

1 Thursday, 1 November 2018

2 (10.02 am)

3 MR POON CHUK HUNG, JASON (on former oath in Punt))

4 MR SHIEH: Mr Chairman and Mr Commissioner, may I start off
5 the day by making an application?

6 By way of background, the Commission will recall
7 that yesterday afternoon, at about 3.23 pm, Mr Poon gave
8 an answer concerning screwing of rebar onto couplers.
9 He went on for a while and then he gave an answer which
10 involved reference to the media.

11 Then Mr Chairman intervened and said -- this is in
12 the transcript of yesterday at page 99, line 20 --

13 Mr Chairman said:

14 "... with respect, when you say "the media", while
15 I have the greatest faith in the media, indeed I started
16 life as a cub reporter ..."

17 Mr Poon said:

18 "I did not say 'media'."

19 And Mr To echoed:

20 "He did not say 'media'."

21 Then there was some exchange. The point I wish to
22 make -- because at the end, at page 100, line 23,

23 Mr Chairman said:

24 "Mr Poon, thank you very much. The matter has been
25 resolved. It was a clarification. It was no more than
26 that. Thank you very much."

1 The matter came as such a complete shock to all
2 Cantonese speaking members of this room and the TV room
3 next door, and I daresay members of the media outside,
4 that everyone took a while to digest the impact of that
5 about-turn within one minute. So I now make
6 an application, the relevance of which should be
7 obvious. It is not just a matter of clarification. It
8 is the ability of a person to say "media" in one minute
9 and then immediately to say "I did not say 'media'" the
10 next minute. It goes to credibility.

11 Ordinarily I can well see people saying why go
12 through what may be regarded as something peripheral,
13 but if this Commission had been a bilingual one, then
14 the lie would immediately have been incontrovertible,
15 and what I now seek to do is make incontrovertible that
16 which may have appeared to be a clarification only
17 yesterday.

18 May I ask for permission to play the recording from
19 yesterday afternoon at around 3.23 pm?

20 CHAIRMAN: Yes.

21 MR SHIEH: So Cantonese-speaking members could listen to the
22 Cantonese, maybe.

23 MR PENNICOTT: Are we going to need our headphones on?

24 I don't know how it's going to come out.

25 (Audio recording played)

26 INTERPRETER: I'm sorry, the recording is of very poor

1 quality, the interpreters can't really hear very well.

2 We will just try our best.

3 (Audio recording played)

4 MR SHIEH: Can we rewind for ten seconds, and replay it
5 loudly, please, because Mr Chairman will not know the
6 Cantonese, but it's actually for everyone in the room,
7 and for Mr Poon himself.

8 (Audio recording played)

9 Thank you very much.

10 Cross-examination by MR SHIEH (continued)

11 MR SHIEH: Mr Chairman, I can now proceed to ask some
12 questions of Mr Poon, based on what we have heard.

13 Mr Poon, good morning.

14 A. Good morning.

15 Q. You heard the playback of the recording yesterday
16 afternoon?

17 A. Yes.

18 Q. Did you or did you not say "傳媒", being the Chinese
19 characters for "media"?

20 A. 聽番我係有嘅。

21 Q. You need not hear back before realising you have. You
22 knew full well that you did and you lied in a courtroom,
23 Mr Poon; did you?

24 A. 唔係，只係我記錯。

25 CHAIRMAN: I'm sorry, you said here, "Having heard that,
26 I did not say so"?

1 MR SHIEH: "我係有", He did.

2 MR WILKEN: He said he did.

3 MR SHIEH: He said it, "Having heard back, I did say so."

4 CHAIRMAN: Sorry, I have to go by the English translation as
5 it appears.

6 COMMISSIONER HANSFORD: It's incorrect on the screen.

7 MR SHIEH: Yes. He said, "Having heard back, I did say so."

8 He admits that having heard back, he did say so.

9 CHAIRMAN: Thank you.

10 MR SHIEH: The question I put to you is: You don't need to
11 hear back before knowing you said so. You knew all
12 along that you had said "media", and you lied in court,
13 Mr Poon, did you?

14 A. 我唔係講大話，石律師你自己都講錯說話，你係咪講緊大話呢？你琴日都講
15 錯好多說話㗎，你係咪講緊大話呢？

16 Q. Mr Poon --

17 A. 我想澄清，你畀個時間我澄清，好唔好？

18 Q. Yes.

19 A. 我想所講嘅「傳媒」我講錯咗，其實我係講應該係“commission”，
20 「commission應該去睇清楚禮頓submit畀commission嘅文件，全面啲
21 去睇，去認證禮頓嘅文件嘅真偽。」

22 Q. There is a difference between saying, "Sorry, it's
23 a slip of the tongue, it's a Freudian slip, I am too
24 used to blurting my mouth off to the media, I meant to
25 say 'the Commission'"; and on the other hand "I did not

1 say 'media'", a complete denial. Yesterday you said you
2 did not say "media". Mr Poon, is that correct? You
3 said yesterday, in the transcript, and as we have
4 heard -- you said you did not say "media". Was that
5 what you said?

6 A. 我係咁講，但係我意思係“commission”，唔係「傳媒」。

7 Q. You did not say yesterday, "I'm terribly sorry, I had
8 a slip of the tongue, I correct myself." You went on
9 combative mood, as always, targeting everybody and even
10 asking rhetorical questions back to me, "When did I say
11 'media'?", didn't you?

12 A. 我有針對所有人，石律師，你唔好斷章取義，you are out of context.

13 Q. You only target people who you want to target at that
14 point in time?

15 A. 我有針對所有人，石律師，頭先你又講大話，我有針對所有人，石律師，你
16 頭先有冇講我針對所有人，你而家講畀我聽。

17 Q. I'll give you a list when I get to the end of my
18 cross-examination. You asked for it, you'll get it.
19 But answer my question first. You did not say on the
20 spot, by way of clarification, "I had a slip of the
21 tongue, sorry, I meant to say 'the Commission'." You
22 did not clarify that; correct?

23 A. 首先，我向主席先生，想向commission先生，想向在座所有人士致歉，
24 琴日我係講錯咗，我係講咗「傳媒」，而我「傳媒」嘅意思係
25 commission；第二，我再澄清番石律師頭先講嘅大話，我有指向所有

1 人，我只係講自己有講「傳媒」，石律師話我指向所有人，石律師自己
2 喺度講緊大話。你嘅嘢性質同我當時講有分別。

3 CHAIRMAN: All right.

4 MR SHIEH: Thank you very much. I suggest to you before
5 I leave this topic -- it's a very short point --
6 I suggest to you before I leave this topic, you actually
7 intended to say "media". You saw the chairman wasn't
8 too happy about bringing the media in, therefore, being
9 the opportunistic self as you are, you immediately
10 denied saying "media" to appease the chairman. Do you
11 accept that or not accept that?

12 A. 我完全否定你嘅說話，你說話裏面有兩個assumption，第一個，你話
13 我機會主義，第二個，你話我intention係講「傳媒」，你又知我係
14 intention講「傳媒」，你係我咩？

15 Q. Let's move on. Yesterday, when I started my
16 cross-examination, I asked you about your attitude
17 towards making changes or amendments to your witness
18 statement? Do you remember that?

19 A. 你講緊幾時嘅時間先？

20 Q. Yesterday afternoon, when I started my cross-examination
21 of you, I asked you about your thinking, your attitude,
22 towards making amendments or changes to your witness
23 statement, when you said you prefer to make changes when
24 you are actually giving evidence. Do you remember that
25 line of questions?

1 A. 記得。

2 Q. I was told -- I don't know whether it can be shown on
3 the screen -- that on 18 October, the Commission, either
4 the Commission Secretariat or solicitors for the
5 Commission, sent an email to solicitors for all the
6 parties, asking them -- I don't know whether or not that
7 email can be pulled up and shown on the screen. It's
8 an email of 18 October.

9 MR PENNICOTT: We have a couple of hard copies, if that
10 helps.

11 MR SHIEH: There are hard copies, if that helps.

12 MR PENNICOTT: I can give one to the witness; I can't give
13 many around. You've got it?

14 MR SHIEH: It's on the screen now.

15 It's an email on 18 October, the week before the
16 hearing commenced, to everyone on a mailing list.
17 I think we should actually skip all the addresses for
18 privacy problems. Can we just move on?

19 This is from Gloria Abdullah, solicitor for the
20 Commission:

21 "Dear All,

22 [All] witness statements will not be read out at the
23 hearing but will be uploaded onto the Commission's
24 website after the witness has given evidence, the
25 Commission has directed that minor amendments (if any)
26 to witness statements and responsive witness statements

1 should be set out in writing and provided to the
2 Commission before the witness enters the box to give
3 oral testimony. It would be most helpful if the list of
4 minor revisions could be provided to us at least a day
5 in advance so that it may be scanned in readiness."

6 Mr Poon, are you aware that this email had been sent
7 to the parties beforehand?

8 A. 我唔記得喎。

9 Q. You are not suggesting that your solicitors have failed
10 in their duties to apprise you of requests or
11 requirements from the Commission which must be treated
12 seriously, are you?

13 A. 我相信我哋嘅事務律師將每一張電郵都會send畀我哋作改呢個email嘅，
14 我相信。

15 Q. Thank you. Therefore, I suggest to you that if you have
16 any minor amendments such as errors in the date or the
17 month, you ought to have put that in writing beforehand,
18 before you entered the box to give oral testimony. Do
19 you accept that?

20 A. 呢個電郵係咁寫。

21 Q. If it's anything major, then I suggest you should
22 actually do it by way of a further witness statement,
23 backed up with a statement of truth, to be verified on
24 oath in the witness box. Do you accept that?

25 A. 「重大修改」呢度喺邊度寫？我想問你。

1 Q. No, it's not in this email. I'm suggesting to you as
2 a matter of common sense and procedure. If you don't
3 agree or if you don't understand, you can just tell me;
4 I will move on. The record speaks for itself.

5 I repeat my question. If it is something which is
6 not minor, then you ought to have put it in the form of
7 a proper witness statement, backed up with a statement
8 of truth, signed by you, verified on oath in the witness
9 box? You can either say, "I know it", or you can say,
10 "I don't know, nobody ever told me", or you can say,
11 "I don't agree."

12 A. 石律師，呢封電郵係講“minor changes”嘅，“minor amendments”，
13 我睇唔到有“major”，我係請你如果你講兩個唔同嘅point，你分開講，
14 唔好拉落呢個電郵度講；第二，我多謝你嘅意見，但係你唔係我嘅大律師。

15 Q. Finally, what you said about your plan or decision not
16 to file any corrective witness statements beforehand but
17 only to correct your evidence as you give evidence at
18 the hearing is a flouting of the rules of this
19 Commission. Do you accept that? Flouting,
20 disobedience, knowing disobedience.

21 A. 唔同意，石律師，請你講出我係違反咗或者唔遵守咗邊條rules？

22 Q. The record speaks for itself. If your counsel wants to
23 re-examine you, he is at liberty to do so.

24 Can I ask you to look at bundle D1. Before I do
25 that, can I formally suggest to you that none of the

1 seven photographs which you said to have been taken by
2 you on 22 September on site have been taken by you at
3 all; do you accept that?

4 A. 我唔想再重複，重複又重複答問題，我已經講咗嗰七幅相係我影，我亦都
5 講咗點解我係認得嗰七幅相，係其中中間兩幅係有一個人嚟阻止我影而影
6 咗入鏡裏面。

7 Q. Can you look at page 228.

8 A. 喺度，係。

9 Q. 228. Do you see that, Mr Poon?

10 A. 睇到。

11 Q. This is one of the seven photographs. We see a man
12 kneeling down or squatting, holding a kind of equipment.
13 Then we actually see a spark; do you see that? There is
14 a spark.

15 A. 我見唔到火花。

16 Q. No, some reflection, I reframe myself, yes, you are
17 right. There's some reflection, bright reflection?

18 A. Gear. Not a spark.

19 Q. A bright spot on this photograph; do you see that?

20 A. 不如你指一指出嚟，好唔好呀？我如果見到係相中間嗰點白啲，藍藍白白嗰度。

21 Q. Yes, the part in the middle, I think we are all thinking
22 about the -- that part which you say represents the
23 thread, there is a bright spot there; correct, Mr Poon?

24 A. 見到。

25 Q. That is what you say to be the part of the thread; that

1 is your evidence, correct?

