of common sense and credibility, and giving	19	it themselves, and you asked them, if possible, to take
20	context to a witness statement, I suggest to you that it	20	photographs?
21	is quite obvious that you need to tell the story in	21	A. Correct.
22	accordance with the sequence, Mr Poon.	22	CHAIRMAN: Is it also correct to say that nobody gave you
23	A. If you look carefully at the witness statement, it is	23	any photographs, that is none of your subordinates came
24 25	divided into periods. I mean, let's take a look. It's very simple. C3 section from paragraph 45, and then	24 25	back and said, "Here are some photographs to confirm your suspicions"?
23	very simple. C5 section from paragraph 45, and then	23	your suspicions ?
	D 20		B
1	Page 30	1	Page 32
1	let's we go to "late 2016 to early 2017", and I tried	1	A. Well, there must be some misunderstanding here. After
2	let's we go to "late 2016 to early 2017", and I tried to explain sorry, I got it wrong. A slip of the	2	A. Well, there must be some misunderstanding here. After they took the photos, they would upload them onto the
2 3	let's we go to "late 2016 to early 2017", and I tried to explain sorry, I got it wrong. A slip of the tongue again.	2 3	A. Well, there must be some misunderstanding here. After they took the photos, they would upload them onto the Dropbox. They would not print hard copies of the photos
2 3 4	let's we go to "late 2016 to early 2017", and I tried to explain sorry, I got it wrong. A slip of the tongue again. From "late 2016 to early 2017", I tried to explain	2 3 4	A. Well, there must be some misunderstanding here. After they took the photos, they would upload them onto the Dropbox. They would not print hard copies of the photos and hand them over to me or email the photos to me.
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	Page 37		Page 39
1	simple enough and relates to the photographs. Why did	1	early stage, when you asked your people to take
2	you not do anything to retrieve those electronic records	2	photographs, even though you heard there had been some
3	at the time and ensure that they were safely kept so	3	photographs taken, you didn't take steps to put them to
4	that they could be used at a later stage?	4	one side and to ensure their safety, because at that
5	A. I did keep them properly. We keep them in the Dropbox.	5	stage it really wasn't that serious? You had seen some
6	We did that. For all the photos, the drawings, the	6	isolated incidents, but nothing that was going to be
7	documents, they were all kept in the Dropbox	7	profound in the sense that it was systematic; would that
8	CHAIRMAN: But you didn't what you're saying is you threw		be right? "Yes" or "no"?
9	them all in with everything else?	9	A. (Chinese spoken).
10	A. Yes, that's a fact. That's a fact.	10	CHAIRMAN: "Yes" or "no"? It's easy.
11	CHAIRMAN: And now you've got difficulty finding half of	11	A. Up to September, yes.
11	this stuff; yes?	11	MR SHIEH: Can I move on, Mr Chairman, to the other
	A. Yes, that's a fact.	12	photographs that this witness said he had taken in
13 14	CHAIRMAN: Whereas if you had said, "Thank you very much,		mid-September.
14	here's a photograph of somebody actually cutting	14	-
15	a rebar, right by a series of couplers in a diaphragm	15	Mr Poon, you remember in your evidence you had said that prior to the 22 September incident or photo-taking
10		10	exercise, earlier than that date, also in September, you
	wall, I'm going to now identify these photographs and	17	
18	keep the record safely so I can use it", then we		used your office Huawei phone to take two photographs of
19	wouldn't have the current situation, would you agree,	19	rebar cutting and one video. Do you remember that?
20	where half the stuff's got lost?	20	A. I did not mention it was office. I think it was my
21	A. Mr Chairman, for our company, it's not as big as you	21	Huawei phone.
22	might imagine. We only have about \$300 million worth of	22	Q. You used a Huawei phone to take two photographs and one
23	business. Of course for a contractor, it's big, but	23	video in mid-September 2015; correct?
24 25	it's not what you imagine, that we are a super-large	24 25	A. Yes, yes, because that was my Huawei phone. I did not mention the office.
23	organisation. We honestly do not have the resources.	23	
	Page 38		Page 40
1	CHAIRMAN: No. Sorry. Bear with me. I appreciate that.	1	Q. Yesterday, you told us that Mr Gary Speed asked you, on
2	The point of my question and let me put it to you	2	18 September Karl Speed, sorry, Mr Karl Speed asked
3	now; it's a question, it's not a statement of	3	you, on 18 September 2017, in the office of Leighton, to
4	conclusion it may be said that if you did not take	4	delete those two photographs and that one video which
5	steps to actually safeguard the electronic records that	5	you had shown him. Do you remember that?
6	you say you received, that is an indication that you		
		6	A. Yes.
7	weren't actually taking this that seriously at that	7	A. Yes.Q. You then spent, on the transcript, a couple of pages
7 8	weren't actually taking this that seriously at that time.	7 8	A. Yes.Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas
7 8 9	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said	7 8 9	A. Yes.Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came,
7 8 9 10	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of	7 8 9 10	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the
7 8 9 10 11	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been	7 8 9 10 11	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript.
7 8 9 10 11 12	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking	7 8 9 10 11 12	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or
7 8 9 10 11 12 13	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety	7 8 9 10 11 12 13	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office
7 8 9 10 11 12 13 14	weren't actually taking this that seriously at that time.A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me	7 8 9 10 11 12 13 14	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do
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7 8 9 10 11 12 13 14 15 16 17 18	 weren't actually taking this that seriously at that time. A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me this, I talked about it before. CHAIRMAN: I appreciate that. So it would be correct to say A. So, so now, you said you asked if I thought it was 	7 8 9 10 11 12 13 14 15 16 17 18	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do you remember saying that? A. Yes, I remember that. Q. So there were two requests, one was from Karl Speed, for you to delete from your phone on the spot two pictures
7 8 9 10 11 12 13 14 15 16 17 18 19	 weren't actually taking this that seriously at that time. A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me this, I talked about it before. CHAIRMAN: I appreciate that. So it would be correct to say A. So, so now, you said you asked if I thought it was at a point that things were going to collapse, I must 	7 8 9 10 11 12 13 14 15 16 17 18 19	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do you remember saying that? A. Yes, I remember that. Q. So there were two requests, one was from Karl Speed, for you to delete from your phone on the spot two pictures and one video. Subsequent, on the same day, Zervaas
7 8 9 10 11 12 13 14 15 16 17 18 19 20	 weren't actually taking this that seriously at that time. A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me this, I talked about it before. CHAIRMAN: I appreciate that. So it would be correct to say A. So, so now, you said you asked if I thought it was at a point that things were going to collapse, I must stop it now, I must come forward on whether to pour 	7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do you remember saying that? A. Yes, I remember that. Q. So there were two requests, one was from Karl Speed, for you to delete from your phone on the spot two pictures and one video. Subsequent, on the same day, Zervaas asked you to go back to your office and delete or
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 weren't actually taking this that seriously at that time. A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me this, I talked about it before. CHAIRMAN: I appreciate that. So it would be correct to say A. So, so now, you said you asked if I thought it was at a point that things were going to collapse, I must stop it now, I must come forward on whether to pour concrete no, I don't think we have reached that 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do you remember saying that? A. Yes, I remember that. Q. So there were two requests, one was from Karl Speed, for you to delete from your phone on the spot two pictures and one video. Subsequent, on the same day, Zervaas asked you to go back to your office and delete or destroy photos or records of rebar cutting. Have I got
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 weren't actually taking this that seriously at that time. A. Now, yesterday I explained that. In my evidence I said this repeatedly, I thought there was about 5 per cent of the bars cut, that was my estimate. That's always been the estimate. I also believe that if we're just talking about cutting threads then it's within the safety margin. I answered that yesterday. Before you asked me this, I talked about it before. CHAIRMAN: I appreciate that. So it would be correct to say A. So, so now, you said you asked if I thought it was at a point that things were going to collapse, I must stop it now, I must come forward on whether to pour concrete no, I don't think we have reached that critical stage yet. But if there were other issues that 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes. Q. You then spent, on the transcript, a couple of pages talking about a man called Manning and then Tony Zervaas came and then a Chinese man from Leighton came, et cetera, which we don't need to call up on the transcript. Then you said Zervaas asked you to destroy photos or records of rebar cutting in your company or office computer, pursuant to the confidentiality agreement. Do you remember saying that? A. Yes, I remember that. Q. So there were two requests, one was from Karl Speed, for you to delete from your phone on the spot two pictures and one video. Subsequent, on the same day, Zervaas asked you to go back to your office and delete or destroy photos or records of rebar cutting. Have I got it right?
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	Page 41		Page 43
1	paragraph 9. You can choose to look at the Chinese or	1	And the Chinese version is:
2	the English. The English:	2	"(Chinese spoken)", and then a number of points, so
3	"On a certain day between 15 September and	3	it seemed to match the English version.
4	22 September (exact date could not be provided),	4	Do you see that, Mr Poon? No question yet. I'm
5	under the guise of inspection of safety facilities	5	asking you whether you have seen what you said in the
6	I asked Mr So and Mr Rodgers to conduct site	6	police statement. My questions will come.
7	inspection with me together. Since incidents of	7	A. Yes, yes.
8	Leighton staff cutting short threaded heads of rebars	8	Q. Here, you only mentioned being required to delete two
9	continued to happened, and I knew that the construction	9	photos and one video; correct?
10	process of screwing the rebars was being carried out	10	A. Correct.
11	at bay 'C1-4' I believed that there would be	11	Q. You did not mention anything about being requested by
12	Leighton staff cutting threaded heads of rebars at the	12	anyone from Leighton to delete stuff in your office
13	said location (on that day). The three of us met at	13	computer; that is correct, right? You did not mention
14	around 5 pm and we walked towards bay 'C1-4", et	14	that in your police interview; correct?
15	cetera.	15	A. For 18 September, I think it was rather general and the
16	Can I move over the page at 765.4:	16	confidentiality agreement did not mention the oral
17	"I used the Huawei mobile phone of my company"	17	undertaking or the remedial solution. So maybe
18	which you define as "Phone 1" "to take 2 photos and	18	everything was all mixed up.
19	to record a video clip of about 10 odd seconds of this	19	Q. In your I'm sorry.
20	incident."	20	A. Because from the text, it seems to suggest that the
21	That is what you said to the police; do you see	21	confidentiality agreement includes the admission orally
22	that?	22	that there were cutting of rebars, the remedial
23	A. Yes.	23	measures, all these have been included in the
24	Q. So, according to what you said to the police, the Huawei	24	confidentiality agreement, but it was quite general,
25	phone which was used to take photograph on that occasion	25	without details. Just very general.
	Page 42		Page 44
1	was a company phone. That was what you said?	1	Q. I will come to that in due course, the confidentiality
2	A. Sorry, I've got it mixed up, because I remember this	2	agreement.
3	Huawei phone very well. I use it to do drone videos.	3	I will suggest one more time: this business about
4	Q. So was that Huawei phone a company phone or your	4	being asked to go back to your office to delete stuff or
5	personal phone?	5	
6		5	data in your office computer was not mentioned in your
	A. This is my personal phone, but in fact the company	6	police interview or your witness statements prepared for
7	A. This is my personal phone, but in fact the company belongs to me.		police interview or your witness statements prepared for this Commission of Inquiry. Do you accept that, as
8	A. This is my personal phone, but in fact the company belongs to me.Q. Anyway, can I ask you then to look at 765.6, that's the	6	police interview or your witness statements prepared for this Commission of Inquiry. Do you accept that, as a matter of fact?
8 9	A. This is my personal phone, but in fact the company belongs to me.Q. Anyway, can I ask you then to look at 765.6, that's the English the Chinese is 764 and I want	6 7 8 9	police interview or your witness statements prepared for this Commission of Inquiry. Do you accept that, as a matter of fact?A. Did not mention? Well, this paragraph only briefly
8 9 10	A. This is my personal phone, but in fact the company belongs to me.Q. Anyway, can I ask you then to look at 765.6, that's the English the Chinese is 764 and I want paragraph 16:	6 7 8 9 10	police interview or your witness statements prepared for this Commission of Inquiry. Do you accept that, as a matter of fact?A. Did not mention? Well, this paragraph only briefly mentioned that meeting. If you just read from the text,
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11 (Pages 41 to 44)

1	Page 45		Page 47
1	CHAIRMAN: I do. There seem to be a lot of hands going up.	1	A. How can I answer on behalf of Leighton?
2	A. Well, just for myself, I change my phone every year.	2	Q. Now, you said yesterday, we looked at clause 3.5,
3	I do follow the latest models.	3	which Mr Pennicott took you to. That's
4	MR SHIEH: Anyway, I will move on.	4	confidentiality 3.5, yes, and Mr Pennicott drew your
5	You uploaded the photographs and the video that you	5	attention to the first few words:
6	took in September onto the Dropbox or the system in your	6	"At any time upon demand by Leighton",
7	office; correct?	7	et cetera.
8	A. Correct.	8	And the destruction or deletion was to take place
9	Q. Thank you. I suggest to you that as part of your	9	only upon demand by Leighton. Do you remember
10	story-making, you realised that it is not enough for you	10	Mr Pennicott asking you that?
11	to simply say in your evidence that you were asked to	11	A. Yes, I remember.
12	delete photos and video on your phone, because you knew	12	Q. And you said the request came from Speed and Zervaas;
13	people would ask you, "How about the system in the	13	yes?
14	office?", and therefore you had to make something up on	14	A. Yes, I remember.
15	the spot to say, "I have been asked to go back to my	15	Q. I now come back to what you said earlier in your police
16	office to delete data as well." Do you accept that?	16	statement. In your police statement, 765.6, English,
17	A. Disagree.	17	764, Chinese, paragraph 16
18	Q. Turn to bundle C12, page 7995. That is a final account	18	A. I see that.
19	statement recording a final settlement between	19	Q it talked about the content of the confidentiality
20	China Tech and Leighton in respect of contract 1112. Do	20	agreement; do you see that?
21	you see that, Mr Poon?	21	A. Yes.
22	A. Yes, I see that.	22	Q. So if you read either the English or the Chinese, it
23	Q. And also C12/8000, there is the confidentiality	23	suggests that the confidentiality agreement, the content
24	agreement; do you see that, Mr Poon?	24	of the agreement required Leighton to make admission,
25	A. Yes.	25	required you to delete, required Leighton to rectify,
	Page 46		Page 48
1	Q. You say in your professional career you have entered	1	and required you to send email and also sort out the
2	into confidential agreements twice; do you remember?	^	
2 ²		2	engineering sum; do you see that?
2 3	A. Right.	2	A. Well, you said Leighton required us to delete? It seems
	A. Right.Q. Although you also said yesterday that sometimes		A. Well, you said Leighton required us to delete? It seems like there is
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24verify whether you had indeed gone back to your office 2524these photographs now to this Commission as part of 2525Page 50Page 261to delete and have not kept a spare copy in the USB? 21A. I've explained before.2A. He didn't mention USB.213Q. Has he asked for or suggested any way that could verify 4or show to him that you had indeed kept your promise and 52Q. Are you talking about the subsequent restoration or recovery of photographs; is that right?4A. Yes. This is how he said it. Leighton knew that my 7Wife and I owned a property, and if the data were 85Q. Thank you. I will come on to that. So these two photographs, indeed the seven photographs which you recovered; correct?10would take us to court. But then I said that this is 11a company agreement, and he has successfully persuaded 12my wife to go over and sign the agreement, but my wife 13didn't go immediately.14Q. I ask you for the third time: did Mr Zervaas ask you or 1510A. Yes, i's part, or maybe I have missed deleting these 1113didn't go immediately.13In January 2017, when you picked and chose photographs to send to Leighton's wrongdoing, did it occur to you to send 1616verification that you had in fact gone back and deleted 17the wo photos and one video that you took on the 1717Q. I suggest to you that it is just incredible and indeed 20moronic for Mr Zervaas to simply ask you to go back to19Q. I suggest to you that it is just incredible and indeed 20 <th></th> <th>Page 49</th> <th></th> <th>Page 51</th>		Page 49		Page 51
 However, I admit, now reading back this police statement. a lot of details have been left out. 1ask for understanding because I spent the whole day giving the statement. M R SHIEH: Mr Chairman, I am halfway through this topic. M R SHIEH: Mr Chairman, I am halfway through this topic. I CHAIRMAN: If that's how you foci, then it's you reacember? C12/7931. A Yes, in the remail. Q C12/7923. Maybe we can call that up. C12/7931. A. Yes, in the remail. Q C12/7923. Maybe we can call that up. C12/7931. A. Yes, in the remail. Q C12/7923. Maybe we can call that up. C12/7931. A. Chinese spoken). (A Short adjournment) (I 151 am) A. (Chinese spoken). Q. Can I come back and ask you some questions about M R SHIEH: Good morning, Mr Poon. It's still the morning A. (Chinese spoken). Q. Can I come back and ask you some questions about Mr Zervaas's request for you to go back to the office to efficient of the Zervaas's request for you to go back to the office to and dicted the photographs or data which he wanted you Q. Did Mr Zervaas as for or suggest any way for him to verify whether you had indeed gone back to the out the sep hotographs, id they? Because you were able to pro these photographs now to this Commission as part of the compathy. id did hey? Because you were able to pro these photographs is is that right? A. Yes, Please. Q. Hash casked for or suggested any way that could verify write and I owned a property, and if the data were a coordany agreement, and be assucessfully persuade in acompany agreement, hay wife and I owned a property, and if the data were Beaked, say, to outside parties, say the media, then, in accordance with the conflemitality agreement, thay wife you more in difficult in grape statement, in accordance with the conflemitality agreement, thay the grane statement and	1	then I heard Anthony's explanation before I signed it	1	strange. I won't comment on that
3 statement, that the paragraph is too general, such that 1 to go back to delete the files simply did not happen. 4 a lot of datails have been left out. I ask for 0 No, it did happen. 1 5 understanding because I spent the whole day giving the 5 Q. All right. Now, your remember in January 2017 you 7 MR SHIEH: Mr Chairman, I am halfway through this topic. 9 Q C12/7932. Maybe we can call that up. C12/7931. 10 an appropriate time to take the mid-morning 10 A. (In English) Okay. 11 CHAIRMAN: If that's how you feel, then it's your 10 Q C12/7932. Maybe we can call that up. C12/7931. 12 cross-examination. Well have the mid-morning 10 A. (In English) Okay. 13 adjournment. 15 (A short adjournment) 16 Do you see that? 14 (11.30 am) 10 Q. Tas yes, I is is the email, of you oyo to go back to the office to 14 Galdeter files, all right? 2 A Yes, I please. 13 Q. Bay heave ask for or suggest any way for him to Yes, I is is how he ask for or suggest any way that could verifice to and have not kept a sparce copy in the USB? A. He dinfit mention USB.				-
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5 understanding because I spent the whole day giving the statement. 5 Q. All right. Now, you remember in January 2017 you to photographs to Leighton as part of the complaint thave a few more questions to put on this topic before 9 moving on to the next one, and this seems to be an appropriate time to take the mid-morning adjournment. 15 minuts. Thank you. 7 A. Yes, in the email. 11 CHAIRMAN: If that's how you feel, then it's your adjournment. 15 minuts. Thank you. 9 Q (12/7932. Maybe we can call that up. C12/7931. 12 cross-examination. We'll have the mid-morning adjournment. 15 minuts. Thank you. 10 A. (In English) Okay. 14 (11.30 am) 11 Q. and royab, add they. Dispace (A short adjournment) 16 Do you see that? 16 (L1.51 am) 16 Do you see that? 17 17 MR SHIEH: Good morning, Mr Poon. It's still the morning. 18 A. Yes, lease. 18 20 Chi ces paker, bi is show ha in dired gone back to your office and deleted the photographs or data which he wanted you verify whether you had indeed gone back to your office gone back to the office and deleted the required data? A Yes, This is how he said it. Leighton knew that you show to him that you had indeed gone back and deleted the required files? A Yes reyou talking about the subsequent restoration or yere				
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7 MR SHIEH: Mr Chairman, I am halfway through this topic. 7 that you made; do you remember? C12/7931 8 Have a few more questions to put on this topic before 8 Yes, in the email. 9 moving on to the next one, and this seems to be 9 Q. C - C12/7932. Maybe we can call that up. C12/7931. 10 an appropriate time to take the mid-morning break. 10 A. (In English) OKay. 11 CHAIRMAN: If that's how you feel, then it's your 12 previous page, this is the email. 6 January. 13 adjournment. 15 minutes. Thank you. 13 Paragraph 3, after that, you say: 14 (11.30 am) 16 Do you see that? 15 at (As hort adjournment) 15 at 18.18 to 18.19" 16 (11.51 am) 16 Do you see that? 17 MR SHIEH: Good morning, Mr Poon. It's still the morning. 17 A. Yes, please. 23 Q. Did Mr Zervaas tas for or suggest any way for him to 18 Q. So you sen these photographs on to this topic onfice 16 to delete flies; all right? 14 A. Yes. Yes. 24 to delete flies; all right? 14 A. Yes. 25 and d				
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18 A. (Chinese spoken). 18 Q. So you sent these photos to Leighton in January 201' 19 Q. Can I come back and ask you some questions about 19 part of what you regard to be relevant evidence of 20 Mr Zervaas's request for you to go back to the office to 20 wrongdoing; correct? 21 delete files; all right? 21 A. Yes, 23 Q. Did Mr Zervaas ask for or suggest any way for him to 22 Q. But Leighton did not ask you to delete these two 24 verify whether you had indeed gone back to your office 20 But Leighton did not ask you to delete these two 25 and deleted the photographs or data which he wanted you 23 Page 50 Page 7 to delete and have not kept a spare copy in the USB? 1 A. I've explained before. 2 2 Q. Has he asked for or suggested any way that could verify a orshow to him that you had indeed kept your promise and 5 Q. Tank you. I will come on to that. So these two 3 Q. Has he asked for or suggest any any the media, then, in a correct. 5 Q. Tank you. I will come on to that. So these two 6 A. Yes. This is how he said it. Leighton knew that my f recovered; correct? 7 recovered; corre				•
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25 A. So you were criticising Mr Zervaas as silly and very 25 photos in terms of evidence of people doing certain	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 or show to him that you had indeed kept your promise and gone back to the office and deleted the required data? A. Yes. This is how he said it. Leighton knew that my wife and I owned a property, and if the data were leaked, say, to outside parties, say the media, then, in accordance with the confidentiality agreement, they would take us to court. But then I said that this is a company agreement, and he has successfully persuaded my wife to go over and sign the agreement, but my wife didn't go immediately. Q. I ask you for the third time: did Mr Zervaas ask you or suggest that you should provide any proof or verification that you had in fact gone back and deleted the required files? A. No, no. Q. I suggest to you that it is just incredible and indeed moronic for Mr Zervaas to simply ask you to go back to delete stuff and, "I'll just leave it to you to do it." 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 recovery of photographs; is that right? A. Correct. Q. Thank you. I will come on to that. So these two photographs, indeed the seven photographs which you now exhibit to your witness statement and say were taken on the 22nd were part of the photographs that were recovered; correct? A. Yes, it's part, or maybe I have missed deleting these photos in the first place. Q. I will come to that. In January 2017, when you picked and chose photographs to send to Leighton as part of your evidence of Leighton's wrongdoing, did it occur to you to send the two photos and one video that you took on the earlier occasion? A. You are talking about the email on 6 January 2017, at that particular juncture? Q. Yes. A. I have only to find two pieces of corroborative