2 A. 係。

3 Q. Slightly to the left, we can see there is actually the
4 end of a rebar; do you see that? To the left of that
5 spark, there is actually -- you can see what appears to
6 be the end of a rebar, to the left, 左, left?

7 A. Top left.

8 Q. A little bit -- 8 o'clock. 8 o'clock to that spark,
9 there appears to be the end of a rebar?

10 A. 係--你講係呢度? (Indicating).

11 Q. Yes.

12 A. 唔係, 唔係, 唔係, 嗰度係另一條鋼筋嚟嘅。

13 Q. I know. The end of another rebar?

14 A. No, it's not end. 因為條木方其實係紮咗喺另一條鋼筋嘅上面呀。

15 Q. But on top of that block of wood, there seems to be the
16 end of another rebar?

17 A. On the bottom of that particular wooden section. It
18 should be the bottom.

19 Q. You think that's the bottom?

20 A. Yes.

21 CHAIRMAN: Sorry, can I state what I see and then we can
22 move ahead.

23 MR SHIEH: Yes.

24 CHAIRMAN: I can see the brightness in the middle, which has
25 been variously described as a spark or a light patch or

1 the thread. 8 o'clock to that, there is what appears to
2 me to be the end of a rebar which is resting just on top
3 of a wooden block or what appears to be a wooden block
4 or the edge of that wooden block.

5 If you continue the 8 o'clock direction down, you
6 will then come to a second rebar which is clearly
7 underneath the wooden block.

8 MR SHIEH: That is precisely what I suggest one can see from
9 this photograph and which I want to suggest to this
10 witness. Thank you very much.

11 A. I'm sorry --

12 Q. Perhaps you can --

13 A. I' m sorry, 我仍然--我嘅經驗, 我仍然有少少覺得條木方其實係擺咗喺
14 呢條, (indicating) 呢條同埋呢條鐵嘅頂嘅。

15 Q. All right, okay. So visually there seems to be
16 a difference in observation between you and Mr Chairman
17 or maybe myself as to the positioning of that rebar
18 a little bit 8 o'clock to that bright spot. You say
19 that that entire rebar is actually underneath the wooden
20 block; is that your evidence, Mr Poon? It's
21 underneath -- the entire rebar is underneath the wooden
22 block; is that your observation, Mr Poon?

23 A. 係。

24 Q. I suggest to you that if we look at it, actually it
25 shows a rebar resting, as Mr Chairman said, on the edge
26 of or on top of that wooden block.

1 CHAIRMAN: Actually, I'm looking at that again and I'm
2 wondering if I may be right, because I think what
3 perhaps causes the difficulty is there are two axehead
4 blots of light on the piece of wood, which may give the
5 impression that in fact it's resting, but if you look at
6 the rebar directly below and follow that through,
7 I think it's as likely as not that in fact the wood is
8 sitting on the rebar.

9 MR PENNICOTT: We think so.

10 CHAIRMAN: So I correct myself.

11 COMMISSIONER HANSFORD: I'm not so sure.

12 MR SHIEH: Mr Chairman, can I just simply say my point has
13 been made and can I move on? Can I just say my point
14 has been adequately made by what has transpired in the
15 past few minutes and can I move on?

16 CHAIRMAN: Yes.

17 MR SHIEH: Mr Poon, you said you saw threaded ends of rebar
18 being cut on 22 September; correct?

19 A. Yes.

20 Q. According to you, just a few days later -- sorry, just
21 a few days earlier, two staff members of Leighton, Mr So
22 and Mr Rodgers, actually promised you that cutting of
23 threaded ends of rebar would stop. Do you remember
24 saying that? That is in your witness statement.
25 I don't think we need to turn it up.

26 Is something wrong with the headphones?

1 A. 似乎中、英有少少--我有聽晒英呀，中文就話喺9月22號之後...

2 Q. "之前". I corrected myself. I have slips of the tongue
3 sometimes but I admit it.

4 A. 之前，之前，之前，係呀，係呀，係，係，係。So do I.

5 Q. Thank you. A few days before, you said two members of
6 Leighton promised you that cutting of threaded ends of
7 the rebar would stop. It's Mr So and Mr Rodgers. Do
8 you remember saying that?

9 A. 係呀。

10 Q. If what you say about the 22nd incident, 22 September
11 incident of cutting, is true, it would mean that
12 Leighton had gone back on its promise to you. Is that
13 correct?

14 A. 禮頓嘅地盤管理層違反嘅，係呀。

15 Q. Now, if that were to be the case, it would be a matter
16 of concern to you that Leighton would go back on their
17 words so quickly; is that so?

18 A. 係。

19 Q. But you did not immediately do anything in writing to
20 raise your concern with Leighton management, did you,
21 immediately after 22 September?

22 A. 冇，冇立即咁做，冇立即書面，冇立即書面。

23 Q. Not even orally?

24 A. 冇，口頭冇，口頭冇，口頭其實一直都有停。

25 Q. Orally to whom, immediately after 22 September?

1 A. 9月22號之後，我諗過咗幾日，就唔係即刻，即係唔係我話睇咗之後我即刻
2 就打電話去畀嗰啲人，我諗係過咗--我唔記得過咗幾多日，我係直接同
3 Malcolm Plummer講咗。

4 Q. You never said this in your witness statement, Mr Poon,
5 that you orally raised it with Mr Plummer.

6 A. 冇提，冇提，冇提，其實喺證人供詞，我再講一次，其實喺事件敘述嗰度，
7 我哋基本上係抄番警方嗰個口供。而另一方面，我因為覺得--我哋討論過
8 嘅，我哋覺得我哋需要有足夠嘅佐證寫落去個證人供詞裏面，如果唔係，
9 否則，我哋證人供詞裏面就會太多空間，就會喺exam.嗰時候，好似石律
10 師咁會逐個字捉，就我亦都唔想咗太多時間喺一啲non-subject matter
11 度。其實呢個調查委員會嘅subject matter就係有冇cut鋼筋，喺呢件事
12 上面，譬如睇呢張相，我哋見到好清楚cut緊鋼筋，對我嚟講，對我嚟講，
13 我覺得已經好足夠。

14 MR JAT: There may be a translation issue at draft
15 transcript 16:12, I think the witness started off saying
16 he accepts he did not mention it in the witness
17 statement, and then he went on to explain.

18 MR SHIEH: I suggest to you that you just made up that oral
19 complaint or conversation with Mr Plummer which you have
20 never mentioned before. You can either agree or, as
21 I would expect, you can disagree. My suggestion to you
22 is you have just made up that conversation with
23 Mr Plummer. You can either agree with me or disagree
24 with me.

1 A. 我係唔同意。

2 Q. Mr Poon, I don't know whether your lawyer has explained
3 to you, but in a setting like this, very often lawyers
4 have a responsibility, when they want to suggest
5 something to a witness which is contrary to what the
6 witness says, we are under a duty to put or suggest that
7 to you, so you have a chance to agree or disagree. So
8 that is what I am trying to do now. Do you understand?

9 A. Understand.

10 Q. So when I say "I put it to you" or "I suggest to you",
11 I'm inviting you to either say "yes" or "no" or "yes,
12 but" or "no but". It's not a matter of whether I am
13 lying or not. I'm just doing my duty to test your
14 evidence. Do you understand?

15 A. 我明白㗎，頭先係咪你唔滿意我講話個subject matter其實係cut鋼筋
16 呢？

17 Q. No.

18 A. No呀？Okay，咁我即係可以咁講㗎嘛？

19 Q. You can. You can.

20 A. 除咗答“yes”同“no”，我都可以答--其實而家嘅subject matter
21 就係cut鋼筋，點解唔圍繞番cut鋼筋問題呢？

22 Q. The subject matter is whether there is any planned,
23 systematic cutting, Mr Poon; correct?

24 A. Of Leighton?

25 Q. Whether there is any planned or systematic cutting of

1 rebar.

2 A. Okay.

3 Q. Thank you. Can I then move on? You did not raise any
4 complaint in writing upon seeing the incidents of the
5 22nd with the MTR; correct?

6 A. 係，同意。

7 Q. You did not raise it with the government?

8 A. 同意，同意。

9 Q. Can I then move on quickly, the last incident of rebar
10 thread cutting that you personally witnessed was in
11 September 2015; correct?

12 A. 喎。

13 Q. Concrete was poured or completed pouring sometime in
14 2016 for EWL slab, areas A, B and C; correct? I'm
15 talking about EWL slab, areas A, B and C.

16 A. Track slab, 喎。

17 Q. Anyway, in the areas which you say threaded ends of
18 rebar cutting took place, China Technology proceeded to
19 pour concrete; correct?

20 A. 喎。

21 Q. Your evidence in your witness statement is that
22 China Tech actually had little choice but to pour
23 concrete because after hold point inspections, as
24 a matter of procedure, China Tech had to pour concrete;
25 is that your evidence?

1 A. 係。

2 Q. So, at the time of hold point inspection, you did not
3 actually say or alert people to the fact that, "Hang on
4 a second, I saw some threaded ends of rebar being cut;
5 can you check the connections to see whether there are
6 any problems?" You did not do that or say that during
7 relevant hold point inspections; correct?

8 A. 我個人係唔會參與嗰個hold point inspection嘅，我個人唔參與嘅，我
9 個人真係唔參與嘅，如果客觀證據睇番，你可以睇香港鐵嘅報告D5同D6頁嘅，
10 其實佢哋嗰個--港鐵報告嘅調查嘅時候，佢哋嘅--啲inspectorate staff
11 都有解釋，係有人話畀佢聽有人cut鋼筋嘅。

12 Q. At the time that you poured concrete, you had no reason
13 to believe that whatever cutting of the threaded ends of
14 the rebar that might have taken place, they had not been
15 spotted and remedied at the hold point inspection; is
16 that right?

17 A. 有可能發生嘅係。

18 Q. Sorry, what is possible?

19 A. 會唔會係個翻譯，即係意思...

20 Q. At the time you poured concrete after the hold point
21 inspections, you had no reason to believe that any
22 defects in the connection had not already been spotted
23 and remedied as part of the hold point process?

24 A. 我當時--當時其實9月尾呢段時間係我哋開咗工--大規模開工兩個月嘍，
25 我哋大約喺7月尾大規模開工嘅，當我哋--我個understanding呀，當

1 我哋知道咗，我係有叫我哋啲前線去自己暗中話畀港鐵知，而我喺--我
2 通常都會喺寫字樓同...

3 CHAIRMAN: I think that's a different answer, with respect.

4 I think what you're being asked is that after the hold
5 point inspections had been conducted, whether you were
6 there or not, you began your pouring exercise because
7 you would have been satisfied, in your own mind, at that
8 time, that any rebar cutting issues had been remedied,
9 that is dealt with.

10 A. 喺9月嘅時候係，9月嘅時候係。

11 MR SHIEH: September of what? 2015?

12 A. 2015年。

13 Q. No, I'm asking at the time you poured concrete, whatever
14 time it was that you poured concrete. Whatever time it
15 was that you poured concrete, you had no reason to
16 believe that there's still anything wrong with the
17 connections?

18 A. 係呀，當時其實我係相信港鐵係會捉到啲問題出嚟，亦都會搵到啲問題去
19 解決嘅。

20 Q. And there's nothing subsequently that somehow alerted
21 you to the fact that things might have slipped through
22 the hold point connections?

23 I'm suggesting to you that there was nothing
24 subsequent to the pouring that alerting you that things
25 might have slipped through, defects might have escaped

1 the hold point inspection; is that right?

2 A. 有呀，有嘢令到我覺得疑惑嘅，第一個就係因為我仲仍然聽到有cut鋼筋，
3 而第二個問題就係個地盤個結構漏水漏得好犀利。

4 Q. Stop there, Mr Poon. If concrete had already been
5 poured, then you could not have heard concrete --
6 threaded ends of rebar cutting in respect of the rebars
7 that had already been covered by concrete.

8 A. 我第一個講過話仲仍然有人cut鋼筋，就係我仍然聽到我哋手下報告，係有
9 人cut鋼筋，即係話cut鋼筋件事係未停嘅，第一點；據我所認知，我係聽
10 到2016年嘅6月嘅，即係話2015年9月我睇到最後一次之後，其實當然佢哋
11 cut嘅位置、方法已經唔同咗喇，但係去到2016年嘅6月我仲聽到，之後就
12 聽唔到。

13 Q. So you were still hearing about rebar cutting incidents
14 in June 2016; that's what you say, yes?

15 A. 係，係，係，而我記得最後都係2016年6月。

16 Q. There was no immediate complaint made by you in June
17 2016, either in writing or orally, to anyone in
18 Leighton?

19 A. 口頭有，書面冇。

20 Q. I don't see anything in your evidence about oral
21 complaints, Mr Poon, in your witness statement or in
22 your interviews.

23 A. 其實琴日我作供時都講咗，我其實嗰陣時已經去到Malcolm Plummer
24 度㗎喇，亦都嗰時係Malcolm Plummer就嚟走嘅時候添，我記得。

1 Q. Can I ask you to then look at what you said yesterday
2 about Mr Plummer. First of all paragraph 45 of your
3 witness statement at D23.

4 CHAIRMAN: Mr Shieh, just one small thing. Because you have
5 a palpable advantage over me of being bilingual and I'm
6 not, much to my shame, the fact remains that what you're
7 tending to do very slightly is, because you've heard the
8 answer in Cantonese --

9 MR SHIEH: Sorry, I should wait. I'm sorry.

10 CHAIRMAN: Yes, so I'm losing the last couple of --

11 MR SHIEH: I'm terribly sorry, I should wait.

12 COMMISSIONER HANSFORD: It would be helpful.

13 CHAIRMAN: Thank you.

14 MR SHIEH: At paragraph 45 of your witness statement, you
15 said:

16 "Between September 2016 to January 2017, I had
17 a discussion with Mr Anthony Zervaas of Leighton about
18 the possibility of drilling ...", et cetera. "I urged
19 him to find a solution to rectify the defective steel
20 works."

21 Do you see that?

22 A. 係。

23 Q. Paragraph 46:

24 "Until in or about late November 2016, Mr Zervaas
25 orally admitted to me that there were practices of
26 cutting ... Mr Zervaas also, on behalf of Leighton,

1 agreed to find a solution ..."

2 Do you see that?

3 A. 係呀。

4 Q. You were then asked, yesterday -- sorry, the day before
5 yesterday -- why you had waited until September to speak
6 to Mr Zervaas, and you gave an answer which we can find
7 in the transcript of Tuesday, Day 7, page 138, line 13:

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

11 That is your discussion with Zervaas.

12 "You had a discussion with Mr Zervaas of Leighton
13 about the possibility of drilling ...

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

18 Answer: Yes.

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

22 Your answer was "No", Mr Poon; you saw that?

23 A. 我意思就係話同Plummer先生有傾過補救方案啫，即係其實我可以同
24 Plummer先生傾同埋同Zervaas有少少唔同嘅，我解釋過，Plummer
25 係通常係講完畀佢聽，佢冇反應，而Zervaas就會話--即係比較令到

1 我覺得好正面，Plummer同Zervaas好唔同，個性格。我記得我講過嘅，
2 當然我可以講出嚟喇。

3 Q. You went on to say in the transcript -- Mr Pennicott
4 asked you:

5 "I find that slightly curious, Mr Poon, because
6 Mr Zervaas is new on the scene, new to the project ...
7 Mr Plummer has been the project director in place
8 throughout the relevant period, so far as I can work
9 out, yet you don't have any discussions with him about
10 it. Can you explain why that is, or why that was?

11 Answer: They are very different. Malcolm is more
12 senior in age. He's someone approaching a stage of
13 retirement. When I told him anything about the site, he
14 wouldn't descend to the level of doing something about
15 it. Anthony gave me the feeling that he would try to
16 resolve the problems. Very different."

17 So you were not saying that you tried to talk to
18 Mr Plummer but he brushed you away. You were saying
19 that because Malcolm doesn't want to know anything
20 anyway, "he wouldn't descend to the level of doing
21 something about it", you actually chose to speak to
22 Anthony Zervaas. Was that what you meant to say?

23 A. 我唔知我會唔會喺中文--即係喺Cantonese嗰度有slip of tongue，英
24 文版睇嚟係你嘅意思，但係我當時講嘅意思，我係有同Malcolm Plummer
25 講嘅，而我嗰時好似第一次講Malcolm Plummer個名添。

1 而跟住我亦都有形容，因為Malcolm Plummer其實幾--已經幾年
2 紀大，佢通常都會冇乜反應，佢亦都係所有嘢都係咁嘅，我講完之後，我
3 覺得佢知道，佢就可以喺internal解決個問題，嘗試用佢嘅方法。而我
4 記得Malcolm Plummer同埋Zervaas係有overlapping，但係實際
5 overlap咗幾耐，我唔記得。係我記得直至Zervaas正式坐咗入去PD，
6 project director個房，我先開始同佢講，而事實禮頓係有正式文件
7 話佢哋去novate嘅，但係當我同Zervaas講嘅時候，我得到個回應
8 係比較正面，所以我就更加同Zervaas講得多呢件事，呢個都好自然嘅。

9 Q. Mr Poon, in your evidence on Tuesday, when you were
10 asked why you had waited until 6 January to raise your
11 concern in writing with Mr Zervaas -- this is at
12 page 140, line 15 -- Mr Pennicott asked you:

13 "I'm just trying to again understand what's going
14 through your mind, Mr Poon. Between September 2016,
15 So/Rodgers discussion, September/October, a year passes
16 until you raise the point with Mr Zervaas; it just seems
17 almost incredible -- if this is so important, so
18 critical, such a big public safety matter -- that
19 there's this year's gap where you do absolutely nothing.

20 Answer: For the period you refer to, September
21 2016" -- and that, you accept, should be a mistaken
22 reference to 2015 -- "until October 2016 ... When I
23 first knew about it, my estimate was always that it's
24 just a few per cent. So is it really a major public ...
25 issue? No. In the interim, I came to learn more. I

1 never told the press or anyone about it, and that caused
2 me more concern that there might be a problem. There
3 were Leighton staff who told me, that is after we
4 started work, RDO and BD were hammering Leighton because
5 they did not follow the plans ... I kept seeing that
6 there were changes ... It's just that at the time I
7 misunderstood it to be remedial measures for changing
8 those plans. That's what I thought all along, until --
9 until someone told me that's not the case ... There were
10 two middle to senior management, actually senior
11 management staff of Leighton, that were chased away in a
12 row, and then I realised it was something major."

13 Do you see that, Mr Poon? Do you see that? That's
14 the transcript; do you see that?

15 A. See that.

16 Q. Do you remember giving evidence along those lines, that
17 you thought initially that there were going to be some
18 remedial works to be done, and it's only after a while
19 that you realised that in fact no remedial works were
20 done, and that's why you raised the matter with
21 Mr Zervaas; that was the effect of your evidence,
22 correct?

23 A. 可能誤會咗，我再解釋一次，其實我講過--第一，呢個喺line--page--
24 而家個screen page嗰個係叫咩嘢page? 141頁，141頁嘅line 12。

25 Q. Yes.

26 A. 嗰個“remedial measures”其實唔係講緊剪鋼筋個remedial measures，

1 嗰個remedial measures係講緊我話禮頓畀BD同RDO hammering緊佢唔
2 跟圖施工，而不斷改嗰個--我就形容下，就係D-wall capping zone嘅
3 圖紙同施工方法嗰個remedial。

4 Q. Cut a long story short, in your witness statements
5 prepared for the purpose of this Inquiry, which you have
6 been ordered by the Commission to provide, you did not
7 provide or offer any explanation as to why it was that
8 you waited until October 2016 to raise it or to raise
9 the question of remedial measures with Mr Zervaas; that
10 is correct, yes?

11 A. 可唔可以重問多次？我不如聽英文。

12 Q. In your witness statements prepared for this Commission,
13 you have not provided any explanation as to why you have
14 not complained to Leighton in writing until January 2017
15 or orally until October 2016. You did not provide any
16 context or reason for people to understand why that time
17 gap; correct?

18 A. 委員會畀我嘅要求其實係詳列咗喺Lo & Lo嘅八頁書信裏面嘅，我記得我哋
19 喺寫個witness statement嘅時候，我哋都寫咗一百零二段㗎喇，三十幾
20 頁紙，我哋係有跟住答㗎㗎。而好似我有記得--我記唔到，完全記唔到，亦
21 都--但係我記得有，冇叫我解釋點解10月先向Anthony Zervaas提出㗎。

22 Q. As a matter of common sense and credibility, and giving
23 context to a witness statement, I suggest to you that it
24 is quite obvious that you need to tell the story in
25 accordance with the sequence, Mr Poon.

1 A. 我哋成個witness statement，其實你睇得清楚，我哋都係將佢斬開咗
2 時段嘅，不如我哋睇一睇喇，其實好簡單嘅咋，C3個section，即係由
3 45段開始，我哋一跳就跳到去2016年尾，講到去2016年初，其實當時我
4 就想解釋點解我喺2016年--二零一--我講錯，我講錯，我slip of
5 tongue，係2016年尾去到2017年初，當時我係想解釋點解我喺2017年
6 初先出個電郵，而之前嗰啲就係一啲比較具體係我親身好具體咁參與睇到
7 剪鋼筋嘅情況。而因為我喺--我哋--我--尤其是--不過我管人喇，我睇
8 咗Lo & Lo封書信嗰八頁紙嘅要求同埋呢個獨立調查委員會個terms of
9 reference嘅時候，我覺得我唔需要長篇大論寫本論文過嚟，將由頭到
10 尾，由開工到而家我發生嘅事寫晒出嚟嘅，我主要係要證明我睇到--我第
11 一身睇到，尤其是，cut鋼筋嘅情況。

12 Q. Mr Poon, I suggest to you that you did not see any
13 cutting of the threaded ends of rebars. Do you agree or
14 not agree?

15 A. 唔同意。

16 Q. You did not discuss the issue of cutting of threaded
17 rebars with your own staff; do you agree or not agree?

18 A. 唔同意。

19 Q. Even if you did discuss with your own staff, it was just
20 casual chit-chat during the course of lunch and it was
21 nothing significant; do you agree or not agree?

22 A. 咁樣講，我哋飯會其實好多subjects嘅，呢個只係其中一個subject，但
23 係呢個subject係令到我覺得concern，要記住嘅。

24 Q. You asked your foremen to take pictures if they were to

1 see threaded ends being cut; correct?

2 A. 係呀，係呀。

3 Q. And we do not see any photograph taken by foremen being
4 adduced as evidence for China Tech; correct?

5 A. 原因好簡單，因為我哋鎖咗個Dropbox，我哋其實將--特別將1112嘅
6 Dropbox limit咗喺總寫字樓同埋我張檯度，其他所有人係睇唔到，
7 即係自從《蘋果日報》出電郵畀我哋之後，因為我哋都怕有資料漏出
8 去，所以我哋要所有人離開，登出個Dropbox，而我特登鎖咗1112嘅
9 Dropbox嘅，其實到而家，我哋公司除咗我嘅寫字檯嘅電腦之外...

10 CHAIRMAN: Sorry, I have a little difficulty there. Would
11 it be correct to say that there was a time when you
12 alerted your senior staff to the fact that there was
13 rebar cutting, and you asked them to keep an eye out for
14 it themselves, and you asked them, if possible, to take
15 photographs?

16 A. 係。

17 CHAIRMAN: Is it also correct to say that nobody gave you
18 any photographs, that is none of your subordinates came
19 back and said, "Here are some photographs to confirm
20 your suspicions"?

21 A. 可能有啲誤會喇，呢方面，我哋嘅做法就係佢哋影完相，佢哋會upload落
22 個Dropbox度嘅，佢唔會將啲相print出嚟交界我或者email畀我，唔係
23 咁嘅我哋。

24 CHAIRMAN: All right. I appreciate that. But would it be
25 correct to say that nobody told you, "I have

1 photographed what has concerned you and it's now in the
2 Dropbox, under [a particular reference]"?

3 A. 我記得係有人話過畀我聽嘅，尤其是地下影到剪出嚟啲螺絲頭一堆啲個
4 相，同埋有一個佢哋覺得奇怪，特登討論，我呢度有講嘍，就係話好多舊
5 嘅coupler，即係個螺絲頭扭咗出嚟，成堆擺咗喺個地盤裏面，佢哋都影
6 咗相，但係佢哋唔會特--即係佢哋...

7 CHAIRMAN: All right. Did you recover those photographs and
8 keep them in some USB -- keep them in some electronic
9 form?