	Page 53		Page 55
1	things; do you accept that?	1	A. Yes.
2	A. It's hard to say. I think photos should be enough, and	2	Q. Paragraph 5:
3	I didn't send all; I just need to pick two randomly and	3	"Describe and explain in detail and in chronology
4	that would be enough to convince Anthony that it did	4	the events and occasions when your company witnessed any
5	happen.	5	shortening, cutting, or defective connection of the
6	Q. Mr Poon, what you are now trying to create is	6	steel bars in the diaphragm walls and platform slabs, in
7	an impression that "there is something pretty damaging	7	particular"
8	and relevant dangling somewhere but it's just that	8	Then I wish you to go to the next page, page 5, (d):
9	I can't produce them". Is that what you are trying to	9	"Notes and written records kept on such events and
10	do?	10	occasions, photographs taken and video or audio
11	A. No. Now, if on 6 January 2017 I would have foreseen	11	recordings made should be exhibited. All internal
12	I would be doing this, of course it would be different.	12	records, reports, meeting notes and minutes, summaries
13	Now, this email was sent on 6 January 2017, Mr Shieh.	13	and documents pertaining to any internal investigations
14	So what I want to express is this. Anthony said there	14	undertaken by your company should be provided as well.
15	was no cutting of threaded rebars. Even though, or even		Notwithstanding the existence please explain why
16	if they were cut, they were not screwed in. That's why	16	your company proceeded to pour concrete at the diaphragm
17	it's enough for me to just show him two photos.	17	walls and platform slabs and completed your company's
18	I explained that in my evidence or statement. He	18	works under the relevant contract(s).
19	admitted initially but suddenly he denied it.	19	Explain with reference to the terms of
20	Q. Actually and it's a small point in your witness	20	contract 1112 how the steel bars should be
21	statement prepared for this Commission, you have not	21	connected
22	mentioned any deletion at all I'm talking about your	22	Given your company's knowledge provide
23	first witness statement. In your first witness	23	an analysis of the extent"
23	statement prepared for this Commission, you have not	24	Then at 6:
25	mentioned any deletion at all; do you accept that?	25	"Given your answers to the matters in paragraph 5,
	Page 54		Page 56
1	A. I think I should have copied the police statement there.	1	explain to the best of your company's knowledge how the
2	Q. I'm not going to argue with you. We can all read for	2	defective steel works came about and the reasons for the
3	ourselves.	3	shortening and also why the defective steel works
4	A. Obviously part of our statement is from the police	4	had been allowed and overlooked."
5	statement.	5	Do you see that?
6	Q. You did not, in your first witness statement, adopt or	6	A. (In English) Yes.
7	confirm the contents of your police interview, Mr Poon;	7	Q. At D6, top of the page:
8	do you accept that?	8	"Please describe, explain and confirm whether, and
9	A. Let me explain again. For the police statement, the	9	if so, what steps were taken by your company to alert or
10	contents therein, they were copied to the witness	10	inform the main parties or any of them of the existence
11	statement.	11	of the defective steel works.
12	Q. Anyway, Mr Poon, before the mid-morning break, when you	12	Identify the persons in your company who notified
13	were questioned about why you have not mentioned certain	13	and reported the matter
14	complaints and conversations in your witness statements,	14	Describe the responses, reactions and steps
15	you said you were just trying to reply to Lo & Lo's	15	taken
16	letter to your company or to your solicitors; do you	16	Whether or not it was as a result of your company's
17	romambar that?	17	notifications and reports, please confirm and
10	remember that?		
18	A. Yes.	18	identify", et cetera.
18 19		18 19	Identify", et cetera. Point 8:
	A. Yes.		-
19	A. Yes.Q. Can you then turn to bundle D, page 1. This is	19 20 21	Point 8: "Following the notifications and reports described in paragraph 7, please describe and explain what steps
19 20	A. Yes.Q. Can you then turn to bundle D, page 1. This is Lo & Lo's letter of 20 July 2018.	19 20	Point 8: "Following the notifications and reports described in paragraph 7, please describe and explain what steps and measures were taken by your company and/or the
19 20 21	 A. Yes. Q. Can you then turn to bundle D, page 1. This is Lo & Lo's letter of 20 July 2018. A. Yes. Q. Some ten days after the setting up of the Commission of Inquiry. 	19 20 21 22 23	Point 8: "Following the notifications and reports described in paragraph 7, please describe and explain what steps and measures were taken by your company and/or the recipients of such notifications and reports to rectify
19 20 21 22	 A. Yes. Q. Can you then turn to bundle D, page 1. This is Lo & Lo's letter of 20 July 2018. A. Yes. Q. Some ten days after the setting up of the Commission of 	19 20 21 22	Point 8: "Following the notifications and reports described in paragraph 7, please describe and explain what steps and measures were taken by your company and/or the

1 messages, written notes", et cetera. 1 Q. Oh, Mavic, that's the style, that's the particular mode 2 Do you see that? 3 A. Yes, I see that. 3 4 Q. Mr Poon, it is and I'm not going to go through the 5 A. (In English) Yes, A new model. 4 Q. Mr Poon, it is and I'm not going to go through the 5 A. (In English) Yes, A new model. 5 wording; we can all read it a very comprehensive set 6 Q. Not Phantom. 6 of questions, asking for a wide range of matters; do you 7 Now, can I ask you to look at a news report, 8 A. Yes, it's wide range, it's very wide range. 9 O. Whether complaints were made, for example? 11 A. Yes. 10 Q. 24260. 12 Q. Whether remedial steps were taken as a result; agree? 11 A. Yes. 13 A. Yes. 12 Q. Now, we do not yet have time to translate this, but w 14 Q. And why the alleged acts of cutting should take place at the relevant parts. 15 14 Q. Thak you. And despite that, you have not mentioned, 10 Q. This is an article in an online media called HKC New 17 A. Yes. 13 Q. It is		Page 57		Page 59
2 Do you see that? 2 of the drone, the DJI drone? 3 A. Yes, I see that? 3 A. (In English) Yes, A new model. 4 Q. Mr Poon, it is – and I'm not going to go through the 5 A. (In English) Yes, A new model. 5 A. (In English) Yes, A new model. 4 Q. Not Phantom. 7 agree? 3 A. (In English) Yes, A new model. 8 A. Yes, if's wide range, if's very wide range. 5 A. (Chinese spoken). 9 Q. Whether complaints were made, for example? Whether 7 Now, can I ask you to look at a news report, 8 A. Yes. 10 Q. 24260. 11 A. Yes. 12 Q. Whether remedial steps were taken as a result; agree? 12 A. Ne, and despite that, you have not mentioned, 15 A. Mrm. 10 Q. Thank you. And despite that, you have not mentioned, 14 Q. Mr Poon, I com back to your photos taken in 15 mid-September. You used the Huawei phone to take those 23 A. No, that was not written down. 23 Technology, Jason Poon, following what he said the sorrout line; it say: 4 Q. Mr Poon, I com back to your photos taken in 15 Secord this article is 23 Jane 2018. The	1	-	1	Q. Oh, Mavic, that's the style, that's the particular model
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22 Q. Right. 22 Q. Right. I hope they are here.				
		· •		
24 Q. Okay. 24 correct, according to this article?		-		
25A. M-A-R-V-I-C.25A. No, more than that.		· ·		-

	Page 61		Page 63
1	Q. Many more?	1	Technology, Jason Poon, responded to many key questions
2	A. Five.	2	in relation to the cutting of bars at Hung Hom Station.
3	Q. So you were darling of the media at the time; do you	3	The CitizenNews summarises his reply as follows."
4	accept that?	4	A. What are you trying to say?
5	A. Because the MTRCL published that report or	5	Q. Do you see that sentence?
6	advertisement.	6	A. (In English) Yes.
7	Q. "Idol of the underdog"; correct?	7	Q. I'm just telling you that this article is not
8	A. Let me say this again, because the MTRCL published	8	an interview by HKC News with you. It is an attempt by
9	an advertisement and that led to this case.	9	the reporter to summarise the content of your interview
10	CHAIRMAN: Sorry, what was the advertisement?	10	at the three radio programmes. I'm just letting you
11	MR PENNICOTT: It may be a press release; I'm not sure.	11	know this is what this article was trying to do; right?
12	A. At the time, the MTRCL, I think there were on	12	A. Yes, I agree.
13	26 newspapers, English and Chinese newspapers, they put	13	Q. Can I then ask you to turn to 24262. At the bottom,
14	in a half-page or whole-page advertisement to condemn	14	there is a line in bold:
15	people, including myself, in other words people who	15	"(Via interpreter) When did the MTR know about it?
16	describe this case, and at the time MTRCL was telling	16	What did it do to respond? Was it the case that the
17	lies repeatedly.	17	senior management knew nothing about it? Who should be
18	CHAIRMAN: So it was some form of press announcement?	18	held responsible?"
19	MR SHIEH: Yes, a press announcement, as opposed to	19	Above that, there is a paragraph the second line
20	an advertisement in the commercial sense.	20	on that paragraph, there is a sentence which starts:
21	COMMISSIONER HANSFORD: Just a small point	21	"(Via interpreter) By 18 September, Leighton staff
22	A. It's a commercial advertisement.	22	improved their attitude, the two parties reached
23	(In English) Commercial advertisement being placed	23	an agreement, Chinat was satisfied with the remedial
24	by MTR on 26 numbers of local newspapers and media,	24	solution of Leighton and Chinat agreed to sign
25	purely commercial, and MTRC is paying the advertisement	25	confidentiality agreement. In response to Leighton's
	Page 62		Page 64
1	Page 62 fee.	1	Page 64 request, Jason Poon deleted photos in his phone that
1 2	-		-
	fee.		request, Jason Poon deleted photos in his phone that
2	fee. COMMISSIONER HANSFORD: My point, Mr Shieh once again	2	request, Jason Poon deleted photos in his phone that were taken in September 2015. Chinat emailed to the THB
2 3	fee. COMMISSIONER HANSFORD: My point, Mr Shieh once again I think we are going a bit fast for the interpretation,	23	request, Jason Poon deleted photos in his phone that were taken in September 2015. Chinat emailed to the THB to say that the suspected incidents had been clarified.
2 3 4	fee. COMMISSIONER HANSFORD: My point, Mr Shieh once again I think we are going a bit fast for the interpretation, so I'm not collecting it all on the screen.	2 3 4	request, Jason Poon deleted photos in his phone that were taken in September 2015. Chinat emailed to the THB to say that the suspected incidents had been clarified. Jason Poon added that there were other photos taken in
2 3 4 5	fee. COMMISSIONER HANSFORD: My point, Mr Shieh once again I think we are going a bit fast for the interpretation, so I'm not collecting it all on the screen. MR SHIEH: I'm sorry.	2 3 4 5	request, Jason Poon deleted photos in his phone that were taken in September 2015. Chinat emailed to the THB to say that the suspected incidents had been clarified. Jason Poon added that there were other photos taken in September 2015 kept in the company's computer and they
2 3 4 5 6	fee. COMMISSIONER HANSFORD: My point, Mr Shieh once again I think we are going a bit fast for the interpretation, so I'm not collecting it all on the screen. MR SHIEH: I'm sorry. COMMISSIONER HANSFORD: Thank you.	2 3 4 5 6	request, Jason Poon deleted photos in his phone that were taken in September 2015. Chinat emailed to the THB to say that the suspected incidents had been clarified. Jason Poon added that there were other photos taken in September 2015 kept in the company's computer and they were not deleted."
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	Page 65		Page 67
1	A. Right.	1	On this point, let me just continue. In fact, it's
2	Q. Well, you may not be able to comment.	2	already in my phone records. I deliberately called my
3	A. Well, I didn't write this.	3	phone record. On 4 June, I called Dr Philco Wong.
4	Q. You then said:	4	There were four or five phone calls between the two of
5	"(Via interpreter) Then there were photos taken in	5	us, back and forth. At the time, I appealed to him that
6	September 2015 stored in the office computer not yet	6	as far as this matter was concerned, it was best to just
7	deleted."	7	tell the truth, or else I would imagine that there would
8	A. Right.	8	be a very horrible consequence. Dr Philco Wong back
9	Q. So you are saying there are photographs taken in	9	then asked me to contact somebody named Wong in
10	September which you have not deleted; do you see that?	10	Leighton, and I already said it once that there was
11	A. In fact what I meant at the time was that I was able to	11	nothing else to talk about.
12	identify photos, a quantity of photos, in September	12	Then he gave me the wrong number of a salesman of
13	2015.	13	Mercedes-Benz, alleging that that was the person. Then
14	Q. Mr Poon, if you are in whistleblowing mood and trying to	14	what happened, as I saw, was that several personnel from
15	expose the brutal behaviour of Leighton in asking for	15	MTRC came out to tell stories, totally inconsistent with
16	deletion, you would actually spill the beans completely,	16	the truth.
17	wouldn't you, and say Leighton asked you to delete two	17	Up to the point when the interview took place, the
18	photos and one video and to delete stuff in your office	18	MTRC insisted there were less than 20 and in fact just
19	computer as well; do you accept that? But you didn't	19	17 threads being cut. I disagreed. Then MTRC, being
20	say that in the radio programme.	20	a major corporation, tried to bully an ordinary citizen
21	A. First of all, this is a very wrong assumption that	21	in Hong Kong and then they placed order for
22	you've kept making. You call me the whistleblower.	22	an advertisement, half-page advertisement, in 26
23	I don't mind that you call me a whistleblower. In the	23	newspapers, making allegations against someone, which is
24	beginning I already told the media numerous times that	24	either me or Mr Michael Tien, and that is why I also
25	I am not that whistleblower. At first I kept silent,	25	noticed Mr Michael Tien coming out to clarify, and that
	Page 66		Page 68
1	Chinat kept silent. In the beginning, Chinat kept	1	is also the reason why I came out to clarify. That's
2	silent.	2	the context of how these two interviews took place.
3	What I meant was if the matter was made public, such	3	CHAIRMAN: All right.
4	that in May 2018, when Apple Daily reported the matter,	4	WITNESS: (In English) I am finished.
5	it was considered to be whistleblowing, and first of all	5	MR SHIEH: You did not, in these interviews, talk about
6	let me reiterate that it wasn't me. In fact,	6	Leighton's request for you to delete data in your office
7	I deliberately made such emails public to show that	7	computer; is that correct?
8	I also received the emails. I was questioned by	8	A. In the beginning, when I was interviewed, I told
9	Apple Daily and they even attended my office, and not	9	everyone who interviewed me very clearly, categorically,
10	until then did I know that they knew. And after that	10	that I was bound by the confidentiality agreement;
11	our company had all along kept silent, all the way until	11	I could only talk about what was already leaked into the
12	MTRC sent a wrong message to Mr Michael Tien, the	12	public domain.
13	honourable member, alleging that my company was	13	As for all other matters, they were not
14	responsible for bar fixing and screwing bars into	14	comprehensive. And, at that time, I even knew about the
15	couplers. We were accused of being difficult, and the	15	indiscriminate amendments of drawings by Leighton
16	MTRC had asked us to do rectification, which we refused.	16	without approval, without remedial proposals I even
17	It was only until they categorically talked about	17	knew that things were yet to be fixed, but I didn't say
18	Chinat that Chinat took the initiative to contact the	18	anything of that sort to the media.
19	honourable Mr Michael Tien for clarification. That was	19	Q. Sorry, have you finished?
20	the first time when Chinat, relatively speaking, gave me	20	A. (In English) Finished.
21	the exposure for the first time.	21	Q. Let's move on, because we need to move on in life and in
22	Then, subsequently, there were numerous	22	questions. Can I talk about the recovery of your
23	clarifications that it was a wrong source of information	23	photos. Mr Poon, you talked about the recovery of your
24	coming from MTRC to Mr Michael Tien, it was not Chinat	24	photographs yesterday.
25	but somebody else, and after that I kept silent again.	25	A. Yes.