10 A. 我有特登搵開嘅，我哋retrieve咗啲相之後，其實就係--我哋因為--我哋
11 將啲相recover番嘅時候好大量嘅，我哋有辦法逐張相睇，recover番
12 之後，佢哋會返番去佢recover嘅directory，所以警方--我累贅啲講得，
13 所以喺警方啲個USB「手指」上面好怪嘅，喺05 photo裏面，佢哋會多咗
14 一啲subfolder係用個月份做名稱，啲的就retrieve出嚟嘅，跟...

15 CHAIRMAN: All right. Putting it simply, my memory -- and
16 I'm open to correction here because there's been a lot
17 of evidence that's come in -- is that none of the
18 persons employed by you in senior capacities, or any
19 capacity, gave evidence to saying that they took
20 photographs and brought the photographs back to you, by
21 which I don't mean handing over photographs, I mean
22 reported to you that they had taken photographs.

23 MR SHIEH: That is correct. That is the effect of the
24 evidence, Mr Chairman.

25 CHAIRMAN: So none of them said that. Now, they had certain

1 reasons why. They said they didn't want confrontations
2 and the like.

3 MR SHIEH: Or none of their business or whatever.

4 CHAIRMAN: Yes, none of their business.

5 Would you agree that none of those seven persons
6 actually came back to you and said -- or none of those
7 persons who have given evidence came back and said,
8 "We've taken photographs and this is what they showed",
9 and indeed nobody working for you over that period of
10 time came back and said, "I've taken photographs and
11 this is what they show"?

12 A. 首先，當時嘅僱員，supervisory嘅、engineering嘅同埋managerial
13 嘅，我諗二十零人嘅可以影相擺落Dropbox，係有人同我講嘅，但係我真係
14 記唔到邊個打邊個。而我哋而家再背後睇番啲相，其實都見到係用唔同嘅--
15 唔同，好多唔同model嘅電話影嘅。而特別嚟咗呢度作證嘅人，我聽到佢哋
16 大概都係話即係驚有衝突，唔敢影相之類，我對呢樣--即係佢哋嘅口供，我
17 唔想有comment或者我唔想用我嘅意識擺落去。但係喺我哋Dropbox呢個
18 資料庫裏面見到係好多唔同嘅人影相落去，都係有關。

19 CHAIRMAN: All right. Can I put this to you: would it be
20 fair to say that you were concerned, when it first came
21 to your notice that rebars were being cut or not being
22 properly inserted into couplers; "yes" or "no"?

23 A. Yes.

24 CHAIRMAN: And you asked those who were working for you, or
25 the senior persons who were working for you, to look out

1 for this form of negligent or illicit workmanship and to
2 report back to you?

3 A. 係，但係就唔係限於高級嘅，全部聽到嘅都要嘅。

4 CHAIRMAN: All right. That makes it even more clear that
5 you were concerned.

6 Now, if you say you heard that some people had taken
7 photographs, why is it that you didn't take immediate
8 steps to find out what the person had seen and to
9 recover those photographs?

10 A. 我有採取步驟㗎，我記得喺7月份開--7月初--7月尾、8月初開始聽到，
11 我喺9月已經同緊禮頓嘅人傾㗎囉，我自己親身㗎，而且已經搵到地盤
12 最大個個㗎囉，即係我意思指係Khyle Rodgers同埋Gabriel So。

13 CHAIRMAN: No, that's not my question. My understanding, as
14 limited as it is at this moment in time, is that the
15 science of engineering requires careful, thorough
16 oversight. Would you agree? That seems to be one of
17 the hallmarks of good engineering, knowing what you are
18 doing step by step.

19 A. 同意。

20 CHAIRMAN: Now, you have shown a concern that people may be
21 cutting rebars or in some other way not doing that
22 particular form of steel reinforcing correctly, and you
23 put your own people on alert in that regard.

24 Now, why was it that once you heard, "Yes, I've got
25 photographs, here's evidence from me of what has

1 happened", that you didn't say, "Good. Have you put it
2 into the Dropbox? Yes. Where is it? What's the
3 reference number?", and then collect it and maybe put it
4 into your own file so you could confront somebody with
5 it at the appropriate time.

6 It seems to me that your training is to deal in
7 things like that in a clear and thorough way, but you
8 don't seem to have done that in respect of evidence
9 which has resulted in this Commission of Inquiry.

10 A. 我想解釋一次，主席先生，我想再--仔細再解釋一次，其實同我之前講嘅
11 一樣，我哋喺開工初期，其實我哋唔係第一個做港鐵嘅工程，我哋公司做
12 好多港鐵工程，港鐵係全香港幾乎最嚴嘅一個管理團隊嚟嘅，所以喺我嘅
13 印象，我個人畀港鐵嘅團隊好高分嘅，喺7月初--7月尾、8月初我第一次
14 聽到嘅時候，我坦白說，點解我要叫我伙記影畀我睇呢？因為我都怕佢哋
15 睇錯，我都怕佢哋誤導咗我，我就有咁多時間企喺地盤出面去捉人哋，所
16 以最初我要求伙記去再見到影畀我影相記錄，我係想睇下佢哋係咪真係睇
17 到定係誤會咗。

18 CHAIRMAN: All right. My question is a very simple one.

19 You had said you heard reports, but you can't remember
20 now the context of them, that your staff members had
21 seen things, and had photographed them. My question is
22 simple enough and relates to the photographs. Why did
23 you not do anything to retrieve those electronic records
24 at the time and ensure that they were safely kept so
25 that they could be used at a later stage?

1 A. 唔係，我有保存妥當㗎㗎，我哋有擺喺Dropbox㗎㗎，我哋有喎，我哋
2 全部相、全部圖、全部文件都擺晒喺Dropbox㗎㗎，呢個我相信作為一
3 個二判...

4 CHAIRMAN: But you didn't -- what you're saying is you threw
5 them all in with everything else?

6 A. 係，呢個事實，呢個事實。

7 CHAIRMAN: And now you've got difficulty finding half of
8 this stuff; yes?

9 A. 呢個係事實。

10 CHAIRMAN: Whereas if you had said, "Thank you very much,
11 here's a photograph of somebody actually cutting
12 a rebar, right by a series of couplers in a diaphragm
13 wall, I'm going to now identify these photographs and
14 keep the record safely so I can use it", then we
15 wouldn't have the current situation, would you agree,
16 where half the stuff's got lost?

17 A. 主席先生，我哋公司其實唔係你想像中咁大嘅，一年做3億生意嘅嘢，
18 當然喺判頭嚟講係好大㗎喇，但係就並唔係可以你想像中我哋一個超巨
19 型嘅機構，我哋真係冇咁嘅資源...

20 CHAIRMAN: No. Sorry. Bear with me. I appreciate that.
21 The point of my question -- and let me put it to you
22 now; it's a question, it's not a statement of
23 conclusion -- it may be said that if you did not take
24 steps to actually safeguard the electronic records that
25 you say you received, that is an indication that you

1 weren't actually taking this that seriously at that
2 time.

3 A. 我其實琴日解釋過，其實我諗重重複複喺我嘅作供嘅時候我都講過，其實我
4 覺得剪咗大約五個百分點嘅，我有估計嘅，呢個估計一直都有存在，我亦都
5 覺得好可能喺嗰個--如果淨係講剪鋼筋，係喺嗰個安全嘅範圍裏面嘅，其實
6 琴日我都答過嘅，喺你問之前，其實我都講過，頭先我哋返番...

7 CHAIRMAN: I appreciate that. So it would be correct to
8 say --

9 A. 所以，所以，所以當時你話係咪去到我覺得會畀喇，會去到「我一定要制止，
10 一定要企出嚟喇，唔落石屎呢」--其實未去到嗰個關鍵點嘅，但係如果有
11 其他地方去到個關鍵點，我係會停，譬如呢區落石屎...

12 CHAIRMAN: All right. So you are saying then, that at that
13 early stage, when you asked your people to take
14 photographs, even though you heard there had been some
15 photographs taken, you didn't take steps to put them to
16 one side and to ensure their safety, because at that
17 stage it really wasn't that serious? You had seen some
18 isolated incidents, but nothing that was going to be
19 profound in the sense that it was systematic; would that
20 be right? "Yes" or "no"?

21 A. 喺去到9月...

22 CHAIRMAN: "Yes" or "no"? It's easy.

23 A. 去到9月，去到9月，yes。

24 MR SHIEH: Can I move on, Mr Chairman, to the other
25 photographs that this witness said he had taken in

1 mid-September.

2 Mr Poon, you remember in your evidence you had said
3 that prior to the 22 September incident or photo-taking
4 exercise, earlier than that date, also in September, you
5 used your office Huawei phone to take two photographs of
6 rebar cutting and one video. Do you remember that?

7 A. 我好似冇講office, 嗰個好似我個華為嚟。

8 Q. You used a Huawei phone to take two photographs and one
9 video in mid-September 2015; correct?

10 A. 係, 係, 因為嗰部華為電話係我嘅, 所以係我有講office嘅。

11 Q. Yesterday, you told us that Mr Gary Speed asked you, on
12 18 September -- Karl Speed, sorry, Mr Karl Speed asked
13 you, on 18 September 2017, in the office of Leighton, to
14 delete those two photographs and that one video which
15 you had shown him. Do you remember that?

16 A. 記得。

17 Q. You then spent, on the transcript, a couple of pages
18 talking about a man called Manning and then Tony Zervaas
19 came and then a Chinese man from Leighton came,
20 et cetera, which we don't need to call up on the
21 transcript.

22 Then you said Zervaas asked you to destroy photos or
23 records of rebar cutting in your company or office
24 computer, pursuant to the confidentiality agreement. Do
25 you remember saying that?

1 A. 記得，記得。

2 Q. So there were two requests, one was from Karl Speed, for
3 you to delete from your phone on the spot two pictures
4 and one video. Subsequent, on the same day, Zervaas
5 asked you to go back to your office and delete or
6 destroy photos or records of rebar cutting. Have I got
7 it right?

8 A. 喎。

9 Q. Can you look at D1, page 765.3. The Chinese version is
10 page 761 and the paragraph number that I want is
11 paragraph 9. You can choose to look at the Chinese or
12 the English. The English:

13 "On a certain day between 15 September ... and
14 22 September ... (exact date could not be provided),
15 under the guise of inspection of safety facilities ...
16 I asked Mr So and Mr Rodgers to conduct site
17 inspection ... with me together. Since incidents of
18 Leighton staff cutting short threaded heads of rebars
19 continued to happened, and I knew that the construction
20 process of screwing the rebars ... was being carried out
21 at bay 'C1-4' ... I believed that there would be
22 Leighton staff cutting threaded heads of rebars at the
23 said location (on that day). The three of us met at
24 around 5 pm ... and we walked towards bay 'C1-4'", et
25 cetera.

26 Can I move over the page at 765.4:

1 "I used the Huawei mobile phone of my company" --
2 which you define as "Phone 1" -- "to take 2 photos and
3 to record a video clip of about 10 odd seconds of this
4 incident."

5 That is what you said to the police; do you see
6 that?

7 A. 係。

8 Q. So, according to what you said to the police, the Huawei
9 phone which was used to take photograph on that occasion
10 was a company phone. That was what you said?

11 A. 呢個我--sorry, 我調亂咗, 呢個--因為呢個華為phone我好記得, 跟住
12 我擺嚟玩航拍用嘅。

13 Q. So was that Huawei phone a company phone or your
14 personal phone?

15 A. 呢個係我私人嘅, 但係其實間公司係我嘅。

16 Q. Anyway, can I ask you then to look at 765.6, that's the
17 English -- the Chinese is 764 -- and I want
18 paragraph 16:

19 "On 18 September ... I went to the office of
20 Leighton to discuss about the 'rebar cutting' incident
21 with Mr Zervaas and Mr Karl Speed. At the end, Leighton
22 requested that both parties sign a confidentiality
23 agreement, contents of which include Leighton's oral
24 admission of the occurrence of incident of 'rebar
25 cutting', remedial measures to be carried out by

1 Leighton and MTRC in respect of such incident, I had to
2 delete the video clip of about 10 odd seconds and
3 2 photos taken at bay 'C1-4' of Hung Hom ... using my
4 Phone 1 (as Phone 1 went wrong subsequently, I sold
5 Phone 1 later), I had to send email to the Transport and
6 Housing Bureau ... as well as matter concerning the
7 settlement of final payment of related construction
8 works."