	Page 69		Page 71
1	Q. I'm not going to go through the detailed extent of your	1	Q. So, when you tried to delete, somehow, accidentally or
2	evidence, because it actually spanned quite a number of	2	because of the way of clicking, you did not delete
3	pages. I don't use MacBook. I'm old school, I use PC,	3	everything, to start with; correct?
4	so I don't pretend to understand the clicking	4	A. Correct.
5	A. (In English) Little bit.	5	Q. On top of that, by some process, you actually managed to
6	Q of the Apple mouse. Yes. The gist of what	6	recover some of the stuff that you actually managed to
7	I understand you to be saying is that you first of all	7	delete?
8	formatted your office computer?	8	A. (In English) Yes.
9	A. Not my office computer, the site computer.	9	Q. That was the effect of your evidence yesterday?
10	Q. You formatted the computer in the site office	10	A. Mmm.
11	computer?	11	Q. Am I being fair to what you said yesterday?
12	A. Yes, yes.	12	A. (In English) Fair.
13	Q. Am I correct	13	Q. Can I ask you to look at yesterday's transcript,
14	A. That's part of the deletion procedure, not the retrieval	14	page 91.
15	procedure.	15	A. Yes.
16	Q. Hang on a second. My simplistic mind tells me that if	16	Q. Let me see, it might be my mistake; I'm terribly sorry.
17	you format a computer or a drive, you basically	17	Just give me one second.
18	eliminate data in it; correct?	18	A. (In English) 89? Paragraph, sentence 5?
19	A. Correct.	19	Q. No, no, no. I might have made a mistake. Can I just
20	Q. So, after formatting your site office computer, the data	20	have one moment? Ah, yes, page 88, line 8.
21	should all have been gone; correct?	21	This is I think Mr Pennicott asking you:
22	A. As far as that computer is concerned, correct.	22	"Let's try to put it around the other way. Do you
23	COMMISSIONER HANSFORD: Unless there's data in the cloud,	23	know whether any photographs that you had taken were
24	the Dropbox.	24	missing, ie had been destroyed forever?
25	MR SHIEH: Yes.	25	Answer: I didn't know at the time. Not at the
	Page 70		Page 72
1	A. Do I need to explain again?	1	time.
2	Q. No, I know your explanation. Don't repeat a few pages,	2	Question: What about now; do you know?
3	please.	3	Answer: I'm aware now that at least regarding
4	I know what you have said in those few pages and	4	area A, there was a lot of rubbish and those photographs
5	I am trying my very best to summarise, to the simplest	5	are not recoverable. Because I wanted to give a
6	extent possible, my understanding. 30-odd years ago,	6	statement of that but I couldn't find the photographs
7	I almost became an engineer; what might have been.	7	and we could not I had seen many pictures where there
8	A. (In English) You might have sat here.	8	were a lot of cut threaded bars and I have seen a lot of
9	Q. Separate from the deleting, you said you then proceeded		those before. Then we also had a lot of couplers that
10	to try to delete photos from the Dropbox; correct?	10	were removed and I couldn't find those pictures either.
11	A. (In English) Yes.	11	Question: Okay?
12	Q. That's the effect of what you said?	12	Answer: I have a clear recollection of seeing
13	A. (In English) Yes.	13	those, but I cannot recover them.
14	Q. You talked about the effect of clicking using the Apple	14	Question: Okay. So your evidence, in summary,

Q. You talked about the effect of clicking using the Apple 14 15 15 mouse, something about horizontal and vertical, yesterday, and effectively what you are trying to say, 16 16 17 17 on a high level of generality, is that you thought you 18 18 might have deleted all but somehow, because of the way

19 of clicking, you had actually not deleted all? 20 A. (In English) Yes. 21 Q. Is that what you're trying to say? 22 A. (In English) Yes.

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25

21 22 Q. Was there a separate act of recovering some of the 23 deleted data? 24 available included the threaded ends that had been cut A. (In English) Yes. 25 and also damaged couplers; that's your evidence?

18 (Pages 69 to 72)

therefore, is that, yes, you did destroy photographs;

incidents of cutting, and also couplers, you recollect

those photographs, and they are no longer available ...

you recall that some of those photographs showed

because of the destruction ... They have not been

But the photographs that you say are no longer

19

20

recovered?

Answer: Correct."

That's what you said, Mr Poon.

	Page 73		Page 75
1	A. Mmm.	1	suggestion that you had been asked to remove data in
2	Q. That's right, yes?	2	your office computer recently. Do you accept that?
3	A. (In English) Yes.	3	A. No, I didn't make it up. As a reasonable man, ordinary
4	Q. None of this business about en masse or massive deletion	4	man, I would not take my own time to remove data.
5	of data on your site office computer, from your Dropbox,	5	Q. Well, Mr Poon, can I suggest why you had to make that
6	and the recovery or retention of some of them, had ever	6	deletion and recovery up: you had said you deleted
7	been mentioned in any of your witness statement or	7	well, we don't accept you deleted two photos on the
8	police statement. Do you accept that as a matter of	8	phone and one video on the phone anyway, but you had
9	fact?	9	said to the police that you deleted two photos and one
10	A. Okay. As I explained about the written statement,	10	video; correct? Correct?
11	I don't want to repeat. The police just gave a general	11	A. When I told the police, there were more than that.
12	description in the paragraph, whereas for other witness	12	There were more than that. That was how it was written.
13	statements, I didn't put them in because the statement	13	Q. So you said something to the police but, when it got
14	was written by the police and the COI never asked about	14	reduced in writing, it became you deleted two photos and
15	it. I did not consider it the subject matter.	15	one video?
16	Q. You were asked about whether you have any photographic	16	A. Right.
17	evidence by Lo & Lo; do you remember that?	17	Q. So the police interview record did not accurately record
18	A. Yes. That is why let me put it this way. At the end	18	what you have said to the police?
19	of June, when the police approached me, I already said	19	A. That's right, because of the length of time; we spent
20	to the police I mean, when I was approached by the	20	the whole day.
21	police at the end of June, it was the Highways	21	Q. Anyway, I suggest to you that you then realised that
22	Department which called the police, somewhere between	22	people would raise questions: "How about your Dropbox,
23	20 and 30 June. I mean it was somewhere after 20 June	23	how about your office computer? You must have synced
24	2018, the police approached my office, inviting us to	24	them." You then had to make up a separate deletion
25	give a statement. At that time, I explained to the	25	exercise of Dropbox and your office computer; do you
	Page 74		Page 76
1	police, "Before I give corroborative evidence, I need to	1	accept that?
2	study the matter. If you ask me to shoot from the hip,	2	A. I don't accept that. I have never expected Mr Shieh
3	it will just be a mess." I was asked by the police what	3	using so much time to discuss deletion of files, and so
4	supplementary information I could provide and by that	4	on, and not focusing on cutting of rebars. I find it
5	time the COI had yet to write to me, and after that we	5	very strange. I expected that when I was invited to the
6	tried every means to try to retrieve the photos. We	6	COI, I was supposed to give concrete evidence on rebar
7	tried different ways.	7	cutting and, once that evidence was obtained, then that
8	One of the most successful ways is to rely on the	8	could help the COI to make decisions, to write their
9	Dropbox system because apart from the cloud server on	9	report, based on their terms of reference. The terms of
10	Dropbox the data on Dropbox would also be synchronised	10	reference don't include the question of how complicated
11	with the hard disk so that they would be in a mix in	11	Chinat's computer system is.
12	your hard drive, and at that time we identified two	12	I am very disappointed. This is the ninth day of
13	computers. We thought these two computers were no	13	the hearing already and, for the past nine days, apart
14	longer in use. They were placed in the office. And	14	from the time when we cross-examined Intrafor,
15	when we switched on the computers then automatically the	15	ascertaining that the MTRCL system was very useless, we
16	• • • • • • • • •		how and a mirror of a new other mantion landing and we
17	data in the computer were uploaded in Dropbox.	16	haven't arrived at any other particular finding, and we
17	And in fact, in early July, we worked it out with	17	spent so much time discussing one-sided information
18	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot	17 18	spent so much time discussing one-sided information presented by Leighton.
18 19	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding	17 18 19	spent so much time discussing one-sided information presented by Leighton. CHAIRMAN: I'm sorry
18 19 20	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding the same date. That is the reason why.	17 18 19 20	spent so much time discussing one-sided informationpresented by Leighton.CHAIRMAN: I'm sorryA. And we tried to identify inconsistencies in witness
18 19 20 21	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding the same date. That is the reason why. Q. Have you finished?	17 18 19 20 21	spent so much time discussing one-sided information presented by Leighton.CHAIRMAN: I'm sorryA. And we tried to identify inconsistencies in witness statements which are very lengthy. So does it mean that
18 19 20 21 22	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding the same date. That is the reason why.Q. Have you finished?A. (In English) Yes.	17 18 19 20 21 22	 spent so much time discussing one-sided information presented by Leighton. CHAIRMAN: I'm sorry A. And we tried to identify inconsistencies in witness statements which are very lengthy. So does it mean that we should focus our energy on inconsistencies in witness
18 19 20 21 22 23	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding the same date. That is the reason why.Q. Have you finished?A. (In English) Yes.Q. You have finished?	 17 18 19 20 21 22 23 	 spent so much time discussing one-sided information presented by Leighton. CHAIRMAN: I'm sorry A. And we tried to identify inconsistencies in witness statements which are very lengthy. So does it mean that we should focus our energy on inconsistencies in witness statements among the different witnesses? Now, these
18 19 20 21 22	And in fact, in early July, we worked it out with the police, but the folder I mean, there were a lot of duplicated folders at different locations regarding the same date. That is the reason why.Q. Have you finished?A. (In English) Yes.	17 18 19 20 21 22	 spent so much time discussing one-sided information presented by Leighton. CHAIRMAN: I'm sorry A. And we tried to identify inconsistencies in witness statements which are very lengthy. So does it mean that we should focus our energy on inconsistencies in witness

	Page 77		Page 79
1	CHAIRMAN: All right. Mr Poon, thank you very much. I've	1	WITNESS: If, judge, you said I'm not assisting the COI,
2	given you an opportunity to say your piece. As the	2	then you can ask me to leave immediately.
3	Chairman of this Commission, it's for me to decide what	3	I am worried. I fully respect the Chairman's
4	matters are relevant. I think you're well aware of the	4	remarks. I respect those. I'm just worried that
5	fact that Leighton, perhaps among others, are strongly	5	Leighton has another plan, and that is that they don't
6	of the view that a lot of your evidence as to central	6	want to give sufficient time for the COI to investigate
7	issues such as rebar cutting, couplers being damaged	7	the matter.
8	and the like is simply not true; that even if there	8	On the point of the North Approach Tunnel, I don't
9	are random indications of this happening, you have	9	agree that the COI is not covering the North Approach
10	greatly exaggerated your evidence.	10	Tunnel.
11	Now, there are ways in which that can be proved, and	11	CHAIRMAN: All right. That's another matter entirely. You
12	one way is by testing your evidence as to its accuracy	12	are here as a witness. I don't intend to continue the
12	and as to its inherent truthfulness. That is the	12	matter. But you were making a speech, I suggest, aimed
13	exercise that has been embarked upon. It is not	14	at further than the walls of this hearing room, and
14	an irrelevant exercise, and it is of course for myself	14	I just wanted to make it quite clear to you that if
15	and Prof Hansford to look at your evidence in the light	16	I felt that you were in any way being led down
	of the manner in which it has been tested.	10	
17 18		17	irrelevant pathways, or being mistreated or prejudiced
	This is the way traditionally, in our system, the		in your ability to tell the truth, then I would
19	integrity of evidence can be tested. That's all that's	19	interrupt; all right?
20	happening. It's being tested. And if I felt that what	20	You must accept from me that I know what's relevant
21	was being tested was irrelevant, or if I felt that the	21	and I know what's not relevant; all right? And that
22	questions were not pertinent, I can assure you, as	22	I think ends the matter.
23	I said to counsel the other day, I would stop it.	23	Yes?
24	All right?	24	MR SHIEH: Mr Poon, can I continue to suggest things to you
25	MR SHIEH: Mr Poon, can I	25	and you can agree or disagree, and we can actually get
	Page 78		Page 80
1	WITNESS: Can I respond? I will just say the last word.	1	to other topics if you could make shorter media
2	I will not comment any further on.	2	speeches, Mr Poon.
3	CHAIRMAN: Well, you always want to say the last word,	3	My suggestion to you is this. You then thought that
4	Mr Poon, and the problem is I'm in control of this	4	you had to make up a story about deletions in the office
5	Commission, rightly or wrongly.	5	and in the Dropbox, but you then realised you need to
6	WITNESS: All you need to do is to open up. All the photos	6	make up a further story as to how come you were able to
7	are here. Just open up the concrete to ascertain	7	bandy around photographs to the police and also the
8	whether the couplers have been fully screwed, I mean the	8	figure of 20,000-odd photos to this Commission, so you
9	rebars have been fully screwed. We don't have much	9	had to miraculously delete and recover some.
10	time.	10	Do you accept that this was what happened in your
11			
1	CHAIRMAN: I appreciate that, Mr Poon. I appreciate that.	11	mind?
12	Thank you very much indeed. Those matters are being	12	A. I have disagreed many times. On 10 July, there were
12 13	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover		A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery
	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other	12	A. I have disagreed many times. On 10 July, there were
13	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other authorities is. We have to proceed with the Inquiry	12 13	A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery
13 14	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other authorities is. We have to proceed with the Inquiry according to our terms of reference, and that's what we	12 13 14	A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery exercise had just finished and there was a lot of overlapping.I've talked about the timing. I've said that what
13 14 15	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other authorities is. We have to proceed with the Inquiry	12 13 14 15	A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery exercise had just finished and there was a lot of overlapping.
13 14 15 16	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other authorities is. We have to proceed with the Inquiry according to our terms of reference, and that's what we	12 13 14 15 16	A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery exercise had just finished and there was a lot of overlapping.I've talked about the timing. I've said that what
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13 14 15 16 17 18 19 20 21 22	Thank you very much indeed. Those matters are being considered by other authorities, and we will discover shortly, no doubt, what the decision of those other authorities is. We have to proceed with the Inquiry according to our terms of reference, and that's what we will do. So the very best way you can assist the Inquiry is not to assume that we're in some sort of gladiatorial combat, where you have to defend every single thing, no matter what. The purpose of this Inquiry is to get to the truth,	12 13 14 15 16 17 18 19 20 21 22	 A. I have disagreed many times. On 10 July, there were some 40,000 photos in the USB, because the recovery exercise had just finished and there was a lot of overlapping. I've talked about the timing. I've said that what I said was the truth. In early July, there were some 40,000 photos in the USB for the police, and there was so much overlapping. Q. Have you finished, Mr Poon? A. Yes. Q. I will move on to the timing at which you raised the

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	Page 81		Page 83
1	putting you in the time frame; understand?	1	question, and what you are now behaving is like a kid
2	Just a small point. No need to turn up the evidence	2	throwing a tantrum
3	but I'm just telling you that yesterday you said that in	3	A. (In English) Is it relevant to the terms of reference?
4	December 2016, Leighton asked you to approach Philco	4	Is your question relevant?
5	Wong of MTRC to follow up on issues of non-payment by	5	Q. It goes to your credibility, Mr Poon. You can disagree.
6	MTRC to Leighton. Do you remember saying that	6	A. (In English) I am saying that please go to the
7	yesterday?	7	transcript.
8	A. Let me give you the details.	8	Q. Very well. It is page 23 yesterday, line 8.
9	Q. Mr Poon, what was my question?	9	A. (In English) Yes.
10	A. If you just ask me to say "yes" or "no", I will leave	10	Q. "In early December 2016 it was Leighton which asked
11	immediately.	11	me to approach Philco Wong and ask whether MTRC had
12	Q. It is not for me to say whether you can do so, but my	12	discontinued making payment to Leighton so Leighton
13	question was: do you remember having said that	13	couldn't pay me. It was in early December"
14	yesterday?	14	You said that, Mr Poon, did you?
15	MR TO: Maybe it would be appropriate for him to have	15	A. (In English) That is exactly what I said.
16	a break, because I think he's under a lot of stress.	16	Q. Right.
17	Maybe we can have an earlier lunch and come back	17	A. Which is different from what you put to me.
18	earlier, if that's okay, Mr Shieh.	18	Q. Right. Okay. So, in December 2016, Leighton asked you
19	MR SHIEH: I'm not in control here.	19	to approach Philco Wong and asked whether MTRC had
20	WITNESS: I am not under a lot of pressure. I think it's	20	discontinued making payment so Leighton couldn't pay
21	Mr Shieh who is wasting taxpayers' money here.	21	you; that was what you said yesterday, correct?
22	CHAIRMAN: All right. I'm not going to go through what	22	A. (Nodded head).
23	I have said already and repeat myself. Please accept	23	Q. You are looking at the transcript now, Mr Poon?
24	from me, Mr Poon, that I am satisfied that the questions	24	A. (Via interpreter) Yes.
25	being asked are proper. You may disagree. In this	25	Q. This has never been mentioned to[sic] you in any of your
	D 02		
	Page 82		Page 84
1	instance, however, the final decision rests with me.	1	Page 84 witness statements.
2	instance, however, the final decision rests with me. Your function is to listen to the questions, so that you	1 2	witness statements. A. (In English) Okay. I find it out .
	instance, however, the final decision rests with me. Your function is to listen to the questions, so that you understand them, and that they are questions, and then		witness statements. A. (In English) Okay. I find it out . Q. By you, sorry, never mentioned by you.
2	instance, however, the final decision rests with me. Your function is to listen to the questions, so that you understand them, and that they are questions, and then to answer them to the best of your ability; all right?	2	witness statements. A. (In English) Okay. I find it out .
2 3 4 5	instance, however, the final decision rests with me. Your function is to listen to the questions, so that you understand them, and that they are questions, and then to answer them to the best of your ability; all right? WITNESS: Mmm.	2 3 4 5	 witness statements. A. (In English) Okay. I find it out . Q. By you, sorry, never mentioned by you. At page 23 of D, paragraph 48 of your witness statement
2 3 4 5 6	instance, however, the final decision rests with me. Your function is to listen to the questions, so that you understand them, and that they are questions, and then to answer them to the best of your ability; all right? WITNESS: Mmm. CHAIRMAN: If I came to your concrete-pouring factory on	2 3 4 5 6	 witness statements. A. (In English) Okay. I find it out . Q. By you, sorry, never mentioned by you. At page 23 of D, paragraph 48 of your witness statement A. (In English) Yes, exactly, I did.
2 3 4 5 6 7	instance, however, the final decision rests with me.Your function is to listen to the questions, so that you understand them, and that they are questions, and then to answer them to the best of your ability; all right?WITNESS: Mmm.CHAIRMAN: If I came to your concrete-pouring factory on a business and said to you, "I don't think you are	2 3 4 5 6 7	 witness statements. A. (In English) Okay. I find it out . Q. By you, sorry, never mentioned by you. At page 23 of D, paragraph 48 of your witness statement A. (In English) Yes, exactly, I did. Q. No, Mr Poon. Your evidence in the transcript was that
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	Page 85		Page 87
1	between the parties.	1	A. (In English) Yes.
2	A. (In English) I am using "dispute" also. There is	2	MR PENNICOTT: That's all I want to ask you, Mr Poon.
3	a commercial dispute also.	3	Nothing else. That's the one. Thank you very much.
4	Q. Yes, there was a dispute between the parties in	4	Sir, we'll make sure that's paginated and given
5	December; correct?	5	a reference.
6	A. Yes.	6	CHAIRMAN: All right. Yes. I've seen that before. Thank
7	Q. And that resulted in what is called a milestone	7	you. Dated 27 June 2018.
8	agreement in December, 12 December; correct?	8	MR PENNICOTT: Yes, the day before.
9	A. Yes. We signed that on 10 December and then the	9	CHAIRMAN: Thank you very much. An hour and 15 minutes.
10	formality took place on the 12th.	10	MR PENNICOTT: Thank you.
11	Q. Anyway, the date doesn't matter. There's a milestone	11	(1.01 pm)
12	agreement governing the stages and the schedule by	12	(The luncheon adjournment)
13	reference to which payments should be made; correct?	13	(2.18 pm)
14	A. Correct.	14	MR SHIEH: Good afternoon, Mr Poon. May I ask you to look
15	Q. But, subsequent to that, disputes continued between	15	at some letters in January, first of all C12/7863, at
16	Leighton and China Technology?	16	the bottom.
17	A. Because they didn't pay according to the agreement.	17	A. Yes.
18	Q. That is what you say, but I would simply say dispute	18	Q. 5 January, Anthony Zervaas to you.
19	continued between the parties; correct?	19	Mr Poon, just to tell you what I'm getting; it may
20	A. (In English) Okay.	20	actually speed things up. As I keep emphasising, we are
21	Q. Now, there was a meeting on 5 January 2017 between you		not here to sort out who is right and who is wrong in
22	and Leighton, when the parties discussed payment of	22	a commercial dispute; understand?
23	money and the date when money should be paid; correct?	23	A. (In English) Yes.
24	A. Well, we did that all the way from October to early	24	Q. All I want to show is the brief point that there is
25	January.	25	a dispute and I want to know what the dispute is about.
	Page 86		Page 88
1	Q. Right. But there was a meeting on 5 January in	1	A. Okay.
2	Leighton's office, when you and Leighton discussed	2	Q. At the bottom of 7863, you can see Zervaas to you:
3	schedule of payment. Do you have any recollection of	3	"Jason,
4	that?	4	Please be advised we would never proceed with the
5	Anyway, maybe I can show you the letter after the	5	loading of formwork without following our TWC process."
6	lunch break.	6	Then moving to the last paragraph:
7	Mr Chairman, perhaps this would be an appropriate	7	"Notwithstanding this, during our joint status
8	moment?	8	meeting held at 11 am a 'without prejudice' offer
9	CHAIRMAN: Yes, certainly.	9	was made to you in that we are prepared to immediately
10	MR PENNICOTT: Sir, before we rise for lunch, can I just		release HK\$3 million for achievement of circa
11	raise one matter? When Mr Shieh took Mr Poon to the	11	50 per cent of the milestone(s) and the remaining
12	Chinese report of the radio interview, Mr Poon I think	12	HK\$3 million would be released on achievement of the
13	indicated in his answers and we saw the date of that	13	remaining end December 2016 milestone(s); which is
14	was 28 June, the report.	14	forecast for completion at the end of next week. We
15	CHAIRMAN: Yes.	15	record that you declined this offer."
16	MR PENNICOTT: I think Mr Poon indicated that was	16	Then, at the top of this page you replied, basically
17	precipitated by an advertisement by the MTRC shortly	17	setting out your stance:
18	before that report.	18	"Anthony, We forther record", at entern
19	Sir, I just wonder whether it would be appropriate	19	We further record", et cetera.
20	to ask Mr Poon if he could identify the advertisement,	20	And then point 3:
21	just in case MTRC want to take this matter up with him.	21	"We do not accept the arrangement of partial payment
22	I understand we've got it on the screen now. I'm	22	while it is not the content of our agreement."
23	holding a hard copy. And perhaps just to ask Mr Poon	23	So there was an offer which you rejected and you put
11/1	the question is this the ennouncer and an the	1.17	
24 25	the question: is this the announcement or the advertisement that he's referring to?	24 25	forward your position that you disagree that what they are doing is the right thing to do.

	Page 89		Page 91
1	A. Mmm.	1	Leighton actually paid me \$6 million.
2	Q. A fair way of describing the state of affairs between	2	Now, 786, there's a letter, there's a cheque of
3	you and Leighton at the time?	3	\$6 million. Mr Shieh, perhaps that's why you relate
4	A. (In English) Yes.	4	that to this case. The fact is the cheque did exist.
5	Q. Thank you. Then there's a letter which came also on the	5	Now, for the milestone payment, that cheque should
6	same day, 7859, 5 January to you, and this letter sets	6	have been given to us in December. Then Leighton
7	out progress of sub-contract, et cetera.	7	dragged it out until January. At the time, Anthony
8	Over the page, there's an offer. It says:	8	waved the cheque, and then when I received the cheque he
9	"In spirit of our common target on the successful	9	asked me to make those two promises but I wouldn't and
10	completion of this project and accordance with the	10	that's why I didn't take the cheque and he didn't give
11	milestone and final account payment schedule, we have	11	it to me either.
12	prepared a cheque of HK\$6 million which can be readily	12	Q. So the I'm sorry, I should hit myself for forgetting
12	released following your completion of the milestone	12	the requirement to wait until the transcript has come
14	scheduled for end of December 2016."	14	up.
15	Do you see that?	15	So the condition precedent was oral, imposed by Tony
16	A. Yes.	16	Zervaas. What I suggest to you is, first, you have
17	Q. Okay. You gave some evidence about this offer. Can you		never mentioned this in your witness statement
17	look at your 4th witness statement, in bundle D2/1059.	18	A. Yes.
18 19	A. Yes.	18	Q or recorded in any document; correct?
20	Q. This is a table compiled in your witness statement,	20	A. Document record, no.
20	where you set out some relevant events, together with	20	
21		21	Q. You just made that up, Mr Poon?
	some page references, in case documents are available;		A. No. Think about it. You are trying to create the image
23	yes? A. Yes.	23 24	of a very greedy businessman and he wanted to use this
24			incident to take Leighton pay him, or you were specific
25	Q. Okay. Turn to 1060. You say "Leighton sent Poon	25	to mention the \$6 million figure. In fact, the
	Page 90		Page 92
1	a complaint letter", et cetera, and then:	1	\$6 million cheque did exist on 5 January, so it's true.
2	"It was put on written record that Leighton would	2	But this greedy businessman did not take it. Do you not
3	release a \$6 million cheque, with a condition precedent	3	think it's strange? Do you not think that it's not
4	that Chinat must complete its works pursuant to the	4	logical?
5	December milestone schedule."	5	Now, Leighton's letter made it clear. The
6	Do you see that? That's the letter we have just	6	\$6 million cheque, although there was a delay but still
7	seen; correct?	7	Leighton issued the cheque. Leighton issued the cheque
8	A. (In English) yes.	8	because on 4 January our company stopped work; we
9			
110	Q. The next box, you say: "In fact L eighten had imposed 2 conditions	9	wouldn't do the work. But when they gave the cheque,
10	"In fact, Leighton had imposed 2 conditions	10	they imposed two more conditions; that's why I didn't
11	"In fact, Leighton had imposed 2 conditions precedent first, Poon must stay silent on the	10 11	they imposed two more conditions; that's why I didn't accept it.
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	Page 93		Page 95
1	the threat over its head of some unwanted nuisance	1	A. Yes. Yes.
2	publicity, so that it would give you a better offer. Do	2	Q. Do you remember which media?
3	you accept that?	3	A. I can't recall that.
4	A. I totally do not accept it. At the time, the public	4	Q. Thank you.
5	knew nothing about this, you know, that is what happened	5	A. And it's a coincidence, on the 11th, I would be
6	on site. Or this email, the public knew nothing about	6	interviewed on the same topic.
7	that.	7	Q. I suggest to you that it is actually a veiled
8	Q. Yes.	8	V-E-I-L-E-D threat by you to Zervaas that if you do
9	A. No knowledge at all by the public.	9	not receive a better deal or hear back from him, you
10	Q. Let's look at 7926. This was an email about	10	would make unfounded allegations to the media, you lined
11	"Arrangement on reporter visit"; yes?	11	up the media, basically. Do you accept that?
12	A. Yes, I was asked this before.	12	A. No, I don't accept it.
13	Q. Yes, and your answer was it was because reporters had to	13	Q. You don't accept what I say, Mr Poon?
14	come to your office and they may not have a pass to the	14	A. (In English) Don't accept.
15	site; is that your evidence?	15	Q. Thank you.
16	A. Yes, yes.	16	In your witness statement, D1, page 23, you said
17	Q. There was no reason for reporters to come to the site to	17	that you had it's paragraph 46 you said you had
18	find you, Mr Poon, is there?	18	already raised the issue of rebar cutting with
19	A. Yes, there's a reason, because I was on site.	19	Mr Zervaas, and in November he actually orally admitted
20	Q. I know.	20	to you that there were practices of cutting threads on
21	A. I was at the site office.	21	rebar. You said that; correct?
22	Q. But there was no particular topic or reason why	22	A. Yes.
23	reporters would want to interview you or see you about?	23	(In English) Yes.
24 25	A. I can't recall the topic. I think it was about opening	24 25	Q. In your email itself to Mr Zervaas we can look back
23	up public space.	23	at that email: C12/7923 you did not refer to
	Page 94		Page 96
1	CHAIRMAN: Sorry, Mr Poon, I think the suggestion is being	1	Mr Zervaas's earlier conversation or confession with
2	made to you that when you look at all the circumstances,	2	you; correct?
3	is it not the case that you invited the press to your	3	A. Well, in writing email, I often say "further to"
45	offices, on site, in order to speak to them about the issues that were troubling you?	4	something. Actually, the email, at the end of November,
6	A. I didn't invite them. I didn't invite them. The	5	I remember Zervaas admitted to it and we even discussed options, but then, all of a sudden in December he
7	reporters would approach me all the time. I'm a member	6 7	wouldn't admit it; he said he would not admit it.
8	of one of the political parties in Hong Kong.	8	So, in writing the email, the atmosphere was that
9	CHAIRMAN: So you're saying that you had said nothing to the	9	Zervaas did not admit to it, and so I deliberately
10	press prior to your email of 1.18 pm on 6 January 2017,	10	showed photos to prove it's true.
11	that is you had said nothing to the press about the	11	Q. Well, in fact, in your email, you made it sound as
12	matters that concerned you in respect of the contract	12	though the whole thing only came up during your review
13	which is the subject of this Commission?	13	on progress photos and videos. It looks as though you
14	A. No, I didn't say anything, because if I had, there would	14	were raising something new for the first time. Do you
15	have been reports. If I had said something, it	15	accept that?
16	definitely would have been reported.	16	A. No, not the first time. When I was looking through the
17	CHAIRMAN: All right.	17	photos well, because the background was that
18	MR SHIEH: So, Mr Poon, you were saying that the reason why	18	Mr Zervaas sent a letter, some other letters, stating
1.0			that for A, B, C, D, E, works had yet to be completed,
19	some reporters wanted to come to speak to you is to talk	19	that for <i>H</i> , <i>B</i> , <i>C</i> , <i>B</i> , <i>E</i> , works had yet to be completed,
		19 20	the partial payment therefore could not be made out, and
19	some reporters wanted to come to speak to you is to talk		
19 20 21 22	some reporters wanted to come to speak to you is to talk about a topic on the opening of public space, and it is purely a matter of coincidence that you sent your email to Tony Zervaas about arranging them to come in on	20	the partial payment therefore could not be made out, and
19 20 21 22 23	some reporters wanted to come to speak to you is to talk about a topic on the opening of public space, and it is purely a matter of coincidence that you sent your email to Tony Zervaas about arranging them to come in on 6 January at 1.18 pm, after you had sent your previous	20 21 22 23	the partial payment therefore could not be made out, and we therefore needed to identify photos as proof, as to what we did on a certain date and the status and such an exercise of looking at photos was for this purpose.
19 20 21 22	some reporters wanted to come to speak to you is to talk about a topic on the opening of public space, and it is purely a matter of coincidence that you sent your email to Tony Zervaas about arranging them to come in on	20 21 22	the partial payment therefore could not be made out, and we therefore needed to identify photos as proof, as to what we did on a certain date and the status and such

	Page 97		Page 99
1	structure had been built and then the photos were taken	1	MR SHIEH: Mr Chairman, I'm not going to engage in
2	on a particular spot and we were looking through the	2	an argument, because there are documents showing how the
3	photos, during this exercise, to explain why. And that	3	investigation came about, and, that really is a matter
4	is, regarding two photographs among the seven	4	of submission.
5	photographs attached to prove that Mr Zervaas originally	5	CHAIRMAN: No, all I'm saying is you can ask as many
6	had admitted and later refused to admit that there were	6	questions but I didn't want a question going to how you
7	cutting of rebars or the screwing of bars into couplers,	7	interpret
8	and that's why they were attached. I was trying to	8	MR SHIEH: No, I'm not going to go to that, because if he
9	rebut his argument by showing proof that indeed it	9	wants to argue, he'll argue, but I will move on. I have
10	happened, and it's not something new that I identified.	10	put the point and I will move on.
11	That's not how I put it in words; I never said that.	11	CHAIRMAN: Thank you.
12	Q. Look at 7937.	12	MR SHIEH: Mr Poon, the response was it is alarming that you
12	Zervaas said:	12	only brought this to the attention and I think
13 14	"Jason,	13	Mr Pennicott had actually asked you why you had not
14		14	
	We are in receipt of your email.	15	written back and said, "Hang on, stop being silly, you
16	It is quite alarming that you have not brought this		confessed to me"; do you remember questions along these
17	issue to our attention earlier particularly as the	17	lines have been put to you? A. Yes, I remember.
18	alleged malpractice occurred in September	18	
19	Please be advised that an investigation has	19	Q. In fact, you responded at C12/7940. You said:
20	commenced to review the allegation(s) made in your	20	"Dear Anthony,
21	email."	21	We had investigated internally and it is quite clear
22	You have been taken to this email reply by	22	that your site in-charge Khyle Roger[sic] was well aware
23	Mr Pennicott when he questioned you; do you remember?		and directing these activities."
24	A. Yes, I remember. In fact Anthony also said it. In	24	Do you see that?
25	fact, he was contradicting himself. In the second	25	A. Yes.
	Page 98		Page 100
1	paragraph, he mentioned that it was the first time	1	Q. First of all, it is not as if you didn't go back to him,
2			
2	I brought it up, and then he went on to say that	2	you did go back to him, but when you went back to him,
3	investigation has commenced. So don't you think that	2 3	you didn't say, "Stop, stop messing around, it was you
3 4	investigation has commenced. So don't you think that regarding the second and third paragraphs, he was	3 4	you didn't say, "Stop, stop messing around, it was you who confessed to me"; you didn't say that, did you?
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	Page 101		Page 103
1	So I'm just wondering why you say you had investigated	1	in secret, stealthily, not in such an open manner. And
2	internally.	2	I think it is planned exactly because of this.
3	A. Let me say it again. I do not remember the evening of	3	Q. Mr Poon, I see nowhere in your witness statement where
4	6 January, when we had a discussion with Anthony and	4	you mention Mr Rodgers's involvement in threaded rebar
5	Joe Tam and myself, not just Anthony but Joe Tam was	5	cutting after September 2015.
6	included as well; I do not recall the details. Anthony	6	A. Because Mr Rodgers was the site in-charge, not the
7	basically at the time said in fact I needed to change	7	engineering in charge but the site in-charge. For site
8	the version because after investigation it was found	8	operations, all operations regarding the site,
9	that there was no such thing, according to them, and	9	especially those employees directly hired by Leighton or
10	I insisted there was. Anthony then said that he didn't	10	equipment directly procured by Leighton, must have gone
11	witness it, and then I referred to Khyle Rodgers, and	11	through Rodgers, who would sign on the documents.
12	here I mention Khyle Rodgers as I thought he should be	12	Q. Right, Mr Poon. To cut a long story short, you arrived
13	responsible for the incident, because I thought he	13	at a form of revised milestone payment schedule, what's
14	directed these activities.	14	called schedule number 2, with Leighton, dated
15	Before that, when I first mentioned the name Khyle	15	23 January 2017; is that correct?
16	Rodgers, it was two years before this email in September		A. Correct.
17	2015. It was the first time when I, together with him	17	Q. I can show you that very briefly at C7944.
18	and Gabriel So, who had a meal at the food forum above	18	A. Yes.
19	the station, when we first mentioned about this incident	19	Q. I don't want to get bogged down in the numbers, just to
20	and when I was told about cutting of rebars, I took them	20	the best of your recollection. Under the original
21	for a site inspection and we witnessed them together.	21	milestone payment schedule which was made in December,
22	Khyle Rodgers at that time did not say anything.	22	the total amount to be paid was 28 million, roughly; do
23	So these two things happened at two different times,	23	you remember? And under this milestone payment, it's
24	September 2015 and January 2017.	24	33; yes?
25	Q. Yes. Can I ask you to look at your witness statement,	25	A. Well, perhaps
	Page 102		Page 104
1	bundle D, page 20.	1	Q. Let me just take you to the actual one, to spare the
1 2	bundle D, page 20. A. (In English) Yes.	1 2	Q. Let me just take you to the actual one, to spare the hassle. 7841. You can see this is the December
2	A. (In English) Yes.	2	hassle. 7841. You can see this is the December
2 3	A. (In English) Yes.Q. Paragraph 36:	2 3	hassle. 7841. You can see this is the December milestone schedule; yes?
2 3 4	A. (In English) Yes.Q. Paragraph 36: "In September 2015, I reported the incidents in	2 3 4	hassle. 7841. You can see this is the December milestone schedule; yes?A. (In English) Yes.
2 3 4 5	 A. (In English) Yes. Q. Paragraph 36: "In September 2015, I reported the incidents in August 2015 to Mr So and Mr Rodgers 	2 3 4 5	hassle. 7841. You can see this is the December milestone schedule; yes?A. (In English) Yes.Q. So the total amount, including retention release, was
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	Page 105		Page 107
1	Q first email to Leighton.	1	Q. I suggest to you that you didn't raise your head or
2	A. (In English) Yes.	2	pursue the matter any further after January, because you
3	Q. Over the page at D25, then, without referring to	3	got a commercial settlement out of Leighton.
4	Leighton's reply and without referring to your reply to	4	A. No, no. On the commercial side well, let me spend
5	Leighton, you jump to paragraph 50:	5	some time to talk about this. I hope that you can be
6	"Following the 6 January 2017 email, Raymond"	6	clearer about the picture.
7	this is Raymond of MTR "contacted me by telephone	7	Let's take a look at D1030. D1030, the green part
		8	is our company's estimate. There are different versions
8	asked you to 'stop pushing Leighton'." Yes?	9	of this table. There was the first version in October
9		-	
10	A. Right. Right.	10	2016. We had commercial dispute with Leighton, whether
11	Q. Why would now, first of all, it comes completely	11	it's to dispute the re-measurement or final account
12	disjuncted, Mr Poon, in the sense that there is no	12	measurement, what are the wordings to be used,
13	explanation as to why Raymond would call you, and two,	13	et cetera well, we started all these in October 2016.
14	what you did or did not do after Raymond had called you.		Back then, say, we have
15	It's just a bland statement: Raymond contacted you and	15	CHAIRMAN: Mr Poon, I'm not stopping you at all, I'm happy
16	asked you to stop pushing, full stop; correct?	16	for you, but is it possible for you to do it in
17	A. Disagree. If you read paragraph 48 of my witness	17	a slightly more abbreviated form?
18	statement on page D23.	18	A. (In English) Okay, okay.
19	Q. Yes.	19	(Via interpreter) The red part shows progress the
20	A. In fact, this has been said many times. We've looked at	20	beige colour, rather, shows the progress. The green
21	it as well. On the 9th, I, in person, called Philco	21	part is our estimates, and the red part you see that
22	Wong on a number of subjects, one on unresolved cutting		there is re-measuring in progress, or even in dispute.
23	of rebars, and of course Philco would not talk to me on	23	Our quantity surveyor, if they agree with the QS of
24	the phone all the time. He directed somebody called	24	Leighton, say if it's agreed sum of \$129 million, and if
25	Raymond and I still don't remember the surname of	25	it is an ongoing process in measurement, then we would
	Page 106		Page 108
1	Raymond to follow up the matter, and that is why	1	say re-measuring in progress, but if Leighton doesn't
2	I maintained some communication with Raymond thereafter.	2	agree and they say they are not going to pay on this
3	Q. Have you finished?	3	item, then that would be indicated as in dispute in this
4	A. Yes, finished.	4	table.
5	Q. But you did not say, in this paragraph, paragraph 50,	5	If we have to re-measure items in 100 or
6	what happened after Raymond contacted you; all right?	6	\$200 million then the some of the items, Leighton
7	It's left hanging there.	7	hasn't even started looking at them. For this table,
8	A. Raymond said in fact Leighton was also investigating	8	Leighton
9	into the matter, coming up with a remedial proposal, and	9	CHAIRMAN: So what are you actually saying?
10	asked me not to get involved any further, and because of	10	A. (In English) The commercial discussion, et cetera, is
11	that, after January 2017, I waited for eight months	11	always an ongoing process.
12	before I further pursued the matter.	12	CHAIRMAN: All right, yes.
13	Q. Well, obviously we are not in a position to tell whether	13	A. (In English) I think until March or April. And Leighton
14	Raymond did or did not call you, but I suggest that if	14	refused to make further discussion, then we stop.
15	you had any genuine concern, you would not have just	15	CHAIRMAN: All right. Thank you.
16	taken Raymond's word for it.	16	A. (In English) Therefore, if you pick up some of the
17	A. Maybe you do not know about this. Philco Wong has	17	exchange in terms of tabulation or in terms of emails,
18	a very high status in the construction sector. And	18	you will see that particular status.
19	every year he controls a very large turnover, volume	19	CHAIRMAN: I appreciate that. A photograph is a moment in
20	much higher than any government department. We are	20	the history of a series of events, and so if you pick up
21	a sub-contractor. Everyone is fearful of him, I mean	21	a particular email it might only be a moment in
22	everyone is fearsome. I dared to call Philco Wong	22	a history of a series of ongoing disputes.
23	and he said something to me, there's no reason why	23	A. (In English) Yes, exactly.
1			
24	I shouldn't believe him. At least I should give him	24	CHAIRMAN: All right.
24 25	I shouldn't believe him. At least I should give him some time to resolve the matter.	24 25	CHAIRMAN: All right. MR PENNICOTT: Sir, I apologise for interrupting Mr Shieh,