9 And the Chinese version is:

10 "最後禮頓方面要求雙方簽署一份保密協議，內容包括"， and then a
11 number of points, so it seemed to match the English
12 version.

13 Do you see that, Mr Poon? No question yet. I'm
14 asking you whether you have seen what you said in the
15 police statement. My questions will come.

16 A. 係呀，係呀。

17 Q. Here, you only mentioned being required to delete two
18 photos and one video; correct?

19 A. 喺。

20 Q. You did not mention anything about being requested by
21 anyone from Leighton to delete stuff in your office
22 computer; that is correct, right? You did not mention
23 that in your police interview; correct?

24 A. 我諗呢個會面嗰個--即係關於9月18號，其實係講得好概括，好概括，其實
25 個保密協議內容亦都有講嗰個口頭承諾又或者補救方案嘅，其實可能mix晒。

1 Q. In your -- I'm sorry.

2 A. 因為如果睇住個文件意思，好似講到個保密協議嘅內容係包括咗承認咗口頭
3 剪--口頭承認咗剪鋼筋同理有關嘅補救措施已經寫咗喺內容裏面咁樣，其實
4 就好概括，其實未詳盡嘅，係好概括。

5 Q. I will come to that in due course, the confidentiality
6 agreement.

7 I will suggest one more time: this business about
8 being asked to go back to your office to delete stuff or
9 data in your office computer was not mentioned in your
10 police interview or your witness statements prepared for
11 this Commission of Inquiry. Do you accept that, as
12 a matter of fact?

13 A. 冇提過呀？因為呢段說話其實好簡單咁講咗呢一日嘅會議，你如果睇字面，
14 好--可能而家你睇番，啱嘅，啱，係冇仔細提到，但係其實個會議都講得
15 好清楚由--我唔想拗，總之就係--你啱，冇提到。

16 Q. I suggest to you that you just made that up when you
17 were in the witness box, this business about being asked
18 to go back and delete data in your office computer.

19 A. 唔係，不是，no。

20 Q. And conveniently you said your "phone 1" has been sold,
21 so no exercise of reconstruction can now be done; do you
22 accept that?

23 A. 因利成便，我絕對唔同意，我相信每一個人在座都唔會袋住三年前嘅電話用
24 緊，係咪呀？

25 Q. The deletion only took place --

1 CHAIRMAN: I do. There seem to be a lot of hands going up.

2 A. 但係我講我自己，我每一年我都換電話，我會追住啲電話款。

3 MR SHIEH: Anyway, I will move on.

4 You uploaded the photographs and the video that you
5 took in September onto the Dropbox or the system in your
6 office; correct?

7 A. 係。

8 Q. Thank you. I suggest to you that as part of your
9 story-making, you realised that it is not enough for you
10 to simply say in your evidence that you were asked to
11 delete photos and video on your phone, because you knew
12 people would ask you, "How about the system in the
13 office?", and therefore you had to make something up on
14 the spot to say, "I have been asked to go back to my
15 office to delete data as well." Do you accept that?

16 A. 唔同意。

17 Q. Turn to bundle C12, page 7995. That is a final account
18 statement recording a final settlement between
19 China Tech and Leighton in respect of contract 1112. Do
20 you see that, Mr Poon?

21 A. 見到。

22 Q. And also C12/8000, there is the confidentiality
23 agreement; do you see that, Mr Poon?

24 A. 見到。

25 Q. You say in your professional career you have entered

1 into confidential agreements twice; do you remember?

2 A. 係。

3 Q. Although you also said yesterday that sometimes
4 confidentiality provisions are contained in the main
5 building contract anyway; do you remember that?

6 A. 係，係。

7 Q. Do you accept that it is commercially commonplace -- it
8 is a commercial commonplace practice, when people settle
9 their differences and disputes, they would sign
10 a confidentiality agreement to preserve confidential
11 information?

12 A. 唔同意。

13 Q. You don't agree?

14 A. 唔同意。

15 Q. Can you look at C12/8000, the bottom right-hand corner.

16 A. 睇到，睇到。

17 Q. You see the date of 16 January 2015 and then there are
18 some code-like references on the left?

19 A. 睇到，睇到。

20 Q. So you may or may not agree but I suggest to you that
21 this is kind of standard-form template of Leighton, it's
22 a commonplace document kept in Leighton's system, which
23 was taken out for use on this particular purpose. You
24 can either agree or you can say "I don't know".

25 A. 我點能夠代禮頓答呢？

1 Q. Now, you said -- yesterday, we looked at clause 3.5,
2 which Mr Pennicott took you to. That's
3 confidentiality -- 3.5, yes, and Mr Pennicott drew your
4 attention to the first few words:

5 "At any time upon demand by Leighton ...",
6 et cetera.

7 And the destruction or deletion was to take place
8 only upon demand by Leighton. Do you remember
9 Mr Pennicott asking you that?

10 A. 記得。

11 Q. And you said the request came from Speed and Zervaas;
12 yes?

13 A. 記得。

14 Q. I now come back to what you said earlier in your police
15 statement. In your police statement, 765.6, English,
16 764, Chinese, paragraph 16 --

17 A. 係，睇到，睇到。

18 Q. -- it talked about the content of the confidentiality
19 agreement; do you see that?

20 A. 係。

21 Q. So if you read either the English or the Chinese, it
22 suggests that the confidentiality agreement, the content
23 of the agreement required Leighton to make admission,
24 required you to delete, required Leighton to rectify,
25 and required you to send email and also sort out the

1 engineering sum; do you see that?

2 A. 你講嘅禮頓require to delete，即係第二個require to好似錯咗。

3 Q. You were required to.

4 A. I am required to. Okay. 係呀，係。

5 Q. But in fact nowhere in the confidentiality agreement at
6 page 8000 required admission, deletion, rectification
7 and sending of email; do you accept that?

8 A. 我同意大部分，但係唔同意話“delete”，因為其實3.5都講得好清楚，要
9 destruct嗰啲資料。

10 Q. Upon request, and I will argue whether there was a
11 request, but certainly nothing about admission, nothing
12 about rectification and nothing about having to send any
13 email to withdraw the earlier email; correct?

14 A. 其實我同警察講係7月嚟嘅，我記得好似係，sorry，我睇番個日子，唔好意
15 思。係呀，7月10號，已經係7月10號嚟喇，即係已經係好初期嘅時候嚟喇
16 喇，其實同--當然同警察講同我而家講嘅一樣，我都係話畀佢聽當時其實我
17 本來係堅持糾纏嗰個協議裏面要包括禮頓承認係有呢個問題，同埋免我哋責任，
18 indemnify我哋公司，結果嗰個後生仔落入嚟嘅文件就係呢份，糾纏一輪之
19 後，我聽Anthony解釋而簽咗。不過我承認，而家睇番嗰個警察口供，係
20 寫得大過概括，變咗令到成件事冇好仔細講出嚟，不過亦都原諒，因為我記得
21 落咗好耐，落咗一日嘅一份口供。

22 MR SHIEH: Mr Chairman, I am halfway through this topic.

23 I have a few more questions to put on this topic before
24 moving on to the next one, and this seems to be

1 an appropriate time to take the mid-morning break.

2 CHAIRMAN: If that's how you feel, then it's your
3 cross-examination. We'll have the mid-morning
4 adjournment. 15 minutes. Thank you.

5 (11.30 am)

6 (A short adjournment)

7 (11.51 am)

8 MR SHIEH: Good morning, Mr Poon. It's still the morning.

9 A. 早晨，早晨。

10 Q. Can I come back and ask you some questions about
11 Mr Zervaas's request for you to go back to the office to
12 delete files; all right?

13 A. 可以。

14 Q. Did Mr Zervaas ask for or suggest any way for him to
15 verify whether you had indeed gone back to your office
16 and deleted the photographs or data which he wanted you
17 to delete and have not kept a spare copy in the USB?

18 A. USB? 佢冇講過USB。

19 Q. Has he asked for or suggested any way that could verify
20 or show to him that you had indeed kept your promise and
21 gone back to the office and deleted the required data?

22 A. 佢有咁講嘅，禮頓就即係起咗我哋兩公婆嘅物業，就話如果我真係咁做，如果
23 我哋嘅資料庫上面嘅資料漏咗出去，尤其是媒體同埋其他人，佢哋會知道嘅，
24 佢哋會根據呢個協議，去追究同起訴，個人添。當然喇，我當時有拗嘅，我話
25 呢份係公司協議嚟嘅，亦都嗰個point佢拗得掂我太太過去簽，但係最終我

1 太太冇即刻去簽嘅。

2 Q. I ask you for the third time: did Mr Zervaas ask you or
3 suggest that you should provide any proof or
4 verification that you had in fact gone back and deleted
5 the required files?

6 A. 冇，冇。

7 Q. I suggest to you that it is just incredible and indeed
8 moronic for Mr Zervaas to simply ask you to go back to
9 delete stuff and, "I'll just leave it to you to do it."
10 Do you accept that? It's silly, incredible that he
11 should just ask you to go back and delete the data and
12 just leave it at that; do you agree?

13 A. 即係你批評Anthony silly、奇怪、蠢啲嘅，我唔評論。

14 Q. It just did not happen, Mr Poon. This request for you
15 to go back to delete the files simply did not happen.

16 A. 冇，冇發生，冇發生。

17 Q. All right. Now, you remember in January 2017 you sent
18 two photographs to Leighton as part of the complaint
19 that you made; do you remember? C12/7931 --

20 A. 喺電郵度，係，係，係。

21 Q. -- C12/7932. Maybe we can call that up. C12/7931.

22 A. Okay.

23 Q. 7931, 7932. If you move to 7930, and 7928 maybe, the
24 previous page, this is the email, 6 January.

25 Paragraph 3, after that, you say:

1 "We attach herewith two of the found photos taken
2 at 18:18 to 18:19 ..."

3 Do you see that?

4 A. 係。

5 Q. So you sent these photos to Leighton in January 2017 as
6 part of what you regard to be relevant evidence of
7 wrongdoing; correct?

8 A. 係。

9 Q. But Leighton did not ask you to delete these two
10 photographs, did they? Because you were able to produce
11 these photographs now to this Commission as part of your
12 exhibits.

13 A. 我咪講過囉，我刪除--好喇，我仲搵得番添...

14 Q. Are you talking about the subsequent restoration or
15 recovery of photographs; is that right?

16 A. 係，係呀，係呀。

17 Q. Thank you. I will come on to that. So these two
18 photographs, indeed the seven photographs which you now
19 exhibit to your witness statement and say were taken on
20 the 22nd were part of the photographs that were
21 recovered; correct?

22 A. 可能係修復啲相一部分，亦都可能係delete漏。

23 Q. I will come to that.

24 In January 2017, when you picked and chose
25 photographs to send to Leighton as part of your evidence

1 of Leighton's wrongdoing, did it occur to you to send
2 the two photos and one video that you took on the
3 earlier occasion?

4 A. 即係你話發七--1月6號電郵呢--即係2017年1月6號電郵呢一刻?

5 Q. Yes.

6 A. 我只係需要搵兩張佐證就已經夠喇，因為當時其實Anthony係否定，即係
7 佢喺12月尾開始否定，就係話唔認有呢件事。

8 Q. Mr Poon, videos inherently should be better than static
9 photos in terms of evidence of people doing certain
10 things; do you accept that?

11 A. 好難講，我覺得相片已經足夠，我亦都唔係send晒所有，求其pick兩張
12 已經足夠話畀Anthony聽，說服佢件事係有發生過。

13 Q. Mr Poon, what you are now trying to create is
14 an impression that "there is something pretty damaging
15 and relevant dangling somewhere but it's just that
16 I can't produce them". Is that what you are trying to
17 do?

18 A. 唔係，如果我能夠預期，喺2017年1月6號已經預期今日我坐喺度而講呢番說
19 話嘅話，我神仙添喇，呢個電郵係2017年1月6號發嚟嘞，石先生，我所要
20 需要表達嘅就係Anthony話冇cut過啲鋼筋螺絲頭，就算喺accidentally
21 cut咗，都有扭入去，我就畀兩張相片已經夠喇。我喺證供都有交代，佢本
22 來係認，跟住又突然間唔認。

23 Q. Actually -- and it's a small point -- in your witness
24 statement prepared for this Commission, you have not
25 mentioned any deletion at all -- I'm talking about your

1 first witness statement. In your first witness
2 statement prepared for this Commission, you have not
3 mentioned any deletion at all; do you accept that?