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1	but he said a moment ago, and I'm just trying to play	1	that?
2	catch-up, "Well, obviously we are not in a position to	2	A. Yes.
3	tell whether Raymond did or did not call you." Those	3	Q. And yesterday can I ask you to look at yesterday's
4	were Mr Shieh's words.	4	transcript, page 25.
5	We do have a witness statement from Raymond,	5	A. Yes.
6	Raymond Au	6	Q. Line 14. You said:
7	MR SHIEH: B16/13674.	7	"After the email on 6 January well, Anthony
8	MR PENNICOTT: Sorry, I just want to make sure you haven't	8	at the time he told me that Leighton and MTRC at the
9	missed something.	9	time were studying the concerns including the
10	MR SHIEH: Because he's not our witness and therefore we	10	remedial works, and Anthony at the time said that
11	can't	11	Leighton already had an independent technical team to
12	MR PENNICOTT: I don't think there is any dispute, if you	12	study the matter together with MTRC. Raymond also told
13	look at his witness statement, that he made the call.	13	me that. Raymond did tell me that there was something
14	There's big dispute about what was said.	14	like that. So I waited for a few months. It wasn't
15	MR SHIEH: Yes.	15	a surprise. We waited for Leighton and MTRC to come up
16	Mr Poon, fast-forward to September.	16	with a solution, and I remember even Raymond told me
17	D1/237. In the middle of the page is your email of	17	that the option I raised was possible."
18	15 September:	18	Then further down, the chairman asked you:
19	"Dear Anthony,	19	"Did you ever see a team like this in operation?
20	It's already 8 months after our report	20	Answer: No there were many engineers",
21	We [are] still unable to obtain your feedback and we	21	et cetera.
22	observe that there is no remedial works being committed	22	Do you see that?
23	on site in these 8 months time.	23	A. Yes.
24	Concerning the public safety and durability	24	Q. Now, what I am suggesting to you is that this letter,
25	which accommodate"	25	this email, that you sent, occurred in the midst of
	Page 110		Page 112
1	This is the famous "30,000 pieces" email, Mr Poon.	1	another commercial dispute with Leighton. Do you accept
2	A. Mmm.	2	that?
3	Q. In your latest witness statement, you gave some reason	3	A. If you refer it as commercial dispute once again,
4	for why you brought this matter up in December.	4	I said that commercial disputes have been ongoing. They
5	A. Mmm.	5	have never stopped. Any sub-contractor is engaged in
6	Q. Can you look at D2/1063.	6	some sort of commercial dispute with Leighton; it has
7	MR BOULDING: Sir, just while my learned friend is asking	7	never stopped.
8	that question, I just want to make it clear, in the	8	Q. Look at C12/7979.
9	light of Mr Pennicott's statement, that it is disputed	9	A. Yes.
10	that he made the call in January. If you look at the	10	Q. This is a letter from Leighton to you of 11 September;
11	witness statement, he accepts that he had a call with	11	yes?
12	this witness but it was in December. I want to make	12	A. Yes.
13	that clear.	13	Q. Making some complaints; yes?
14	MR PENNICOTT: Sorry, there was a call, yes. Mr Boulding is		A. Yes.
15	quite right.	15	Q. Which you disagree with; correct?
16	MR SHIEH: Mr Poon, D1063. You said, in paragraph 11:	16	A. Well, they have given me this letter.
17	"The reason to send another email in September	17	Q. I know, but you disagree with what this letter says?
18	to Zervaas to follow up on the matter were, first,	18	A. Yes.
19 20	Leighton failed to provide a satisfactory answer; and	19 20	Q. Turn to 7982. This is a letter of 13 September, another
20	second, China Tech, at that time, was about to complete	20	letter of complaint from Leighton; yes?
21 22	all its works in the Hung Hom Station site, and therefore felt the need to settle all outstanding	21	A. Yes. Leighton to me.
1 / /	Increase contraction of the series and ourstanding	22	Q. Leighton to you?
	-	22	A Leighton to me correct
23	matters, including the defective steel works and	23 24	A. Leighton to me, correct.
	-	23 24 25	A. Leighton to me, correct.Q. Then look at 7984.A. Yes.

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1	Q. Mr Pennicott showed this to you in his questioning of	1	room for Philco Wong and Raymond to resolve the matter.
2	you; remember?	2	That's so natural.
3	A. Yes.	3	Then we were not that idle. We were not just
4	Q. In the first part of this letter, you refuted or you	4	looking at one site only. No. And Liantang BCP, Hong
5	tried to rebut the complaints by Leighton made against	5	Kong-Zhuhai-Macau Bridge, Sheung Shui waterworks plant,
6	you; yes?	6	we are working on several sites at the same time. I was
7	A. Yes.	7	fully engaged in all these sites.
8	Q. It only means that there is a dispute between you; yes?	8	So it's not the case that I would be pursuing the
9	There's a dispute between you?	9	matter every minute all the time, and in September, when
10	A. Yes.	10	I knew that the team on site could be withdrawn, then
11	Q. Then paragraph 7:	11	I thought I should spend some time to resolve all
12	"We reiterate herewith we had already reported the	12	outstanding matters.
13	matter of cheating coupler and threading since this	13	So that's it.
14	January, and there is no action on Leighton to remedy	14	Q. To the extent of emailing the Secretary for Transport
15	the problem. We do not want our company or our labour	15	and Housing, Mr Frank Chan; yes?
16	being forced to involve on covering up this illegal	16	A. Yes.
17	fault."	17	Q. C12/7991.
18	Now, Mr Poon, Mr Pennicott had asked you something	18	A. Yes.
19	like this before but I'm going to ask you again: what is	19	Q. Mr Poon, if what you were trying to do was to sort
20	the purpose in bringing in this question about coupler	20	things out and wrap things up
21	and threading, into this letter, which really is to	21	A. (Chinese spoken).
22	rebut allegations made in the commercial dispute between	22	Q with Leighton, what's the point of involving the
23	you and Leighton?	23	Secretary?
24	A. The reason being well, the Chinese translation is	24	A. For this project, it involved not only Leighton and
25	a bit slow because you talk very quickly; they have	25	MTRC. I understood very well. The SCL was the project
	Page 114		Page 116
1	a hard time.	1	entrusted by the government to the MTRC. And as far as
		1	endusted by the government to the MTRC. And as fai as
2	Like what I've been doing all the time, if you read	2	management was concerned, I saw that in January 2017,
2 3	Like what I've been doing all the time, if you read through all my letters, you would know that I would		
		2	management was concerned, I saw that in January 2017,
3	through all my letters, you would know that I would	2 3 4	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they
3 4	through all my letters, you would know that I would separate technical and commercial matters usually. But	2 3 4	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they promised that they would resolve the matter. But eight
3 4 5	through all my letters, you would know that I would separate technical and commercial matters usually. But then, in September 2017, our company worked overnight at	2 3 4 5	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they promised that they would resolve the matter. But eight months have passed and we were about to withdraw, the
3 4 5 6	through all my letters, you would know that I would separate technical and commercial matters usually. But then, in September 2017, our company worked overnight at the Hong Kong-Zhuhai-Macau Bridge and I was under	2 3 4 5 6	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they promised that they would resolve the matter. But eight months have passed and we were about to withdraw, the matter was still untackled. I also invited MTRC for
3 4 5 6 7	through all my letters, you would know that I would separate technical and commercial matters usually. But then, in September 2017, our company worked overnight at the Hong Kong-Zhuhai-Macau Bridge and I was under pressure to re-deploy the resources at Hung Hom to other	2 3 4 5 6 7	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they promised that they would resolve the matter. But eight months have passed and we were about to withdraw, the matter was still untackled. I also invited MTRC for discussion, not just Leighton, and it's not just a
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3 4 5 6 7 8 9	 through all my letters, you would know that I would separate technical and commercial matters usually. But then, in September 2017, our company worked overnight at the Hong Kong-Zhuhai-Macau Bridge and I was under pressure to re-deploy the resources at Hung Hom to other sites, including the Hong Kong-Zhuhai-Macau Bridge. Well, including myself. So I was eager to resolve all 	2 3 4 5 6 7 8 9	management was concerned, I saw that in January 2017, I raised the issue with Leighton and also MTRC and they promised that they would resolve the matter. But eight months have passed and we were about to withdraw, the matter was still untackled. I also invited MTRC for discussion, not just Leighton, and it's not just a complaint. I hope that with the intervention of the government, the MTRC, Leighton and myself could actually
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1	Page 117		Page 119
I [▲]	Q. A meeting or an inspection?	1	A. Yes, I see it.
2	A. (In English) Meeting.	2	Q. Do you accept
3	(Via interpreter) Inspection happened on	3	A. Yes, I accept.
4	16 September.	4	Q that you did not call back?
5	Q. Mr Zervaas disagrees that he had an appointment to meet	5	A. Yes. No, I did call him back. But at around 5 pm, it's
6	you on the 15th	6	true I did not take his three calls, because at the
7	MR WILKEN: The 16th.	7	time, I was already at Leighton's headquarters in
8	MR SHIEH: Mr Zervaas does not accept that he had a	8	Wan Chai. At the time there was a heated argument with
9	pre-arranged appointment to see you on the 15th at site.	9	Karl Speed.
10	I gather you would disagree with him?	10	Q. So you did not receive the calls on that day. You got
11	A. Yes, I disagree.	11	this email; correct?
12	Q. There was a meeting that day, on the 15th, between you	12	A. This is an email, so I didn't read it at the meeting.
13	and Mr Zervaas and Mr Speed, but it was not	13	Q. You have no reason to dispute that calls have been made
14	an unpleasant meeting; do you accept that?	14	in an attempt to reach you?
15	A. Yes.	15	A. I don't dispute that. I didn't dispute that.
16	Q. Not unpleasant?	16	Q. Thank you. Then 2046.
17	A. (In English) Not unpleasant? No. Very unpleasant.	17	Actually, yes, 2044
18	CHAIRMAN: It was very unpleasant?	18	A. Mm-hmm.
19	A. (In English) Yes.	19	Q you actually replied:
20	MR SHIEH: I think the lines are clear. We say it's not	20	"Sorry that I was engaged in a meeting that time.
21	unpleasant. He says it's very unpleasant.	21	Will phone you back tomorrow 9 am."
22	Mr Zervaas and Mr Speed said that they didn't make	22	That was from you to Chu?
23	any threats against you, and Mr Speed reassured you that	23	A. Yes.
24	you had not been blacklisted; do you accept that?	24	Q. Then 2046.
25	A. Zervaas? Opposite. I don't disagree with it.	25	A. Yes.
	Page 118		Page 120
1	Q. Let's look at some emails. G3/2042.	1	Q. Christie Wong
2	A. I see it.	2	A. Yes.
3	Q. This is an email on 15 September by Leung Sai Ho from		
1		3	Q on a Saturday morning sent an email to you and
4	the Transport Bureau to you; do you see that?	4	Q on a Saturday morning sent an email to you and referred to the telephone conversation, and you
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1	Page 121		Page 123
	gist of what you had said. Members of the Commission	1	yesterday, you said that it was actually sent on your
2	and Mr Chairman can read your statement to see what you	2	mobile phone; correct?
3	wanted to say in writing, so there's no need to repeat	3	A. Yes.
4	it for the benefit of those who do not have the document	4	Q. And with Leighton people basically talking to you about
5	in front of them.	5	the wording, while you maybe typed out the language on
6	A. (In English) Okay.	6	your mobile phone; yes?
7	Q. But what I suggest to you, what I put to you, is that	7	A. Yes.
8	Mr Zervaas did not have the site inspection with you on	8	Q. Now, Mr Poon, do you agree that this idea that the email
9	Saturday. Do you accept that?	9	was composed with the assistance and help or even
10	A. He was not on time but he did arrive eventually.	10	editing of people from Leighton has never been mentioned
11	Q. Can you look at C8/6172. This is in/out record for	11	before in your witness statements until your 4th witness
12	Hung Hom site.	12	statement? Do you accept that?
13	A. Yes.	13	A. Now, from what I remember of this, I couldn't remember
14	Q. In fact, there's no record at all of you signing in for	14	the content. I remember on 13 June I told MTRCL this in
15	September 2017.	15	their investigation. It eventually was Leighton's
16	A. I won't repeat that point. If I could say it again, for	16	Wallace who stopped it because he said it's commercial.
17	the check-in and out records of Leighton, especially	17	Q. Mr Poon, I suggest to you that you had to resort to this
18	regarding me, it's not right. So you're saying that my	18	notion that it was sent on your mobile phone, with
19	name's not even on the document; right?	19	Leighton people next to you, helping you with the
20	Q. Yes. And Mr Zervaas said he was not on site that day.	20	wording, because otherwise you cannot show any draft
21	A. No, he was there. Actually, I called him up to chase	21	toing and froing between you and Leighton, so you had to
22	after him. Now, what location did we look at primarily?	22	drag Leighton in, and you have to say that somehow they
23	It's about how we could use the cheapest use a cheap	23	stood next to you and helped you with the wording.
24	way and feasible way to screw in the dowels. That's	24	A. Now, it's like this. It's not that he held my hand to
25	all, nothing special.	25	write it, but Anthony made any write this so the file
	Page 122		Page 124
1	Q. Anyway, fast-forward. It is not in dispute that the	1	could be closed. I had only one sentence there, that is
2	final account and the confidentiality agreement were all	2	further to the agreement between me and Leighton,
3	signed and concluded on 18 September, yes, the final	3	Leighton would undertake to remedy the technical issues.
4	account and the confidentiality agreement, 18 September;		
1 -		4	So that's why we could close the file. But Anthony did
5	remember that?	4 5	So that's why we could close the file. But Anthony did not agree that I should write it like that.
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5 6 7	remember that? A. Yes, I agree. Let me add that there are a lot more on that day. This is just part of that.	5 6 7	So that's why we could close the file. But Anthony did not agree that I should write it like that. Actually, at the time, on 18 September, the ambience was good and we had a good discussion, apart from
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 remember that? A. Yes, I agree. Let me add that there are a lot more on that day. This is just part of that. Q. I was just asking you whether you agree that these two documents were concluded that day. I'm sure many other things happened, including anniversary of the tragic events of 9/18 in China, many, many years ago, but let's not get bogged down in that, Mr Poon. I've got my answer. We can see that as soon as the documents were signed, you withdrew the allegations that had been made to Mr Frank Chan by your email at C12/8006. A. Yes, I see it. Q. We don't need to dwell on the wording of this email, but can I ask you to look at your 4th witness statement, at D2/1062? A. Yes. Q. You said there that this email was reviewed and amended 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 So that's why we could close the file. But Anthony did not agree that I should write it like that. Actually, at the time, on 18 September, the ambience was good and we had a good discussion, apart from commercial agreement and confidentiality agreement there is also Liantang and also how we're going to verify the accounts, how the payments would be made, and so on. Also, I asked Leighton to write a security to my company, that is our company raised it before and Leighton and MTRCL agreed to resolve it on their own, so if in future if there should be any problems it would have nothing to do with our company, so it was to indemnify our company. At the time, in the email, that was a concept I had, that's why I wrote that Leighton promised to resolve it on their own. Q. The security or the indemnity wasn't signed; correct? A. No. It was first meant to be included in the confidentiality agreement, but it wasn't, and then Anthony said that he would reply to me in an email and

	Page 125		Page 127
1	reviewed or amended by Leighton. Do you accept that?	1	A. Yes.
2	A. No, I do not accept that. No, I do not accept that.	2	Q. "To whom it may concern", and then over the page and
3	Now, if the email system of my company is through	3	then you have the whole page of reply; yes?
4	gmail and our company is not in Wan Chai, our company is		A. Yes.
5	in Tsim Sha Tsui. At that time, on the HK island side,	5	Q. Let's look at the request from Apple Daily, the enquiry
6	I didn't have any site. I remember definitely it was	6	from Apple Daily. The English translation is 8075.1; do
7	sent out in Leighton's office, in their conference room,	7	you see that?
8	it was sent out from the Sun Hung Kai Centre. If you	8	A. Yes, I see that.
9	could check it, it would be best if you could locate it.	9	Q. The Chinese, if you want the Chinese, it's 8078.
10	That is, if it could be traced, the location of where	10	A. Yes.
10	the email was sent out, it would be best.	10	Q. But for the benefit of the Commission, let's look at the
11			
	Q. Now, we just move on, Mr Poon. In April 2018, you were		English version:
13	in dispute with Leighton because of the termination of	13	"According to information received by us
14	the Liantang construction contract; correct?	14	[Apple Daily], your company was engaged by Leighton
15	A. Yes, correct. That's towards the end of the dispute.	15	Contractors in mid-2015 in respect of the Hung Hom
16	The dispute started in February/March.	16	Station We are informed that your company sent
17	Q. Look at C12/8077.	17	emails to Mr Zervaas on the respective dates of [6,
18	A. Yes.	18	7 and 15] In the said emails, your company referred
19	Q. In fact 8075.1 is the English version. 8077 I think is	19	to the discovery of problems with a number of couplers
20	the Chinese. So it depends on which one you want to	20	in the 2 underground diaphragm walls inside the station
21	see.	21	these couplers had been dislocated The said
22	A. The English version.	22	emails also mentioned that, after investigation by your
23	Q. The email is English but the Chinese attachment is on	23	company, your company was informed that Mr Khyle
24	the next page. But let's look at the English version	24	Roger[sic] knew about the improper act, or even
25	let's look at the email:	25	partook in guiding the improper act. Email was copied
	Page 126		Page 128
1	"Dear Mr Anthony Zervaas,	1	to the senior staff including Jon Kitching
2	Without prejudice, a sudden email we received at	2	attaching photos We would like to enquire about the
3	3.45 pm as follows from a local news agency and an	3	following:
4	agreement of confidentiality we made at our final	4	Whether your company had sent emails to Leighton
5	account stage in project SCL 1112 are both referred.	5	When did your company discover the dislocation
6	Pursuant to the agreement, we report hereby our	6	When did your company discover that Leighton workers
7	company, our staff and our agent did not release any of	7	had cut short rebars
8	our documents and information to any 3rd party, however	8	In the emails, your company alleged that Mr Khyle
9	certain information seem being obtained by the news	9	Roger[sic], the superintendent knew about the
10	agency and therefore asking us to make response.	10	improper act Do you have any evidence
11	We do not accept any damage on our goodwill due to	11	Did Leighton send reply to your company reporting to
110		10	you about the investigation
12	any possible public news, especially it is Leighton's	12	you about the investigation
13	negligence on the relevant malpractice and	13	please send us reply before tomorrow Please
13 14	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news	13 14	please send us reply before tomorrow Please call me if you have any queries."
13 14 15	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our	13 14 15	please send us reply before tomorrow Please call me if you have any queries." Do you see that?
13 14 15 16	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any	13 14 15 16	please send us reply before tomorrow Please call me if you have any queries." Do you see that? A. Yes.
13 14 15 16 17	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If	13 14 15 16 17	 please send us reply before tomorrow Please call me if you have any queries."Do you see that?A. Yes.Q. Let's call a spade a spade, Mr Poon: you caused the
13 14 15 16 17 18	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am	13 14 15 16 17 18	 please send us reply before tomorrow Please call me if you have any queries." Do you see that?A. Yes.Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you?
13 14 15 16 17 18 19	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am 29 May 2018 we will send it out as our formal response."	13 14 15 16 17 18 19	 please send us reply before tomorrow Please call me if you have any queries." Do you see that?A. Yes.Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you?A. Disagree. If I were the one who did it, Apple Daily
13 14 15 16 17 18 19 20	negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am 29 May 2018 we will send it out as our formal response." Do you see that?	 13 14 15 16 17 18 19 20 	 please send us reply before tomorrow Please call me if you have any queries." Do you see that? A. Yes. Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you? A. Disagree. If I were the one who did it, Apple Daily would not email me; they would not have gone to my
13 14 15 16 17 18 19 20 21	 negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am 29 May 2018 we will send it out as our formal response." Do you see that? A. Yes. Please read more slowly because it's really tough 	 13 14 15 16 17 18 19 20 21 	 please send us reply before tomorrow Please call me if you have any queries." Do you see that? A. Yes. Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you? A. Disagree. If I were the one who did it, Apple Daily would not email me; they would not have gone to my office.
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13 14 15 16 17 18 19 20 21 22 23	 negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am 29 May 2018 we will send it out as our formal response." Do you see that? A. Yes. Please read more slowly because it's really tough for the interpreter. Q. It's okay because you wrote it, so maybe you skip over 	 13 14 15 16 17 18 19 20 21 22 23 	 please send us reply before tomorrow Please call me if you have any queries." Do you see that? A. Yes. Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you? A. Disagree. If I were the one who did it, Apple Daily would not email me; they would not have gone to my office. Q. Mr Poon, you can use a dummy email account, you can buy a phone with a disposable SIM card. There are all kinds
13 14 15 16 17 18 19 20 21 22	 negligence on the relevant malpractice and mismanagement. We shall therefore feedback the news agency at 10 am tomorrow. We have drafted hereby our reply as follow while we had not disclosed any confidential information according to the agreement. If we do not receive any adverse comment from you by 10 am 29 May 2018 we will send it out as our formal response." Do you see that? A. Yes. Please read more slowly because it's really tough for the interpreter. 	 13 14 15 16 17 18 19 20 21 22 	 please send us reply before tomorrow Please call me if you have any queries." Do you see that? A. Yes. Q. Let's call a spade a spade, Mr Poon: you caused the emails to be leaked to Apple, didn't you? A. Disagree. If I were the one who did it, Apple Daily would not email me; they would not have gone to my office. Q. Mr Poon, you can use a dummy email account, you can buy

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1	Page 129		Page 131
	frank and candid person. I do not need to do what you	1	2015, that was only an isolated incident, and after
2	are suggesting, using a dummy account, to resort to this	2	I learned about it, in August 2015, I have reflected
3	and that, because I am open and frank. I'm not doing	3	this to two superintendents of Leighton, asking them to
4	anything evil. Why would you come up with these	4	stop the activity. According to our observation, there
5	methods?	5	has been some improvement, and afterwards we found the
6	Q. I'm not here to answer questions, Mr Poon.	6	same thing happening and things were going beyond the
7	So what you are suggesting is that from some unknown	7	control of our company so we have reported the matter to
8	source, Apple Daily laid their hands on the emails that	8	the senior management of Leighton and asked for
9	you had sent to Leighton, and were asking you for	9	improvement. In January 2017 we wrote in to lodge
10	comments. That is what you would have this Commission	10	a complaint with the senior management of Leighton and
11	believe; correct?	11	asked for remedial works to be undertaken."
12	A. I believe it could be MTRC I mean, I suspect it was	12	A. (Chinese spoken).
13	MTRC because before this email, in March 2018, Oriental	13	Q. See that?
14	Daily also exposed another incident relating to Hung Hom	14	A. (Chinese spoken).
15	Station. That is the NAT tunnel. And I think that MTRC	15	Q. Then at point number 3
16	was trying to so-called burn the firecrackers so the	16	COMMISSIONER HANSFORD: Sorry, can we just
17	media would lose interest over the matter very soon.	17	MR SHIEH: Slow down, yes.
18	MR SHIEH: Chairman, I can see the time. Perhaps it is	18	COMMISSIONER HANSFORD: Okay.
19	an appropriate moment to take a break.	19	MR SHIEH: Then move to point number 3:
20	CHAIRMAN: Yes, certainly. Ten minutes. Thank you.	20	"(Via interpreter) Our company has been warned. In
21	(3.39 pm)	21	relation to the SCL 1112 extension project, SCL, we have
22	(A short adjournment)	22	signed a confidentiality agreement with Leighton, so we
23	(3.55 pm)	23	could not disclose information considered as
24	MR SHIEH: Mr Poon, I now want to move on to the topic of	24	confidential by Leighton. In fact, on 29 May 2018, we
25	this idea or suggestion that you had been selling to the	25	were asked by the reporter on this thing and because of
	Page 130		Page 132
	media and the politicians that you are somehow gagged		
1	media and the pointerans that you are somenow gagged	1	the requirement in the agreement, we had to report to
1 2	G-A-G-G-E-D or prohibited by Leighton from freely	1 2	the requirement in the agreement, we had to report to Leighton."
2	G-A-G-G-E-D or prohibited by Leighton from freely	2	Leighton." A. (Chinese spoken). Q. Right, that's what you said?
2 3	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.	2 3	Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading
2 3 4 5 6	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.Q. When you started giving evidence, you said you only	2 3 4	Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR
2 3 4 5	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.Q. When you started giving evidence, you said you only spoke to the media about what was already known to the	2 3 4 5	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken).
2 3 4 5 6 7 8	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said.	2 3 4 5 6	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct?
2 3 4 5 6 7 8 9	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said. That was your evidence; correct?	2 3 4 5 6 7 8 9	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct? A. Correct.
2 3 4 5 6 7 8 9 10	G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag.A. No problem.Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said. That was your evidence; correct?A. Correct.	2 3 4 5 6 7 8 9 10	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct? A. Correct. Q. And in this news release, you were revealing the fact
2 3 4 5 6 7 8 9 10 11	 G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag. A. No problem. Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said. That was your evidence; correct? A. Correct. Q. Now let's look at what you have been saying to the 	2 3 4 5 6 7 8 9 10 11	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct? A. Correct. Q. And in this news release, you were revealing the fact that, according to you we are not accepting it as
2 3 4 5 6 7 8 9 10 11 12	 G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag. A. No problem. Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said. That was your evidence; correct? A. Correct. Q. Now let's look at what you have been saying to the media. Look at C32/24117. This was a press release 	2 3 4 5 6 7 8 9 10 11 12	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct? A. Correct. Q. And in this news release, you were revealing the fact that, according to you we are not accepting it as fact, obviously but you are telling the media that
2 3 4 5 6 7 8 9 10 11 12 13	 G-A-G-G-E-D or prohibited by Leighton from freely speaking out about the subject matter of threaded end cutting. I'm on that subject of so-called gag. A. No problem. Q. When you started giving evidence, you said you only spoke to the media about what was already known to the public or by way of reply to what the MTR had said. That was your evidence; correct? A. Correct. Q. Now let's look at what you have been saying to the media. Look at C32/24117. This was a press release from your company, dated 1 June; right? 	2 3 4 5 6 7 8 9 10 11 12 13	 Leighton." A. (Chinese spoken). Q. Right, that's what you said? Mr Poon, this was before the so-called misleading advertisement by MTR A. (Chinese spoken). Q later in June; correct? A. Correct. Q. And in this news release, you were revealing the fact that, according to you we are not accepting it as fact, obviously but you are telling the media that first of all your company's staff already discovered
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33 (Pages 129 to 132)

	Page 133		Page 135
1	Q. Mr Poon, whatever the public may know, you were feeling	1	With respect to your email Leighton are not
2	uninhibited in telling the public about what you say to	2	aware of any malpractice"
3	be your company's knowledge about time and internal	3	Do you see that?
4	dealings about who had spoken to who; yes, in	4	A. (In English) Yes.
5	paragraph 1?	5	Q. In this email, Zervaas actually did not say, one way or
6	A. It's my turn to answer question, right?	6	another, whether you are allowed or not allowed to say
7	Q. Yes.	7	anything; correct?
8	A. This Chinese paragraph well, the English translation	8	A. (In English) I did acknowledge him, on C12/8080.
9	is also very clear. Second, for this press release, the	9	Q. I know.
10	focus should be on in paragraph 2. And thirdly, before	10	At the top of that page, you then interpreted that
11	the release of this press release, MTRC said three to	11	as meaning that you will feed back freely; correct?
12	four times, gave us three to four times misleading	12	A. (In English) I would rather say I acknowledge him.
13	information, and it has to do with saying that we had	13	Q. So, Mr Poon, you interpreted this email as meaning that
14	commercial dispute. And then Mr Michael Tien, that	14	Leighton did not object to your responding or feeding
15	China Tech was making things difficult, and he was	15	back to the media on the subject matter; correct?
16	saying that China Tech was responsible for screwing on	16	A. (In English) Yes.
17	the couplers like that.	17	Q. You did not feel that you had been gagged by the
18	So paragraph 2 should be the focus of the press	18	confidentiality agreement, upon receiving Zervaas's
19	release, as I said. So why don't you read out	19	email; correct?
20	paragraph 2 as well, for completeness purpose?	20	A. (In English) on this particular subject matter.
21	Q. If your counsel wants to read anything out, he can do	21	Q. The subject matter being the allegations of threaded
22	so, but I am asking you about paragraph 1.	22	rebar cutting forming the subject matter of the
23	In paragraph 1, you attempted to talk about	23	complaint in the emails which Apple Daily approached you
24	so-called discovery of your company's staff; correct?	24	about
25	A. Correct. It was Jason Wong from MTRC, the general	25	A. (In English) Yes.
	Page 134		Page 136
1	manager, around 31 May or 30 May said something. And in	1	Q correct?
2	the news video footage I saw his response. The	2	A. (In English) Yes.
3	background to it was that MTRC and reporters were at the	3	Q. And if you were to look at Apple Daily, C32/24182.
4	EWL track slab on the site and he denied categorically	4	A. (In English) Yes.
5	that there was cutting of the rebars back then.	5	Q. This is Apple Daily.
6	Q. Mr Poon, you then thought that this justified you in	6	A. (In English) Yes.
7			A. (III Eligiisii) 168.
	exposing the fact that there is cutting of threaded end	7	
8	exposing the fact that there is cutting of threaded end of rebars; correct?		Q. 28 June.
8 9	of rebars; correct?	7 8 9	Q. 28 June.A. (In English) Yes.
		8	Q. 28 June.A. (In English) Yes.Q. Over the page
9	of rebars; correct? A. On this threaded rebar incident, our company was abiding	8 9	 Q. 28 June. A. (In English) Yes. Q. Over the page A. (In English) Yes.
9 10	of rebars; correct? A. On this threaded rebar incident, our company was abiding by the confidentiality agreement, and we issued an email	8 9 10	 Q. 28 June. A. (In English) Yes. Q. Over the page A. (In English) Yes. Q in the middle of the page it said:
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	Page 137		Page 139
1	CHAIRMAN: Just a little slower, if you would. Thank you.	1	CHAIRMAN: And when, roughly, were you told this?
2	MR SHIEH: You did not feel in any way gagged or prohibited	2	A. When I asked them I can't remember exactly. Around
3	in talking about how the cutting took place and the	3	October or November 2015, towards the end of that year.
4	manner of cutting, and also your own estimate as to the	4	Let me clarify. I thought it was one. I thought it
5	number of threaded rebars that had been cut; correct?	5	was just one cutter.
6	A. Yes. On the subject of cutting of steel bars, yes.	6	CHAIRMAN: Please forgive me, but to me that's quite
7	Q. Move on to Hong Kong 01, C32/24219.	7	important. I mean, because what we've got is, on your
8	A. (In English) Okay.	8	evidence I appreciate it's hearsay, but we won't go
9	Q. This is Hong Kong 01.	9	into the technicalities of that at the moment. What
10	A. (In English) Yes.	10	you're saying there, as I understand it, is that
11	Q. "(Via interpreter) there have been developments and	11	sometime towards the end of 2015, you were in
12	Jason Poon was interviewed at a radio programme this	12	conversation with one of the foremen of Leighton, who
13	morning. And he witnessed for himself the rebars being	13	confided in you that in order to speed up the illicit
14	cut short, and he also said that the main contractor,	14	work of cutting these rebars, that is cutting the
15	Leighton, thought that the cutting of the rebars was too	15	threads, I take it, as opposed to legitimate cutting,
16	slow, so they have purchased new super hydraulic cutter	16	they had actually got themselves another machine.
17	to speed up the cutting, and they even tried to do it in	17	A. At the time the conversation was more or less if they
18	some secretive place."	18	continue to use that hand-held grinder, then after they
19	So again, here, you do not regard yourself as	19	cut it, the edge was not smooth, and then they would
20	prohibited or gagged in talking about your personal	20	have to smooth the edge, and then there would be sparks
21	observation of cutting and the tool used for cutting;	21	and everybody could see it, and then the Chinat people
22	correct?	22	would especially make noise about it. That's why
23	A. Well, this was not first-hand. This paper was quoting	23	Leighton bought a hydraulic cutter. There's no need to
24	from the radio interview done in the morning with the	24	smooth the edge with a hydraulic cutter.
25	radio station. I didn't give an interview to this	25	CHAIRMAN: You today have complained, and I've allowed you
	D 120		
	Page 138		Page 140
1	paper.	1	to complain, in very, very explicit terms, about how
1 2	paper. Q. Yes. It was quoting what you said in a radio interview;	1 2	to complain, in very, very explicit terms, about how disappointed you are in this Commission of Inquiry of
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	Page 141		Page 143
1	although I am doing exactly that, but I think it is	1	statement about Leighton conversations and the like that
2	important for the public at large to appreciate these	2	we've heard. That is obviously brand new and you are
3	things for me, I'm now going to question, I'm not	3	absolutely right about that.
4	saying I will reject it, but I'm going to question just	4	Sir, what I think we've overlooked, if I may say so,
5	how much reliance I can place on this piece of evidence	5	and I'm as guilty as anybody, is what Mr Poon does say
6	you have now given me, because it hasn't appeared in any	6	in paragraph 41 of his witness statement:
7	statements in a concise form, that I know of, it hasn't	7	"On 22 September 2015, I, again, saw staff of
8	been spoken to in this hearing, and now at the very	8	Leighton cutting the threaded bars with a hydraulic disc
8 9	it comes up.	9	cutter."
10	*	10	
	I'm not saying I'm going to reject it, but what it		I suppose what we should have done, and I've
11	does do, I would like you to recognise, is it indicates	11	overlooked it, is to ask Mr Poon to look at one or more
12	the way in which the veracity and reliability of	12	of the photographs and say, "Is that the hydraulic disc
13	evidence can be tested in our system. Do you see the	13	cutter or is that some other disc cutter?", because it
14	point I'm making?	14	may be that there is some confusion here. He does refer
15	A. (Nodded head).	15	to a hydraulic disc cutter in I think at least four
16	CHAIRMAN: So when counsel for the various parties have	16	paragraphs of his statement.
17	asked you questions earlier today, it hasn't just been	17	CHAIRMAN: I'm aware of that. In fact I think when I set
18	a rambling attempt at trying to upset you. It's been to	18	out my understanding I spoke about a disc cutter that
19	test the credibility of your evidence in exactly the	19	cut and made a whining noise, which I always understood
20	same way as I have now asked you questions about this	20	to be a hydraulic disc cutter, it was always described
21	important piece of evidence which, up until now, I have	21	as such, and a grinder which throws off sparks.
22	not read in a statement in any detail or heard evidence	22	MR PENNICOTT: Yes.
23	of.	23	CHAIRMAN: But I wasn't aware of a conversation about
24	Do you understand the point I make?	24	this
25	A. (Nodded head).	25	MR PENNICOTT: No, absolutely not, sir.
	Page 142		Page 144
1	CHAIRMAN: Okay. I have your evidence now and I will weigh	1	CHAIRMAN: where a foreman turns around and says,
2	it. As I say, forgive me for the lecture but this is	2	effectively if you will excuse a bit of play acting
3	a Commission of Inquiry, it's for the public good, and	3	for a moment "Look, do you know what's gone on here,
4	I don't want the public to be under any misunderstanding	4	mate? What's going on here, mate, is we've actually
5	that this Commission is allowing rambling, vindictive	5	just got in a bit more machinery so we can speed up
6	questioning. It has been satisfied all along that the	6	cutting corners."
7	questions are of real, central relevance to the	7	MR PENNICOTT: Yes.
8	important issue, Mr Poon, of determining your	0	
	important issue, wir roon, or determining your	8	CHAIRMAN: That's what that says in good old-fashioned
9	credibility, because you have been the fountainhead of	8 9	CHAIRMAN: That's what that says in good old-fashioned English.
9 10	· · · ·		
	credibility, because you have been the fountainhead of	9	English.
10	credibility, because you have been the fountainhead of so much of this. Well, you are the sole fountainhead.	9 10	English. MR PENNICOTT: Yes, sir. That's entirely right on that
10 11	credibility, because you have been the fountainhead of so much of this. Well, you are the sole fountainhead. You are the wellspring. That's not a criticism, and we	9 10 11	English. MR PENNICOTT: Yes, sir. That's entirely right on that front. I just thought I had better point out that we
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	Page 145		Page 147
1	Q. And it actually says:	1	radio hosts about this project and the incident of rebar
2	"(Via interpreter) MTRC and the government take	2	cutting.
3	something."	3	A. I recall at this programme, it was the first time,
4	I don't know what the "(Chinese spoken)" which they	4	I mentioned the confidentiality agreement. I remember
5	are supposed to "(Chinese spoken)" means. I presume	5	Audrey Eu SC also mentioned, "Mr Poon, perhaps there
6	some nasty things.	6	could be some unlawful practices, maybe the
7	A. Mm-hmm.	7	confidentiality agreement does not apply", but I didn't
8	Q. "(Via interpreter) The whistleblower appeared at the	8	listen to her, I didn't say other things. I was still
9	first time at an interview to detail all the ins and	9	talking about the rebar cutting. I didn't say anything
10	outs of the fraudulent practices of the MTRC works. He	10	else.
11	believed the biggest culprit was"	11	Q. So let's get it out of the way: you felt that you were
12	Further down, and there is somebody blowing	12	not gagged in speaking freely about the threaded rebar
13	a whistle. Obviously you are not responsible for that	13	cutting incident; correct?
14	visual image. I'm not blaming you for that.	14	A. (In English) Yes.
15	A. (In English) (Unclear) It sold you on the title.	15	Q. But it is true, is it not, Mr Poon, that all along you
16	MR SHIEH: It's a programme hosted by Li Wei Ling; correct?	16	had been creating this image to the media and to
17	A. (In English) Yes, I think so.	17	politicians that Leighton had been trying to gag you
18	Q. Mr Jat told me he actually listened to it, and together	18	from exposing wrongdoing about threaded rebar cutting?
19	appearing was Audrey Eu SC; right?	19	A. Malpractices of rebar cutting, I didn't say that. I've
20	A. (In English) Yes.	20	been saying this all along and I knew all along that
21	Q. Right. So you were blowing the whistle, exposing matter	21	there were many, many other structural problems on site,
22	not previously known to the public in this radio	22	such as indiscriminate amendments of the drawings, not
23	programme; correct?	23	following the drawings, I knew all about it, but I never
24	A. The title, "Whistleblower appearing for the first time	24	mentioned it. And in my mind, all these structural
25	at the interview to detail the ins and outs of the	25	problems were integrated. They were not stand-alone
	Page 146		Page 148
1	Page 146 fraudulent practices of the MTR practice! He believes	1	Page 148 problems. We cannot look at them separately. But still
1 2		1 2	-
	fraudulent practices of the MTR practice! He believes		problems. We cannot look at them separately. But still
2	fraudulent practices of the MTR practice! He believes the biggest culprit was" I don't know what's after	2	problems. We cannot look at them separately. But still I was still just talking about rebar cutting.
2 3	fraudulent practices of the MTR practice! He believes the biggest culprit was" I don't know what's after that, and in brackets, "Tipping Point's interview of the	2 3	problems. We cannot look at them separately. But still I was still just talking about rebar cutting. If you think that even so I was not gagged, I was
2 3 4	fraudulent practices of the MTR practice! He believes the biggest culprit was" I don't know what's after that, and in brackets, "Tipping Point's interview of the sub-contractor Chinat's Jason Poon". This is not what	2 3 4	problems. We cannot look at them separately. But still I was still just talking about rebar cutting. If you think that even so I was not gagged, I was not able to speak on other things and when I'm so
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37 (Pages 145 to 148)