4 A. 應該有抄警察嗰個statement落去㗎喎。

5 Q. I'm not going to argue with you. We can all read for
6 ourselves.

7 A. 係，因為好明顯我哋嗰個口供其中一個組成部分就係警察個口供。

8 Q. You did not, in your first witness statement, adopt or
9 confirm the contents of your police interview, Mr Poon;
10 do you accept that?

11 A. 我再解釋一次，警察口供嘅內容係有寫落去--抄過去個證人口供度嘅。

12 Q. Anyway, Mr Poon, before the mid-morning break, when you
13 were questioned about why you have not mentioned certain
14 complaints and conversations in your witness statements,
15 you said you were just trying to reply to Lo & Lo's
16 letter to your company or to your solicitors; do you
17 remember that?

18 A. 係。

19 Q. Can you then turn to bundle D, page 1. This is
20 Lo & Lo's letter of 20 July 2018.

21 A. 係。

22 Q. Some ten days after the setting up of the Commission of
23 Inquiry.

24 A. 係。

25 Q. Turn to page 5 -- well, actually, page 4.

1 A. 係。

2 Q. Paragraph 5:

3 "Describe and explain in detail and in chronology
4 the events and occasions when your company witnessed any
5 shortening, cutting, or defective connection of the
6 steel bars in the diaphragm walls and platform slabs, in
7 particular ..."

8 Then I wish you to go to the next page, page 5, (d):

9 "Notes and written records kept on such events and
10 occasions, photographs taken and video or audio
11 recordings made should be exhibited. All internal
12 records, reports, meeting notes and minutes, summaries
13 and documents pertaining to any internal investigations
14 undertaken by your company should be provided as well.

15 Notwithstanding the existence ... please explain why
16 your company proceeded to pour concrete at the diaphragm
17 walls and platform slabs and completed your company's
18 works under the relevant contract(s).

19 Explain with reference to the terms of
20 contract 1112 ... how the steel bars should be
21 connected ...

22 Given your company's knowledge ... provide
23 an analysis ... of the extent ..."

24 Then at 6:

25 "Given your answers to the matters in paragraph 5,
26 explain to the best of your company's knowledge how the

1 defective steel works came about and the reasons for the
2 shortening ... and also why the defective steel works
3 had been allowed and overlooked."

4 Do you see that?

5 A. Yes.

6 Q. At D6, top of the page:

7 "Please describe, explain and confirm whether, and
8 if so, what steps were taken by your company to alert or
9 inform the main parties or any of them of the existence
10 of the defective steel works.

11 Identify the persons in your company who notified
12 and reported the matter ...

13 Describe the responses, reactions and steps
14 taken ...

15 Whether or not it was as a result of your company's
16 notifications and reports, please confirm and
17 identify ...", et cetera.

18 Point 8:

19 "Following the notifications and reports described
20 in paragraph 7, please describe and explain what steps
21 and measures were taken by your company and/or the
22 recipients of such notifications and reports to rectify
23 the defective steel works. Please provide all relevant
24 correspondence, emails, telephone records, text
25 messages, written notes ...", et cetera.

26 Do you see that?

1 A. 睇到，係。

2 Q. Mr Poon, it is -- and I'm not going to go through the
3 wording; we can all read it -- a very comprehensive set
4 of questions, asking for a wide range of matters; do you
5 agree?

6 A. 係好廣闊，係非常廣闊。

7 Q. Whether complaints were made, for example? Whether
8 complaints were made, for example?

9 A. 係。

10 Q. Whether remedial steps were taken as a result; agree?

11 A. 係。

12 Q. And why the alleged acts of cutting should take place at
13 all and why they were not spotted; it was requested, the
14 information, yes?

15 A. 係。

16 Q. Why concrete was poured nonetheless; yes?

17 A. 係。

18 Q. Thank you. And despite that, you have not mentioned,
19 for example, your complaint to Mr Plummer, for example,
20 before you raised it with Mr Zervaas?

21 A. 冇，冇寫落去。

22 Q. Mr Poon, I come back to your photos taken in
23 mid-September. You used the Huawei phone to take those
24 two photographs and one video; correct?

25 A. 係。

1 Q. When did you sell that phone?

2 A. 當我賣個DJI嘅Phantom 2嘅時候，同時買嘅。

3 Q. Yes, we don't know when you bought that drone, DJI
4 drone. DJI is the brand for drones; yes?

5 A. 唔係，因為--我解釋喇，我好鍾意玩航拍嘅，我車長期都有航拍機，而每一
6 架拍航機我都equip住一個電話嘅，因為航拍機需要電話一齊玩嘅，我唔會
7 用自己個phone，因為如果響嘅話，個航拍機就飛走喇，所以用一個冇訊
8 號嘅phone去玩嘅。

9 Q. When was that, Mr Poon?

10 A. 嗰個航拍機幾時買，係咪呀，意思？

11 Q. Yes, and -- well, when did you sell -- I don't care how
12 you work it out in your own mind. I want to know when
13 you sold that Huawei phone.

14 A. 即係賣走咗佢？--係咪呀？

15 Q. Yes, sold it.

16 A. 17年尾嘅喇。

17 Q. Right.

18 A. 當時因為我買咗Mavic Pro。

19 Q. Okay.

20 A. M-A-R-V-I-C, P-R-O.

21 Q. Oh, Mavic, that's the style, that's the particular model
22 of the drone, the DJI drone?

23 A. Yes, A new model.

24 Q. Not Phantom.

1 A. 係。

2 Q. Okay.

3 Now, can I ask you to look at a news report,
4 bundle C32.

5 A. 係。

6 Q. 24260.

7 A. 係。

8 Q. Now, we do not yet have time to translate this, but we
9 can rely on the simultaneous interpreter to translate
10 the relevant parts.

11 A. Mmm.

12 Q. This is an article in an online media called HKC News.

13 A. 係，係。

14 Q. It is written by a reporter; I won't name her. In
15 fairness, it does not seek to report an interview with
16 you by HKC News. If you read the second line, it says:

17 "中科興業董事總經理潘焯鴻繼昨"

18 The date of this article is 28 June 2018. The
19 second line of the article says:

20 "中科興業董事總經理潘焯鴻繼昨（27日）在D100《左右大局》首度開腔，
21 今早（28日）再接受商台《在晴朗的一天出發》，及港台《千禧年代》訪問，
22 進一步披露剪短鋼筋事件的細節。"

23 Do you see that?

24 A. Yes.

25 Q. 《左右大局》 at D100.

- 1 A. Mmm.
- 2 Q. D100 is an online radio programme; correct?
- 3 A. Yes.
- 4 Q. The host is Li Wei Ling. Is it Li Wei Ling?
- 5 A. 係，好似係。
- 6 Q. The next day, the 28th, you accepted an invitation to
7 speak on Commercial Radio; correct?
- 8 A. 喎。
- 9 Q. Stephen Chan, 陳志雲?
- 10 A. 三個，三個。
- 11 Q. 陳聰、潘小濤?
- 12 A. 係。
- 13 Q. Right. I hope they are here.
- 14 Then you attended three interviews within two days,
15 correct, according to this article?
- 16 A. 唔止，唔止。
- 17 Q. Many more?
- 18 A. 五個。
- 19 Q. So you were darling of the media at the time; do you
20 accept that?
- 21 A. 因為港鐵出咗嗰個廣告吓嘛。
- 22 Q. "Idol of the underdog"; correct?
- 23 A. 我再㗎喇，因為港鐵出咗個廣告而導致呢件事。
- 24 CHAIRMAN: Sorry, what was the advertisement?
- 25 MR PENNICOTT: It may be a press release; I'm not sure.

1 A. 港鐵當時係出咗好似喺二十六份中、英文報章出咗全版或者半版嘅廣告去
2 譴責包括我在內去敘述呢件事嘅人，而港鐵當時係不斷喺度講緊大話。

3 CHAIRMAN: So it was some form of press announcement?

4 MR SHIEH: Yes, a press announcement, as opposed to
5 an advertisement in the commercial sense.

6 COMMISSIONER HANSFORD: Just a small point --

7 A. 商業廣告，商業廣告。

8 Commercial advertisement being placed by MTR on 26
9 numbers of local newspapers and media, purely commercial,
10 and MTRC is paying the advertisement fee.

11 COMMISSIONER HANSFORD: My point, Mr Shieh -- once again,
12 I think we are going a bit fast for the interpretation,
13 so I'm not collecting it all on the screen.

14 MR SHIEH: I'm sorry.

15 COMMISSIONER HANSFORD: Thank you.

16 MR SHIEH: Mr Poon, page 24260, the second paragraph, it
17 says:

18 "潘焯鴻稱，中科最初指出問題，出發點是『想保護自己公司』，因為見到一個
19 『機構有系統咁去剪（鋼筋）』"

20 You see that?

21 A. 係。

22 Q. So your concern and your observation was one of
23 systematic cutting; correct?

24 A. 係。

25 Q. Turn to 24261. That's a nice picture of you; do you

1 agree?

2 A. Not that good.

3 Q. Media tend to choose nice pictures of people who they
4 want to praise as heroes.

5 A. I don't know. I'm not media.

6 Q. Yes.

7 Now, immediately below that photograph, there is
8 this sentence:

9 "中科興業董事總經理潘焯鴻就紅磡站剪短鋼筋事件多個關鍵問題作
10 出回應，眾新聞整理其答覆如下"

11 see that?

12 A. 你想講嘅意思係乜嘢？

13 Q. Do you see that sentence?

14 A. Yes.

15 Q. I'm just telling you that this article is not
16 an interview by HKC News with you. It is an attempt by
17 the reporter to summarise the content of your interview
18 at the three radio programmes. I'm just letting you
19 know this is what this article was trying to do; right?

20 A. 同意，同意，同意。

21 Q. Can I then ask you to turn to 24262. At the bottom,
22 there is a line in bold:

23 "港鐵何時知悉問題、如何應對？高層是否不知情？誰應該負責？"

24 You see that?

25 A. 喎。

1 Q. Above that, there is a paragraph -- the second line
2 on that paragraph, there is a sentence which starts:

3 "到9月18日，禮頓人員態度改善，雙方達成協議，中科滿意禮頓的補
4 救方案，並同意加簽保密協議。潘焯鴻亦應禮頓要求刪除他手機內2015年
5 9月拍下的影片。中科電郵致運房局指懷疑事項已得到澄清。潘焯鴻補充
6 指，另有2015年9月拍下的照片存於公司電腦，未有刪除。"

7 Now, that is what the reporter summarised to be the
8 effect of the interviews; do you see that, Mr Poon?

9 A. 睇到。

10 Q. A few things to point out to you. In this summary, it
11 is said that you said you deleted the video in your
12 mobile phone. Did you say that in any of the
13 interviews, that you deleted the video in your mobile
14 phone?

15 A. 好似唔只短片，即係我記唔番講嘅嘢。

16 Q. Certainly here it did not record you as saying you
17 deleted photos and video? There's no reference to you
18 saying you have deleted photos?

19 A. 報道有提及唔代表我有講。

20 Q. So you say you might have said it?

21 A. I may have said it, yes.

22 Q. But somehow the reporter simply picked out the bit about
23 video?

24 A. 係。

25 Q. Well, you may not be able to comment.

1 A. 因為唔係我寫㗎嘛。

2 Q. You then said:

3 "另有2015年9月拍下的照片存於公司電腦，未有刪除。"

4 do you see that?

5 A. 係，係。

6 Q. So you are saying there are photographs taken in
7 September which you have not deleted; do you see that?

8 A. 我其實當時嘅意思就係話我哋其實搵得番啲相片，起碼喺9月份我哋搵到堆
9 相片㗎喇已經，當時嗰刻我哋真係搵到出嚟㗎喇。

10 Q. Mr Poon, if you are in whistleblowing mood and trying to
11 expose the brutal behaviour of Leighton in asking for
12 deletion, you would actually spill the beans completely,
13 wouldn't you, and say Leighton asked you to delete two
14 photos and one video and to delete stuff in your office
15 computer as well; do you accept that? But you didn't
16 say that in the radio programme.