	Page 149		Page 151
1	I know Leighton well. But now of course I can speak	1	"Leighton frontline workers cutting rebars on site"; are
2	freely. At the time, Leighton was resorting to all	2	you referring to this sentence?
3	means to try to sue me.	3	Q. No. No, Mr Poon, 24219, you named Leighton as being the
4	Q. But I thought, if you look at 24220	4	party who thought the old instrument was too slow and
5	A. (In English) Yes.	5	who bought a new instrument; correct?
6	Q there, you are reported to have said:	6	A. Well, too slow, getting a new cutter, I definitely said
7	"(Via interpreter) He mentioned that Leighton	7	it. Whether or not we referred to Leighton, I need to
8	frontline people were cutting the rebars on site."	8	check.
9	Do you see that, Mr Poon?	9	Q. Right, I'm sure there are many people who would want to
10	A. Where? 24220, right?	10	ask you questions about that. Let me just cut to the
11	Q. 24220, the paragraph at yes?	11	heart of I'm sorry.
12	"(Via interpreter) He said Leighton frontline cut	12	Let me cut to the heart of the matter, Mr Poon.
13	the rebars on site. At first they did so openly and	13	This constant reference to your being gagged by the
14	rather roughly."	14	confidentiality agreement is just a media stunt on your
15	Do you see that?	15	part to create an adverse impression that Leighton was
16	A. You should really ask the reporter. I didn't write	16	trying to stop you from talking about threaded rebar
17	this.	17	cutting. Do you accept that, Mr Poon?
18	Q. So now you	18	A. (In English) No.
19	A. I think I need to explain this clearly. What it is that	19	Q. You know very well that sound bites such as "being
20	I said or I wrote. What I wrote is all in my press	20	gagged", "confidential agreement", would appeal to the
21	release. If the reporter quoted certain reports and	21	media who would find these concepts easy to understand,
22	then wrote something, if you ask me, no, I won't answer	22	when in fact you did not feel gagged at all; do you
23	it. I think it's best that you ask that reporter.	23	accept that?
24	Q. So you are now suggesting that Apple Daily misquoted		A. Disagree. In fact, Mr Paul Shieh quoted a number of
25	you; yes?	25	reports stemming from one radio interview. It was just
	Page 150		Page 152
1	A. Is this Apple?	1	the articles prepared by different media quoting the
2	Q. It is. No. 01. You are saying that HK01 misquoted	2	same radio interview, and you gave the impression that
3	you?	3	I was interviewed by different media and that's not the
4	A. I don't want to comment.	4	
`		4	case. I think, in all fairness, because you are putting
5	Q. All right. Look at 24219.	5	this to me, when you refer to each and every press
6	Q. All right. Look at 24219.A. Yes, yes, it's written down here. "This morning he was	5 6	this to me, when you refer to each and every press article, you should state very clearly the source. It
6 7	Q. All right. Look at 24219.A. Yes, yes, it's written down here. "This morning he was interviewed by the radio." I wasn't interviewed by	5 6 7	this to me, when you refer to each and every press article, you should state very clearly the source. It would be better; it would be fairer.
6 7 8	Q. All right. Look at 24219.A. Yes, yes, it's written down here. "This morning he was interviewed by the radio." I wasn't interviewed by them.	5 6 7 8	this to me, when you refer to each and every press article, you should state very clearly the source. It would be better; it would be fairer.CHAIRMAN: I think in fact he did quote the source, and
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38 (Pages 149 to 152)

	Page 153		Page 155
1	requesting us to prepare witness statements, I roughly	1	Then you suddenly mentioned, for the first time in
2	identified some 20 items which our company was required	2	this Inquiry, the word "corruption"; do you remember
3	to respond to. The deadline I'm sorry, it should be	3	that, Mr Poon?
4	20 July when we received I mean, that was the date of	4	A. (In English) Yes.
5	the letter, we received it a few days later, and the	5	Q. Do you accept that the word "corruption" has never
6	deadline was 10 August we were supposed to make	6	featured in any of your emails that we can find in the
7	submission. We failed to do that.	7	bundles or in your witness statement? Do you accept
8	In the course, I was required to engage a solicitor	8	that?
9	and counsel. I needed to look for information. It was	9	A. (In English) No.
10	really a tight time frame for me. As a result, we could	10	Q. You don't accept that? Fine. I'll leave it to your
11	only focus on answering the questions put to me.	11	counsel to sort it out.
12	That's all I wish to say.	12	Can I ask you to look at Lo & Lo's Salmon letter.
13	Q. Mr Poon, I suggest to you that you knew from day one	13	Bundle D1, page 1.
14	that you had extremely flimsy evidence to support the	14	MR PENNICOTT: It's not a Salmon letter.
15	allegation of threaded rebar cutting, and that was why	15	MR SHIEH: It's not a Salmon letter, but the letter calling
16	you constantly referred to this excuse of having been	16	for information.
17	gagged to justify your inability to say anything more	17	MR PENNICOTT: Yes.
18	than what you had already said to the media; correct?	18	MR SHIEH: Can you look at D, page 5.
19	A. The cutting of rebar evidence is concrete, it's not	19	A. Yes.
20	flimsy. We see from photos, from the bars screwed in,	20	Q. "Given your answers to the matters in paragraph 5,
21	there is concrete evidence, solid evidence. Also, for	21	explain to the best of your company's knowledge how the
22	the NCR issued by MTRC to Leighton, this is solid	22	defective steel works came about and the reasons for the
23	evidence.	23	shortening, cutting or defectively connecting the steel
24	CHAIRMAN: Sorry, a mental block for a moment. What's an	24	bars and also why the defective steel works had been
25	NCR again?	25	allowed and overlooked."
	Page 154		Page 156
1	MR SHIEH: Non-conformance report.	1	Page 156 Do you see that?
1 2	MR SHIEH: Non-conformance report. CHAIRMAN: Thank you.	1 2	Do you see that? A. Yes.
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39 (Pages 153 to 156)

	Page 157		Page 159
1	A. Well, what's the relevance with perjury, Mr Paul Shieh?	1	give you a chance to accept or deny that you
2	I think you are taking it too far. It's out of context.	2	basically decided on the spot to utter the C word just
3	I didn't mention it here, responding to this point, but	3	as another media stunt, because you knew full well the
4	it doesn't mean that I wasn't going to talk about it or	4	media would go on a frenzy upon hearing the C word,
5	I didn't know.	5	Mr Poon.
6	If you say that I should include everything in my	6	A. Disagree.
7	witness statements, with just 20 days' time to answer	7	Q. In fact, Mr Poon, you live in a parallel universe from
8	these eight pages of questions, including every	8	all of us in this courtroom. Everyone in this courtroom
9	meticulous detail, then I would be a saint, and if that	9	speaks with a view to addressing Mr Chairman and the
10	was the case, then I wouldn't be needed here; I could	10	Commissioner. You, however, speak with a view to
11	just put in a written statement.	11	addressing an audience elsewhere; that is your
12	Q. Mr Poon	12	motivation, throughout your testimony. Do you accept
13	A. (In English) Yes.	13	that, Mr Poon?
14	Q let me move on. In your oral answer to questions,	14	A. I do not accept. On the contrary, I think,
15	you resorted to the Prevention of Bribery Ordinance and	15	Mr Paul Shieh, you are the one doing that. In your
16	said that you are not supposed to talk about	16	opening speech, you wronged our company by saying that
17	investigation; do you remember that?	17	we extorted Leighton \$6 million, and you successfully
18	A. (In English) Details, details of investigation.	18	appeared in the headline news. You successfully smeared
19	Q. Details of investigation, yes.	19	my company.
20	Can I now have shown on the screen provisions in the	20	Q. Have you finished, Mr Poon?
21	Prevention of Bribery Ordinance. (Handed).	21	What the effect of the law is is not a matter for
22	First of all, Mr Poon, are you saying that you have	22	you, Mr Poon, because that is a matter for argument, but
23	not included allegations of corruption in your witness	23	can I suggest to you that you knew very well that even
24	statement because you actually thought that you were	24	the law does not prohibit you from disclosing what you
25	prevented by this Ordinance or by law to do it in	25	knew or thought about acts of corruption, as long as you
	Page 158		Page 160
1	a witness statement?	1	don't say anything that there is an investigation going
2	It's a simple question, Mr Poon.	2	on. Do you understand that? Do you accept that?
2 3	It's a simple question, Mr Poon. A. That's right. That's what I thought.	2 3	
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. That's right. That's what I thought. Q. You thought, "I was prevented by this Ordinance from including it in the witness statement"? A. Right. I think that's the thinking of the majority of Hong Kong. Q. Right. Then why did you say it in the witness box, Mr Poon? A. In fact when I talked about it, I did not specifically talk about the details of that investigation. I did not talk about the content of the investigation. I did not talk about the content of the investigation. I did not talk about the details of the investigation. I just broadly talked about the problems regarding Leighton and also corruption, and also third-party sub-contractors cutting rebars and screwing threads into couplers. Q. Therefore, Mr Poon, you could very well talk about what you knew or thought to be the allegations of corruption, without referring to any investigation in a witness statement; correct, Mr Poon? Correct? A. (In English) Correct. Q. Yet you did not do so, Mr Poon. 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 on. Do you understand that? Do you accept that? A. If I knew that the investigation was going on, it would be my wrong, my fault, if I talk about it. Q. Mr Poon, I am not going to get bogged down with you. This suggestion that somehow you thought you were prevented by the Prevention of Bribery Ordinance to make these allegations in the form of a witness statement is the same type of excuse about the confidentiality agreement. A. (In English) No. Q. You just rushed to this as a deceptive and misleading excuse for justifying your improvisation in the witness box. Mr Poon, do you accept that? A. (In English) Disagree, and let me explain. Q. Go ahead. A. (In English) Thank you. Let me find out first. Okay. Please go to my witness statement, D1/D35, paragraph 82. Q. Yes. A. (In English) You are saying that I did have a tactic or strategy to build up an atmosphere that I am gagged by the confidentiality agreement, and that is not true. Please go to paragraph 82. Mr Wallace is the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. That's right. That's what I thought. Q. You thought, "I was prevented by this Ordinance from including it in the witness statement"? A. Right. I think that's the thinking of the majority of Hong Kong. Q. Right. Then why did you say it in the witness box, Mr Poon? A. In fact when I talked about it, I did not specifically talk about the details of that investigation. I did not talk about the content of the investigation. I did not talk about the content of the investigation. I just broadly talked about the problems regarding Leighton and also corruption, and also third-party sub-contractors cutting rebars and screwing threads into couplers. Q. Therefore, Mr Poon, you could very well talk about what you knew or thought to be the allegations of corruption, without referring to any investigation in a witness statement; correct, Mr Poon? Correct? 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 on. Do you understand that? Do you accept that? A. If I knew that the investigation was going on, it would be my wrong, my fault, if I talk about it. Q. Mr Poon, I am not going to get bogged down with you. This suggestion that somehow you thought you were prevented by the Prevention of Bribery Ordinance to make these allegations in the form of a witness statement is the same type of excuse about the confidentiality agreement. A. (In English) No. Q. You just rushed to this as a deceptive and misleading excuse for justifying your improvisation in the witness box. Mr Poon, do you accept that? A. (In English) Disagree, and let me explain. Q. Go ahead. A. (In English) Thank you. Let me find out first. Okay. Please go to my witness statement, D1/D35, paragraph 82. Q. Yes. A. (In English) You are saying that I did have a tactic or strategy to build up an atmosphere that I am gagged by the confidentiality agreement, and that is not true.

40 (Pages 157 to 160)

3and not to any commercial discussion or settlement.3instructions; correct?4Q. Thank you. I've seen it. Have you completed your media4A. Yes.5speech, Mr Poon?5Q. You then also talked about your concerns on some defects6CHAIRMAN: With respect, I think read by a layperson, it's7complaint and the "not being screwed in fully"7quite important, actually.7complaint and the "not being screwed in fully"8MR SHIEH: Mr Poon, did this prevent you from speaking to9A. Yes. Yes. That was about the dowel and the coupling10earlier, after 13 June 2018, about Leighton cutting,10falling down, et cetera.11about machinery, about estimate of numbers, Mr Poon?11Q. Now, for these complaints other than threaded ends being12Mr Poon?12cut, apart from maybe the torque meter, which was in the13A. (In English) Be patient. I am waiting for the13"30,000 coupler" email, these other complaints have no14translation; okay?16A. (In English) Yes.15(Via interpreter) Let me reiterate, I received16A. (In English) Yes.16Anthony's email reply, and then I talked about cutting17Q. No prior complaint by email?18of rebars and media. Has anyone heard me saying to the18A. (In English) No, no.19media that Leighton has not been following the plans19Q. Thank you. So can I suggest to you, Mr Poon, that the20indiscriminately? No, I have never said that.20long di		Page 161		Page 163
2 1. June 2018. And before the investigation, MTR 2 2. A. (In English) Yes. 3 I carl' remember the exact mane of the leading person 3 Q. You didn' raise the mater with Mr Zervaas by 5 myself and Leighton's two representatives. At that 5 email: correct? 7 showed me an email that's issued by his corporation, 6 A. (Chinese spoken). 8 limiting me on the scope of discussions in the 9 you would have raised your coacern with either 10 Tasked him, if l'reject, shall I go ahead? He said 0 Mr Pulommer or Mr Zarvaas; do you accept that? 11 no. And l asked him to send this to my email. 13 A. I do have comogle vidence. I went directly to the ICAC. 12 Therefore, Mr P Lee, another Chinese assistant to the 13 Mr Wallace, sent the email to my corporate email, and 13 I'm limitors on. 13 driver is solely for matters to be discussed in 1 14 Can I now move to the final topic. You remember? 15 Please see. 16 No there points there are three points there are there points there are there points there are three points there are there poin	1	I participate into the investigation invited by MTRC on	1	O Mr Zervaas's predecessor: correct?
3 1 Can't remember the exact name of the leading presn widently vacated the meeting room and only left me mean fail diejhtor's two representatives. At that for articular moment, Leightons showed me Mr Wallace for the an enamil that's issued by his corporation, investigations. 3 Q. You dish't raise the matter with Mr Zervaas by small, correct? 8 imiting me on the scope of discussions in the investigations. 6 A. (Chinese spoten), for fights) Yes, yes. 9 investigations. 9 you would have raised your concern with either to have anything in this allegation, for the email to my corporate email, difference in these proceedings and the email contents have been quoted in paragraph 82. 10 Mr Planmer of Mr Zervaas; do you accept that? 10 The three points - there are three points - there are three mail to my corporate email, and the warris is a waiver. It is a waiver to the for "The waiver is solely for matters to be discussed in the Mr IR interviews tomorrow and Jason Poon is not to for "The waiver is solely for matters to be discussed in the Mr IR interviews tomorrow and Jason Poon is not to for the waiver is solely for matter sto be discussed in the Mr IR interviews for one. That is issued on the Mr SHELE. The Poon, did this prevent you from specific to advalue about number of speceh, Mr Poon? 20 A. (in English) Yes. 1 A. (in English) Yes. 20. You used adout the need for a torque meter; remember? 20 You see, Leighton is always enforcing the confidentiality agreement on me. That is issued on the wait anterwards? 20.				
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6 particular moment, Leightons showed me - Mr Wullace 6 A. (Chinese spoken). 7 showed me an email that's sized by his corporation, 7 (In Figlish) Yes, yes. 9 investigations. 8 0. If you thought there was anything in this allegation, 9 investigations. 9 you would have raised your concern which ether 11 no. And I asked him to reject, shall I go ahead? He said 11 A. I do have enough evidence. I went directly to the ICAC. 12 Therefore, Mr P Lee, another Chinese assistant to 12 0. You have not given evidence in these proceedings and 14 the email contents have been quoted in paragraph 82. 14 Can I now move to the final topic. You remember 15 Please see. 15 vesterday you were examined on the "30,000 couplers" 16 confidentiality agreement. The first to reis: 19 complaints other than threaded ends being cut; remember? 12 the MTR interviews tomorrow and Jason Poon is not to 20 A. Yes. 2 21 confidentiality agreement on me. That is issued on any commercial discussion or stement. 2 4. (In English) Yes. 22 remember? 20. You talked about rebars not being screwed in fully.				
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13A. (In English) Be patient. I am waiting for the13"30,000 coupler" email, these other complaints have no14translation; okay?14prior complaint or discussion by email. Do you accept15(Via interpreter) Let me reiterate, I received15that?16Anthony's email reply, and I then sent an email16A. (In English) Yes.17acknowledging his reply, and then I talked about cutting17Q. No prior complaint by email?18of rebars and media. Has anyone heard me saying to the18A. (In English) No, no.19media that Leighton has not been following the plans19Q. Thank you. So can I suggest to you, Mr Poon, that the20indiscriminately? No, I have never said that.20long discursion yesterday in the witness box, when you21Q. Mr Poon, in answer to the chairman's question, you said21engaged in this wide-ranging survey of possible23matter with Mr Plummer; do you remember that?23being cut, when you were questioned by the Chairman, was24A sit-down talk with Mr Plummer; correct?24an exercise in diversion, to create the impression that	12	Mr Poon?	12	cut, apart from maybe the torque meter, which was in the
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 acknowledging his reply, and then I talked about cutting of rebars and media. Has anyone heard me saying to the media that Leighton has not been following the plans indiscriminately? No, I have never said that. Q. Mr Poon, in answer to the chairman's question, you said that you have actually spoken about the corruption matter with Mr Plummer; do you remember that? A sit-down talk with Mr Plummer; correct? No prior complaint by email? A. (In English) No, no. Q. Thank you. So can I suggest to you, Mr Poon, that the long discursion yesterday in the witness box, when you engaged in this wide-ranging survey of possible complaints, or complaints, other than threaded ends being cut, when you were questioned by the Chairman, was an exercise in diversion, to create the impression that 	16		16	A. (In English) Yes.
18of rebars and media. Has anyone heard me saying to the media that Leighton has not been following the plans indiscriminately? No, I have never said that.18A. (In English) No, no.20indiscriminately? No, I have never said that.19Q. Thank you. So can I suggest to you, Mr Poon, that the long discursion yesterday in the witness box, when you21Q. Mr Poon, in answer to the chairman's question, you said that you have actually spoken about the corruption matter with Mr Plummer; do you remember that?21engaged in this wide-ranging survey of possible complaints, or complaints, other than threaded ends23matter with Mr Plummer; do you remember that? 2423being cut, when you were questioned by the Chairman, was an exercise in diversion, to create the impression that				
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23matter with Mr Plummer; do you remember that?23being cut, when you were questioned by the Chairman, was24A sit-down talk with Mr Plummer; correct?24an exercise in diversion, to create the impression that	17 18 19 20	media that Leighton has not been following the plans indiscriminately? No, I have never said that.	19 20	Q. Thank you. So can I suggest to you, Mr Poon, that the long discursion yesterday in the witness box, when you
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120 120 more we only induced which we commission ought to be 120	 17 18 19 20 21 22 23 	media that Leighton has not been following the plans indiscriminately? No, I have never said that.Q. Mr Poon, in answer to the chairman's question, you said that you have actually spoken about the corruption matter with Mr Plummer; do you remember that?	19 20 21 22 23	Q. Thank you. So can I suggest to you, Mr Poon, that the long discursion yesterday in the witness box, when you engaged in this wide-ranging survey of possible complaints, or complaints, other than threaded ends being cut, when you were questioned by the Chairman, was