17 A. 我諗--首先，做咗一個好錯、好錯嘅assumption，你成日做呢個
18 assumption嘅，你就話我係個whistleblower，我唔介意你再用個個
19 “whistleblower”形容，我同報紙其實一開始講咗好多次、好多次、
20 好多次，我並不是個whistleblower，我最初係唔出聲嘅，中科係
21 冇出過聲嘅，中科最初係一粒聲都有出過，我意思就係如果大家將件事
22 見到公開嘅時候，將佢睇成係《蘋果日報》喺2018年5月尾報道睇成一
23 個whistleblowing，睇成一個告發、告密或者個吹哨嘅行為，第一，
24 我再重申，嗰個唔係我，其實我亦都有特登將啲電郵發放嚟，就話畀

1 佢聽我都係收電郵，我都係被《蘋果日報》問，被佢上咗嚟我哋寫字樓，
2 我哋先知佢知道。而跟住我哋公司一直都係唔出聲，守口如瓶嘅，直到
3 港鐵發放一個錯誤訊息畀田北辰議員就話我哋公司係負責紮鐵，係負責
4 扭啲螺絲頭，話我哋刁喬扭擰，話我哋--港鐵叫我哋執--即係rectify
5 佢，我哋又唔rectify，指名道姓話中科嘅時候，我哋中科先開始尋求
6 contact田議員，要求佢解釋同澄清，嗰時係我哋中科第一次--相對第
7 一次係曝光嘅。而跟住田議員就喺一連串嘅日子裏面不斷澄清其實原來
8 係港鐵嘅sources畀錯資料佢，嗰個根本唔係中科，係另有其人，所以
9 跟住我又收番聲。

10 既然係咁，我而家講埋添喇，其實我已經入咗喺個電話紀錄嗰度，我
11 哋特登search--call咗我電話紀錄，喺6月4號我有打過畀黃唯銘，我同
12 佢之間當時有四、五個電話不斷翻來覆去，當時我有勸過，喺件事上面最
13 好就講真話，如果唔係，我都估計到會死得好慘，當時黃唯銘叫我搵禮頓
14 一個姓黃嘅人去傾掂係事，我話冇嘢好傾，我唔係commercial，我已經
15 講咗一次喇喇。跟住佢仲畀錯咗Benz嘅sales電話畀我，當咗係嗰個人，
16 跟住我見到嘅事件就係港鐵有幾個人不斷出嚟講一啲同事實不符嘅故事。
17 去到受訪問嗰刻，港鐵係堅持只有少於二十粒，甚至好具體講十七粒螺絲
18 頭被剪，而我係覺得唔同意嘅。跟住港鐵仲好高姿態，覺得自己係大公司，
19 想蝦一個普通人，喺香港二十六份報章賣全版、半版廣告，措詞強硬地去
20 鬧一個人，嗰個人就係我或者田北辰。所以我亦都留意到田北辰都有出嚟
21 去澄清，我因為咁樣而出嚟嘅，呢個就係呢兩日嗰個訪問嘅背景。

22 CHAIRMAN: All right.

23 WITNESS: I am finished.

1 MR SHIEH: You did not, in these interviews, talk about
2 Leighton's request for you to delete data in your office
3 computer; is that correct?

4 A. 喺接受所有呢啲訪問嘅最初期，我都不斷向--包括所有訪問我嘅人或者對象
5 講清楚，講得好清楚，我係受個保密協議所柑制，我只能夠講已經流咗出嚟
6 市面嘅資料，所以喺其他嘅所有事項都唔全面嘅，甚至當時我知道禮頓亂咁
7 改圖，冇被BD批，跟住就亂咁補救方案，甚至其實我知道仲未搞番掂，我都
8 冇向傳媒講過。

9 Q. Sorry, have you finished?

10 A. Finished.

11 Q. Let's move on, because we need to move on in life and in
12 questions. Can I talk about the recovery of your
13 photos. Mr Poon, you talked about the recovery of your
14 photographs yesterday.

15 A. 係。

16 Q. I'm not going to go through the detailed extent of your
17 evidence, because it actually spanned quite a number of
18 pages. I don't use MacBook. I'm old school, I use PC,
19 so I don't pretend to understand the clicking --

20 A. Little bit.

21 Q. -- of the Apple mouse. Yes. The gist of what
22 I understand you to be saying is that you first of all
23 formatted your office computer?

24 A. 唔係我寫字樓，係地盤電腦。

25 Q. You formatted the computer in the -- site office

1 computer?

2 A. 係，係。

3 Q. Am I correct --

4 A. 呢個係delete嘅程序，唔係retrieve嘅程序。

5 Q. Hang on a second. My simplistic mind tells me that if
6 you format a computer or a drive, you basically
7 eliminate data in it; correct?

8 A. 係呀。

9 Q. So, after formatting your site office computer, the data
10 should all have been gone; correct?

11 A. 喺嗰部電腦，係。

12 COMMISSIONER HANSFORD: Unless there's data in the cloud,
13 the Dropbox.

14 MR SHIEH: Yes.

15 A. 其實使唔使我解釋多次？

16 Q. No, I know your explanation. Don't repeat a few pages,
17 please.

18 I know what you have said in those few pages and
19 I am trying my very best to summarise, to the simplest
20 extent possible, my understanding. 30-odd years ago,
21 I almost became an engineer; what might have been.

22 A. You might have sat here.

23 Q. Separate from the deleting, you said you then proceeded
24 to try to delete photos from the Dropbox; correct?

25 A. Yes.

1 Q. That's the effect of what you said?

2 A. Yes.

3 Q. You talked about the effect of clicking using the Apple
4 mouse, something about horizontal and vertical,
5 yesterday, and effectively what you are trying to say,
6 on a high level of generality, is that you thought you
7 might have deleted all but somehow, because of the way
8 of clicking, you had actually not deleted all?

9 A. Yes.

10 Q. Is that what you're trying to say?

11 A. Yes.

12 Q. Was there a separate act of recovering some of the
13 deleted data?

14 A. Yes.

15 Q. So, when you tried to delete, somehow, accidentally or
16 because of the way of clicking, you did not delete
17 everything, to start with; correct?

18 A. 係。

19 Q. On top of that, by some process, you actually managed to
20 recover some of the stuff that you actually managed to
21 delete?

22 A. Yes.

23 Q. That was the effect of your evidence yesterday?

24 A. Mmm.

25 Q. Am I being fair to what you said yesterday?

26 A. Fair.

1 Q. Can I ask you to look at yesterday's transcript,
2 page 91.

3 A. 係。

4 Q. Let me see, it might be my mistake; I'm terribly sorry.
5 Just give me one second.

6 A. 89? Paragraph, sentence 5?

7 Q. No, no, no. I might have made a mistake. Can I just
8 have one moment? Ah, yes, page 88, line 8.

9 This is I think Mr Pennicott asking you:

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

13 Answer: I didn't know at the time. Not at the
14 time.

15 Question: What about now; do you know?

16 Answer: I'm aware now that at least regarding
17 area A, there was a lot of rubbish and those photographs
18 are not recoverable. Because I wanted to give a
19 statement of that but I couldn't find the photographs
20 and we could not -- I had seen many pictures where there
21 were a lot of cut threaded bars and I have seen a lot of
22 those before. Then we also had a lot of couplers that
23 were removed and I couldn't find those pictures either.

24 Question: Okay?

25 Answer: I have a clear recollection of seeing
26 those, but I cannot recover them.

1 Question: Okay. So your evidence, in summary,
2 therefore, is that, yes, you did destroy photographs;
3 you recall that some of those photographs showed
4 incidents of cutting, and also couplers, you recollect
5 those photographs, and they are no longer available ...
6 because of the destruction ... They have not been
7 recovered?

8 Answer: Correct."

9 That's what you said, Mr Poon.

10 But the photographs that you say are no longer
11 available included the threaded ends that had been cut
12 and also damaged couplers; that's your evidence?

13 A. Mmm.

14 Q. That's right, yes?

15 A. Yes.

16 Q. None of this business about en masse or massive deletion
17 of data on your site office computer, from your Dropbox,
18 and the recovery or retention of some of them, had ever
19 been mentioned in any of your witness statement or
20 police statement. Do you accept that as a matter of
21 fact?

22 A. 警察其實--okay, 文字頭先解釋咗, 我唔再冗腫喇, 警察係好粗略咁寫咗
23 嗰段說話, 而喺我其他嘅witness statement係冇寫, 因為都係照抄警察
24 寫嗰份嘢, 亦都獨立調查委員會冇問㗎喎, 我睇唔到呢個subject matters
25 㗎㗎喎。

1 Q. You were asked about whether you have any photographic
2 evidence by Lo & Lo; do you remember that?

3 A. 有，所以我哋--所以其實--其實應該係咁講，喺6月尾警察有搵我喇喇已經，
4 我已經同警察講--6月尾警察搵我嗰時候就因為好似係Highways報咗警，
5 6月二十零號嘅，2018年6月二十零號，其實警察去搵我哋公司，希望佐證，
6 當時我已經同警察解釋，我做得佐證嘅之前，我需要study番成件事，你如
7 果叫我即刻講，我亂七八糟。當時警察亦都叫我--問咗我有啲咩嘢資料最好
8 補充到，包括相片，嗰陣時獨立調查委員會未出信畀我。

9 跟住我哋係嘗試緊不斷咁樣搵方法去retrieve番啲相，我哋用咗好多
10 方法嘅，其中一個最success嘅方法其實就係Dropbox嗰個系統而造成嘅，
11 因為Dropbox佢喺雲端之外，佢會將雲端啲資料霸落去個hard disk度，
12 即係佢會將雲端啲嘢load咗落你個電腦嘅hard disk度。當時我哋搵到兩
13 部電腦，即係我哋以為告廢咗，擺咗喺寫字樓嘅，當我哋開番嘅時候，佢
14 就自動就將佢個電腦啲嘢擺番落去我哋Dropbox度，所以就導致多咗好多，
15 其實警察嗰個--警察喺7月初--7月10號我哋執咗一次喇喇，但係佢嗰個
16 folder係好多重複嘅folder嘅，即係好多重複，一個月份裏面喺唔同位
17 置都重複嘅，個原因就係因為咁樣嚟嘅。

18 Q. Have you finished?

19 A. Yes.

20 Q. You have finished?

21 A. Yes.

22 Q. I have to suggest to you that you made up this
23 suggestion that you had been asked to remove data in
24 your office computer recently. Do you accept that?

1 A. 我唔係作出嚟嘅，作為一個合理嘅普通人，我無端端點會咁得閒走去刪除
2 啲資料呢？

3 Q. Well, Mr Poon, can I suggest why you had to make that
4 deletion and recovery up: you had said you deleted --
5 well, we don't accept you deleted two photos on the
6 phone and one video on the phone anyway, but you had
7 said to the police that you deleted two photos and one
8 video; correct? Correct?

9 A. 我同警方講嗰時候係唔只，講係唔只，寫係咁寫。

10 Q. So you said something to the police but, when it got
11 reduced in writing, it became you deleted two photos and
12 one video?

13 A. 係。

14 Q. So the police interview record did not accurately record
15 what you have said to the police?

16 A. 係，因為可能太耐喇，一日嚟嗰度口供落咗。

17 Q. Anyway, I suggest to you that you then realised that
18 people would raise questions: "How about your Dropbox,
19 how about your office computer? You must have synced
20 them." You then had to make up a separate deletion
21 exercise of Dropbox and your office computer; do you
22 accept that?

23 A. 唔接受，反而我完全唔會期待，亦都有諗過石律師喺咁多時間咁樣糾纏喺個
24 咩嘢Dropbox、delete file、啲file system上面，而唔去睇剪鋼筋呢
25 subject matter，我奇怪嘅，其實我期待獨立調查委員會邀請我嚟係畀有

1 關剪鋼筋嘅具體證據，有咗呢啲證據，就可以幫助到獨立調查委員會做決定，
2 做報告，根據個term of reference做報告，個terms of reference有
3 叫過獨立調查委員會查中科個電腦系統究竟有幾複雜，我其實係好失望嘅，
4 今日已經第九日喇喇聆訊，我哋九日聆訊，我哋除咗喺我哋主問--我哋盤問
5 Intrafor嗰時候發覺咗港鐵嗰個hold point inspection system有幾
6 廢之外，我哋都有乜特別嘅findings可以finding到。而且我哋嗰咗好多
7 時間建基於禮頓畀出嚟嘅一啲片面資料，去搵證人口供上面幾萬字口供上面
8 嘅一啲唔對嘅地方。

9 CHAIRMAN: I'm sorry --

10 A. 係咪我哋今日個獨立調查委員會個主力就係要搵口供上面--唔同人嘅口供上面
11 嘅一啲不符點呢？而呢啲不符點對於個terms of reference有幾重要呢？

12 CHAIRMAN: All right. Mr Poon, thank you very much. I've
13 given you an opportunity to say your piece. As the
14 Chairman of this Commission, it's for me to decide what
15 matters are relevant. I think you're well aware of the
16 fact that Leighton, perhaps among others, are strongly
17 of the view that a lot of your evidence as to central
18 issues -- such as rebar cutting, couplers being damaged
19 and the like -- is simply not true; that even if there
20 are random indications of this happening, you have
21 greatly exaggerated your evidence.