41 (Pages 161 to 164)

	Page 165		Page 167
1	looking into but is refusing to look into. Do you	1	for the MTRC to disclose the content of the discussion
2	accept that?	2	then, incessantly.
3	A. (In English) Because the Chinese translation is using	3	The main reason being that in the 13 June evidence
4	the words "refused by the Commission to study those	4	given by China Tech, that was taken away. Then I found
5	particular subjects", I would rather say I will use	5	that we resorted to all these means, including
6	English I am reporting to the Commission my	6	approaching MTRC, and we couldn't get information in
7	understandings and my best knowledge on the scope of	7	relation to that particular investigation.
8	defective connections, because, maybe due to my previous	8	So that's why I try my best to be as clear as
9	interview in the media, and the perception being taken	9	possible. It was very difficult to identify the persons
10	by Lo & Lo or being taken by the Commission, due to the	10	involved. It was very difficult, and I've tried my best
11	interviews, misleads the Commission that the scope of	11	to identify them. And back then I didn't know that
12	defective connection is only oriented on the	12	Mr Ian Pennicott was engaged as the Commission's
13	thread-cutting subjects.	13	counsel. No information in that regard was given to me.
14	I'm just trying to help and assist the Commission to	14	And I didn't have any other purpose either.
15	have a full picture on the scope of defective	15	Q. Mr Poon, in that list of names it's a very long
16	connections.	16	answer to my very simple question. I might as well put
17	MR SHIEH: Chairman, I think I only have about 15 minutes	17	the suggestion to you, Mr Poon. When you have
18	left, so instead of adjourning today and then continuing	18	difficulty giving a straight answer, you engage in
19	tomorrow, can I just have 15 minutes' indulgence to	19	a long ramble of diversion, to bring in sound bites to
20	complete my cross-examination?	20	appeal to the media, to conceal your inability to give
20	CHAIRMAN: Yes, you may.	20	a straight answer. Do you accept that?
21	MR SHIEH: Mr Poon, can I suggest to you this way, that you		A. (In English) No.
22	knew, in your heart of hearts, that your allegations on	23	Q. Mr Poon, if he's a Caucasian gentleman whose name you do
23	organised and systematic rebar cutting is doomed to be	23	not know, you could simply say he's a Caucasian
25	rejected, and you were finding ways to introduce	25	barrister from Des Voeux Chambers, just as you described
23	Page 166	23	Page 168
1	-	1	-
1	inconsequential complaints, to continue to sustain your		the other guy from Des Voeux Chambers or who you thought
2	whistleblower image and to undermine this Commission in		to be from Des Voeux Chambers. Do you accept that? A. In the next ten days or so, after receiving Lo & Lo's
3	case things go against you.	3	A. In the next ten days of so, after receiving Lo & Los letter, I immediately reviewed the situation, I withdrew
45	Do you accept that?		that name and I made an apology, and we did a particular
	A. Disagree. Well, once you open up the concrete, you will	5	
6	be able to see for yourself. I don't need to say so	6	witness statement on that issue as well. Q. Mr Poon, was it not an attempt, although a doomed
7	much. And I think they are definitely breaking up the concrete very soon. We will know who is actually lying.	7	
8			attempt to undermine the gradibility of the Commission
1 0		8	attempt, to undermine the credibility of the Commission
9	Q. Mr Poon, you remember the question of when you named	9	by suggesting that counsel for the Commission had
10	Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first	9 10	by suggesting that counsel for the Commission had an earlier involvement in the investigation?
10 11	Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC	9 10 11	by suggesting that counsel for the Commission had an earlier involvement in the investigation?A. No.
10 11 12	Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview?	9 10 11 12	by suggesting that counsel for the Commission had an earlier involvement in the investigation?A. No.Q. Can I just touch on a small topic. You remember last
10 11 12 13	Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview?A. Mmm.	9 10 11 12 13	by suggesting that counsel for the Commission had an earlier involvement in the investigation?A. No.Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being
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10 11 12 13 14 15 16	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason 	 9 10 11 12 13 14 15 16 	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL.
10 11 12 13 14 15 16 17	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason A. (In English) You know. I don't know. Sorry. 	 9 10 11 12 13 14 15 16 17 	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL. A. Mmm.
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10 11 12 13 14 15 16 17 18 19 20	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason A. (In English) You know. I don't know. Sorry. CHAIRMAN: No, it's not important. MR SHIEH: It's not important. There was no reason why you had to name that Western 	 9 10 11 12 13 14 15 16 17 18 19 20 	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL. A. Mmm. Q. And we had a discussion about whether he could have seen any work on rebars on 12 January; remember that? A. (In English) Yes.
10 11 12 13 14 15 16 17 18 19 20 21	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason A. (In English) You know. I don't know. Sorry. CHAIRMAN: No, it's not important. MR SHIEH: It's not important. There was no reason why you had to name that Western gentleman in that interview; correct? 	9 10 11 12 13 14 15 16 17 18 19 20 21	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL. A. Mmm. Q. And we had a discussion about whether he could have seen any work on rebars on 12 January; remember that? A. (In English) Yes. Q. Then you remember that your counsel, or China Tech's
10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason A. (In English) You know. I don't know. Sorry. CHAIRMAN: No, it's not important. MR SHIEH: It's not important. There was no reason why you had to name that Western gentleman in that interview; correct? A. First of all, in that list of names, why did I pay 	 9 10 11 12 13 14 15 16 17 18 19 20 21 22 	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL. A. Mmm. Q. And we had a discussion about whether he could have seen any work on rebars on 12 January; remember that? A. (In English) Yes. Q. Then you remember that your counsel, or China Tech's counsel, stood up and said there were photographs which
10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Mr Poon, you remember the question of when you named Mr Ian Pennicott in your witness statement, your first witness statement, as being an attendant in the MTRC investigation interview? A. Mmm. Q. And according to the letters we have seen, Mr Pennicott wasn't even in Hong Kong on that day. Mr Poon, there was no reason A. (In English) You know. I don't know. Sorry. CHAIRMAN: No, it's not important. MR SHIEH: It's not important. There was no reason why you had to name that Western gentleman in that interview; correct? A. First of all, in that list of names, why did I pay particular attention as to who were present, and why did 	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 by suggesting that counsel for the Commission had an earlier involvement in the investigation? A. No. Q. Can I just touch on a small topic. You remember last Friday, when Mr Li, your staff, was being cross-examined A. (In English) Yes. Q when he talked about being in area B of the EWL. A. Mmm. Q. And we had a discussion about whether he could have seen any work on rebars on 12 January; remember that? A. (In English) Yes. Q. Then you remember that your counsel, or China Tech's counsel, stood up and said there were photographs which could show
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42 (Pages 165 to 168)

	Page 169		Page 171
1	remember that?	1	Can you look at D1102.
2	A. (In English) Yes.	2	A. (In English) Yes.
3	Q. And we had to adjourn earlier for that photographic	3	Q. This is a schematic diagram attached to your witness
4	evidence to be properly put before the Commission and to	4	statement; do you see that?
5	the lawyers; do you remember that? That was last	5	A. (In English) Yes.
6	Friday.	6	Q. You can talk about where Mr Li was that night. He said
7	A. (In English) Yes.	7	he's in area B, Mr Li.
8	(Via interpreter) Four photos.	8	A. (In English) I'm going to point out?
9	Q. And it became 11 photographs on Monday; remember that?	9	Q. Yes. We see where B is on this diagram. We can see
10	A. (In English) 11 photographs but two graphics.	10	what B is, where area B is; yes?
11	Q. Right. Now, can I ask you to look at your 4th witness	11	A. Mm-hmm.
12	statement.	12	Q. And photo 11, which was the only photograph on the
13	A. (In English) 5th or 4th?	13	14th
14	Q. 4th witness statement. Sorry, my mistake. It's the	14	A. (In English) Okay.
15	5th. Bundle D2, page 1084.	15	Q is A2; correct?
16	A. (In English) Yes, here.	16	A. Mm-hmm.
17	Q. 1086, I'm sorry. My apologies. 1086.	17	Q. Mr Li never said he was anywhere near area A2; do you
18	A. (In English) Yes.	17	
18 19	Q. It's paragraph 21.		remember? If you don't remember, it doesn't matter.
	A. (In English) Yes.	19 20	A. I remember clearly this is not the only photo. There
20		20	are four photos.
21	Q. "If one refers to the EWL slab, as opposed to confining	21	Q. No, Mr Poon, I'm asking you about area A2. My question
22	it to the EWL track slab, the very last area in which	22	is: Mr Li's evidence did not say he was anywhere near
23	concrete was poured was area A2."	23	any area A2; correct?
24	A. (In English) Yes.	24	A. (Chinese spoken)
25	Q. "We were still pouring it on 14 January I refer to	25	Q. Now, Mr Poon, I want you to be released today, if that's
	Page 170		Page 172
1	the eleventh photo ('Photo 11') showing Chinat's	1	possible.
2	workers in blue shirts", et cetera.	2	A. I think this is very important. The Commission, in
3	Do you see that?	3	relation to geographical and three-dimensional vision,
4	A. (In English) Yes.	4	sometimes they get it wrong. I have to clarify. First
5	Q. Can I also ask you to look at paragraph 9.	5	is Mr Ian Pennicott and then Mr Wilken, and he continued
6	A. Yes.	6	putting it to Mr Li in relation to the fact that A/B/C
7	Q. You accept, in paragraph 9, that pouring in area B4&5		are areas where concrete pouring has been completed, so
8	completed just before 11 pm on 12 January?	8	you can't be seeing some rebars out there. I've heard
9	A. Mmm.	9	remarks repeated like that.
10			
11	Q. Do you accept that? This is your statement; yes?	10	And why did I mention A2? A2 is part of A/B/C. You
	A. Yes.	11	can ask staff of Leighton to clarify. And Mr Li goes to
12	A. Yes.Q. So, as far as B4&5 are concerned, there is no dispute	11 12	can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is
13	A. Yes.Q. So, as far as B4&5 are concerned, there is no dispute that pouring completed maybe late at night but	11 12 13	can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is an area that he must pass through.
13 14	A. Yes.Q. So, as far as B4&5 are concerned, there is no dispute that pouring completed maybe late at night but 12 January; correct?	11 12 13 14	can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is an area that he must pass through. So he is not wrong in saying that he is seeing this
13 14 15	A. Yes.Q. So, as far as B4&5 are concerned, there is no dispute that pouring completed maybe late at night but 12 January; correct?A. (In English) B4&5, yes.	11 12 13 14 15	can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is an area that he must pass through.So he is not wrong in saying that he is seeing this rebar, and he also said that he is between area B and C,
13 14 15 16	 A. Yes. Q. So, as far as B4&5 are concerned, there is no dispute that pouring completed maybe late at night but 12 January; correct? A. (In English) B4&5, yes. Q. Right. We're talking about B4&5. 	11 12 13 14 15 16	 can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is an area that he must pass through. So he is not wrong in saying that he is seeing this rebar, and he also said that he is between area B and C, and one of my photos, as a corroborative evidence,
13 14 15 16 17	 A. Yes. Q. So, as far as B4&5 are concerned, there is no dispute that pouring completed maybe late at night but 12 January; correct? A. (In English) B4&5, yes. Q. Right. We're talking about B4&5. And the area to which the 14 January photo is 	11 12 13 14 15 16 17	 can ask staff of Leighton to clarify. And Mr Li goes to B and C, he must pass through this area. This is an area that he must pass through. So he is not wrong in saying that he is seeing this rebar, and he also said that he is between area B and C, and one of my photos, as a corroborative evidence, I deliberately showed the concreting work at B4/556, and
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	Page 173		Page 175
1	and he was there at B4&5 and C1-5, and he was moving	1	case was. Do you accept that?
2	back and forth between C1-5 and B4&5. And he was at the	2	A. No, I do not accept that. I think it's solid.
3	pouring point and discharge point, and there was this	3	Q. At first, when you raised it with the media, you did not
4	area between C1-5 and B4, and he saw the rebars there.	4	expect it to grow into a Commission of Inquiry where you
5	I must apologise. It was me who caused the delay	5	have to testify on oath and have your testimony tested
6	submitting the witness statement. It was because I had	6	critically, Mr Poon. Did you expect that? No?
7	to draw this 3D chart and I was worried that no matter	7	A. I didn't expect it, yes, right. I never thought about
8	from which angle I took photo I had to be very	8	it, right. But what followed after, that's not right,
9	careful.	9	because when people ask whether I agree there should be
10	CHAIRMAN: That's all right; you don't need to worry about	10	an independent Commission of Inquiry, and so on.
11	that.	11	Q. Now you have to face the music and be tested on your
12	A. But I would like to say to you, what Mr Li said that day	12	evidence on cutting of threaded ends of rebars, you were
13	was 100 per cent true	13	keen to divert and digress by reference to
14	CHAIRMAN: With respect, it's for the Commission to look at		inconsequential complaints on other matters. Do you
15	the evidence. We won't look at it, Mr Poon	15	accept that?
16	A. (In English) Thank you.	16	A. No, I do not accept it. It's totally within the terms
17	CHAIRMAN: in an isolated fashion. Believe me, I'm well	17	of reference of the Commission of Inquiry.
18	aware of the responsibility to look at all the evidence	18	Q. You had been keen to build up an image of a brave but
19	together, and to compare, to contrast. Okay?	19	oppressed whistleblower for yourself.
20	So what you've told us now will obviously be taken	20	A. No, I didn't.
21	into account, but we won't take into account the fact	21	Q. In the course of your evidence, you have been paving the
22	that you testified that his evidence is true; all right?	22	way to making suggestions in case things turn badly for
23	A. (In English) Thank you.	23	you: that, "Oh, it's unfortunate the Commission has not
24	MR SHIEH: Mr Poon, on this topic, can I suggest to you that	24	looked at this", or you disagree that the Commission has
25	you actually misled the Commission, and maybe your	25	not looked at that, paving the way for you to attack the
	Page 174		Page 176
1	Page 174 lawyers, into thinking that the photographic evidence	1	Page 176 Commission if things go against you. Do you accept
1 2		1 2	-
	lawyers, into thinking that the photographic evidence		Commission if things go against you. Do you accept
2	lawyers, into thinking that the photographic evidence would show pouring going on in area B4/B5, or maybe even	2	Commission if things go against you. Do you accept that?
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	at the Hung Hom Station Extension under the Shalin to Central Link Project		Day
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1	Approach Tunnel, it actually falls within the scope of	1	re-examination. I don't know whether that's going to
2	the terms of reference.	2	take up the full day, it may well do, in which case no
3	Q. And you were expressing discontent that the Commission	3	problem. But I was going to suggest that whether it did
4	should decide that it isn't and not look at it; yes?	4	or whether it didn't, we just have Mr Poon tomorrow and
5	A. I expressed discontent; I expressed disagreement.	5	we don't think about lining up any other witnesses for
6	Q. Very well. I'll move on quickly. You know that people	6	Friday.
7	in general, and Hong Kong people maybe in particular,	7	I don't know if anybody else is ad idem with that.
8	prefer a romanticised version of David against Goliath,	8	CHAIRMAN: I would rather just get from counsel a very rough
9	the small man against the giant, and you portrayed	9	estimate of how long they think they might be, because
10	yourself as David fighting against Goliath, skilfully,	10	I still remember an infamous occasion when counsel told
11	before the media.	11	me they only needed one witness the following day, and
12	A. I won't want to comment what Hong Kong people's views		we started at 9.30 and by quarter to ten he was
13	are. You are also one of Hong Kong people.	13	finished. I'm not suggesting any ill-faith on the part
14	Q. I supported Croatia in the World Cup final.	14	of any counsel, but sometimes things can turn.
15	A. (Chinese spoken).	15	MR PENNICOTT: I fear history won't repeat itself tomorrow,
16	CHAIRMAN: I'm happy so far, Mr Shieh, but I think more	16	sir, but that's a very sensible
17	putting like this becomes more an ingenious way of	17	CHAIRMAN: Just a brief indication.
18	making an address to the Commission.	18	MS CHONG: I think I will have half an hour.
19	MR SHIEH: Mr Chairman, I don't want this witness to	19	CHAIRMAN: All right.
20	ultimately say I've been unfair when we make criticisms	20	Mr Boulding?
20	of him in our submissions, because I can very well see	20	MR BOULDING: Sir, obviously it always depends upon the
21 22	very often these things different views can be taken,	21	length of the answer and that sort of thing, but I'll do
22	-	22	my best to finish in, say, a couple of hours.
23 24	but as I said, the final few questions.	23 24	
	CHAIRMAN: Yes. Certainly then.	24 25	CHAIRMAN: All right. Yes?
25	MR SHIEH: Mr Poon, continue.	23	
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1	CHAIRMAN: I think he's completed his answer there.	1	MR KHAW: I believe I'll be around one and a half hours.
2	MR SHIEH: You don't agree, Mr Poon?	2	CHAIRMAN: All right.
3	A. (In English) Yes.	3	Yes?
4	Q. Lastly, the way you give evidence, I suggest, rather	4	MR TO: Re-examination is basically one hour.
5	than putting forward what you saw, you gave the	5	CHAIRMAN: In which case, I think you are quite right.
6	impression of trying to fight for a pre-set agenda, to	6	I don't want to bother a potential witness having to
7	try your very best to find points that you could argue,	7	wait around outside the whole day
8	for example, the BOSA instructions, and you had to go	8	MR PENNICOTT: No.
9	back and find out more, to justify your pre-set	9	CHAIRMAN: when it's quite clear we may even have to
10	conclusion. Do you accept that? Do you accept that's	10	extend a little bit tomorrow evening.
11	your mindset, your approach?	11	MR PENNICOTT: Yes, sir.
12	A. This whole thing comes naturally. I'm an educated	12	CHAIRMAN: Thank you very much. Tomorrow morning, 10 am
13	person. In front of me, there are bundles. For	13	(5.30 pm)
14	information that I know, I reflect it to the Commission,	14	(The hearing adjourned until 10.00 am the following day)
15	it only makes sense.	15	
16	And I've never told a single lie. All the	16	
17	information is backed up by evidence.	17	
18	MR SHIEH: Thank you very much, Mr Poon.	18	
19	It's been a tiring day but I have completed my	19	
	questions, Mr Chairman.	20	
20	questions, wir chairman.		
20 21	WITNESS: (In English) Thank you.	21	
		21 22	
21	WITNESS: (In English) Thank you.		
21 22	WITNESS: (In English) Thank you. CHAIRMAN: Good. Thank you very much.	22 23	

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