22 Now, there are ways in which that can be proved, and
23 one way is by testing your evidence as to its accuracy
24 and as to its inherent truthfulness. That is the
25 exercise that has been embarked upon. It is not

1 an irrelevant exercise, and it is of course for myself
2 and Prof Hansford to look at your evidence in the light
3 of the manner in which it has been tested.

4 This is the way traditionally, in our system, the
5 integrity of evidence can be tested. That's all that's
6 happening. It's being tested. And if I felt that what
7 was being tested was irrelevant, or if I felt that the
8 questions were not pertinent, I can assure you, as
9 I said to counsel the other day, I would stop it.

10 All right?

11 MR SHIEH: Mr Poon, can I --

12 WITNESS: 我可唔可以回應下呢？我作最後一句，我唔會再comment㗎喇，

13 我真係好sincere咁invite...

14 CHAIRMAN: Well, you always want to say the last word,
15 Mr Poon, and the problem is I'm in control of this
16 Commission, rightly or wrongly.

17 WITNESS: 其實你鑿咗佢出嚟睇咪知囉，相片喺度，你咪鑿出嚟睇下佢係咪
18 真係冇扭落去或者真係剪咗囉，點解唔鑿啫？點解我哋要嗰咁多時間，獨
19 立調查委員會唔係好多時間嘅咋喎。

20 CHAIRMAN: I appreciate that, Mr Poon. I appreciate that.
21 Thank you very much indeed. Those matters are being
22 considered by other authorities, and we will discover
23 shortly, no doubt, what the decision of those other
24 authorities is. We have to proceed with the Inquiry
25 according to our terms of reference, and that's what we

1 will do.

2 So the very best way you can assist the Inquiry is
3 not to assume that we're in some sort of gladiatorial
4 combat, where you have to defend every single thing, no
5 matter what.

6 The purpose of this Inquiry is to get to the truth,
7 that's all, and if you can assist us in that regard,
8 then that will be a great service to this Commission and
9 to the community --

10 WITNESS: 如果夏官覺得我唔係幫助緊獨立調查委員會，你可以即刻叫我走。
11 我係擔心緊，當然我完全尊重主席嘅說話，我好尊重，我係擔心緊禮頓其實喺
12 心目中冇另一個盤算，就係目的唔好畀獨立調查委員會有足夠時間查跟住佢哋
13 亂改圖嗰件事，淨係喺North-Approaching Tunnel，我已經唔同意--我
14 完全唔同意獨立調查委員會唔查North-Approaching Tunnel呢一個決定。

15 CHAIRMAN: All right. That's another matter entirely. You
16 are here as a witness. I don't intend to continue the
17 matter. But you were making a speech, I suggest, aimed
18 at further than the walls of this hearing room, and
19 I just wanted to make it quite clear to you that if
20 I felt that you were in any way being led down
21 irrelevant pathways, or being mistreated or prejudiced
22 in your ability to tell the truth, then I would
23 interrupt; all right?

24 You must accept from me that I know what's relevant
25 and I know what's not relevant; all right? And that

1 I think ends the matter.

2 Yes?

3 MR SHIEH: Mr Poon, can I continue to suggest things to you
4 and you can agree or disagree, and we can actually get
5 to other topics if you could make shorter media
6 speeches, Mr Poon.

7 My suggestion to you is this. You then thought that
8 you had to make up a story about deletions in the office
9 and in the Dropbox, but you then realised you need to
10 make up a further story as to how come you were able to
11 bandy around photographs to the police and also the
12 figure of 20,000-odd photos to this Commission, so you
13 had to miraculously delete and recover some.

14 Do you accept that this was what happened in your
15 mind?

16 A. 我已經多次重複唔同意，警察喺7月10號嗰個「手指」裏面有四萬幾張相
17 嘅，係因為啱啱recover完，好多overlapping，其實時間已經講咗，
18 時間同埋呢啲咁嘅事件已經講咗或者呢啲咁嘅實際證據已經講咗我講嘅係
19 全部真話，喺7月初警察嘅「手指」上面嘅相片庫係有四萬幾張相，而且
20 好多overlapping嘅。

21 Q. Have you finished, Mr Poon?

22 A. 係。

23 Q. I will move on to the timing at which you raised the
24 allegations of rebar cutting by email. That brings us
25 to late 2016/early 2017; all right?

1 I haven't asked you a question yet. I'm just
2 putting you in the time frame; understand?

3 Just a small point. No need to turn up the evidence
4 but I'm just telling you that yesterday you said that in
5 December 2016, Leighton asked you to approach Philco
6 Wong of MTRC to follow up on issues of non-payment by
7 MTRC to Leighton. Do you remember saying that
8 yesterday?

9 A. 全個仔細咁講，我講畀你聽，當時...

10 Q. Mr Poon, what was my question?

11 A. 如果你淨係叫我答yes同no，我即刻走喇喇。

12 Q. It is not for me to say whether you can do so, but my
13 question was: do you remember having said that
14 yesterday?

15 MR TO: Maybe it would be appropriate for him to have
16 a break, because I think he's under a lot of stress.
17 Maybe we can have an earlier lunch and come back
18 earlier, if that's okay, Mr Shieh.

19 MR SHIEH: I'm not in control here.

20 WITNESS: 我壓力唔大，我壓力唔大，我覺得石先生嘅緊納稅人嘅錢啫。

21 CHAIRMAN: All right. I'm not going to go through what
22 I have said already and repeat myself. Please accept
23 from me, Mr Poon, that I am satisfied that the questions
24 being asked are proper. You may disagree. In this
25 instance, however, the final decision rests with me.
26 Your function is to listen to the questions, so that you

1 understand them, and that they are questions, and then
2 to answer them to the best of your ability; all right?

3 WITNESS: Mmm.

4 CHAIRMAN: If I came to your concrete-pouring factory on
5 a business and said to you, "I don't think you are
6 pouring the concrete the right way", you may listen to
7 me out of politeness, and if I was showing my ignorance
8 then you would ignore what I said. Do you understand
9 me? You are in control in that sphere of
10 professionalism. I am in control of this sphere. Okay?

11 So you listen to the questions, listen to them
12 calmly, and answer calmly, and then we will proceed with
13 the relevant business of this Inquiry.

14 Thank you.

15 MR SHIEH: Mr Poon, my question was: do you remember that
16 was your evidence yesterday, that in December you asked
17 Leighton to follow up with Philco Wong of MTRC --

18 A. Show me the transcript, please.

19 Q. All right, okay, if you don't want to do it that way --

20 Mr Poon, can I suggest to you -- you may disagree --
21 that you have been spoiled by the Hong Kong media and
22 politicians and KOLs who have all along been swallowing
23 what you had said and lapping it all up, without
24 question, and what you are now behaving is like a kid
25 throwing a tantrum --

26 A. Is it relevant to the terms of reference? Is your question

1 relevant?

2 Q. It goes to your credibility, Mr Poon. You can disagree.

3 A. I am saying that please go to the transcript.

4 Q. Very well. It is page 23 yesterday, line 8.

5 A. Yes.

6 Q. "In early December 2016 ... it was Leighton which asked
7 me to approach Philco Wong and ask whether MTRC had
8 discontinued making payment to Leighton so Leighton
9 couldn't pay me. It was in early December ..."

10 You said that, Mr Poon, did you?

11 A. That is exactly what I said.

12 Q. Right.

13 A. Which is different from what you put to me.

14 Q. Right. Okay. So, in December 2016, Leighton asked you
15 to approach Philco Wong and asked whether MTRC had
16 discontinued making payment so Leighton couldn't pay
17 you; that was what you said yesterday, correct?

18 A. (Nodded head).

19 Q. You are looking at the transcript now, Mr Poon?

20 A. 係。

21 Q. This has never been mentioned to[sic] you in any of your
22 witness statements.

23 A. Okay. I find it out .

24 Q. By you, sorry, never mentioned by you.

25 At page 23 of D, paragraph 48 of your witness
26 statement --

1 A. Yes, exactly, I did.

2 Q. No, Mr Poon. Your evidence in the transcript was that
3 Leighton asked you to speak to Philco. In this
4 paragraph, paragraph 48, you only said you reported to
5 Philco Wong. You did not say that it was Leighton who
6 asked you to do so.

7 A. 我之前已經解釋過，我有將commercial matter擺喺個witness
8 statement裏面，如果擺，我再講，一千頁都唔夠寫。

9 Q. Mr Poon, I know there had been quite a number of email
10 and commercial correspondence between the parties in
11 late December and early January on the commercial side
12 of things, concerning the construction contract,
13 especially payment. Do you understand that?

14 A. And actual records, et cetera, many.

15 Q. Right. Anyway, as I said during my opening, this is not
16 the place to conduct a trial of who is right and who is
17 wrong. No doubt you say you are right and Leighton is
18 being the bad guy; Leighton would say it is justified in
19 doing what they did. But accept that there is a dispute
20 between the parties.

21 A. I am using "dispute" also. There is a commercial dispute
22 also.

23 Q. Yes, there was a dispute between the parties in
24 December; correct?

25 A. 係。

26 Q. And that resulted in what is called a milestone

1 agreement in December, 12 December; correct?

2 A. 係，10號其實簽咗喇，係，10號，12號跟住formality。

3 Q. Anyway, the date doesn't matter. There's a milestone
4 agreement governing the stages and the schedule by
5 reference to which payments should be made; correct?

6 A. 係。

7 Q. But, subsequent to that, disputes continued between
8 Leighton and China Technology?

9 A. 因為冇跟個協議畀錢。

10 Q. That is what you say, but I would simply say dispute
11 continued between the parties; correct?

12 A. Okay.

13 Q. Now, there was a meeting on 5 January 2017 between you
14 and Leighton, when the parties discussed payment of
15 money and the date when money should be paid; correct?

16 A. 可能係10月尾去到1月初，冇停過。

17 Q. Right. But there was a meeting on 5 January in
18 Leighton's office, when you and Leighton discussed
19 schedule of payment. Do you have any recollection of
20 that?

21 Anyway, maybe I can show you the letter after the
22 lunch break.

23 Mr Chairman, perhaps this would be an appropriate
24 moment?

25 CHAIRMAN: Yes, certainly.

1 MR PENNICOTT: Sir, before we rise for lunch, can I just
2 raise one matter? When Mr Shieh took Mr Poon to the
3 Chinese report of the radio interview, Mr Poon I think
4 indicated in his answers -- and we saw the date of that
5 was 28 June, the report.

6 CHAIRMAN: Yes.

7 MR PENNICOTT: I think Mr Poon indicated that was
8 precipitated by an advertisement by the MTRC shortly
9 before that report.

10 Sir, I just wonder whether it would be appropriate
11 to ask Mr Poon if he could identify the advertisement,
12 just in case MTRC want to take this matter up with him.
13 I understand we've got it on the screen now. I'm
14 holding a hard copy. And perhaps just to ask Mr Poon
15 the question: is this the announcement or the
16 advertisement that he's referring to?

17 A. Yes.

18 MR PENNICOTT: That's all I want to ask you, Mr Poon.
19 Nothing else. That's the one. Thank you very much.

20 Sir, we'll make sure that's paginated and given
21 a reference.

22 CHAIRMAN: All right. Yes. I've seen that before. Thank
23 you. Dated 27 June 2018.

24 MR PENNICOTT: Yes, the day before.

25 CHAIRMAN: Thank you very much. An hour and 15 minutes.

26 MR PENNICOTT: Thank you.

1 (1.01 pm)

2 (The luncheon adjournment)

3 (2.18 pm)

4 MR SHIEH: Good afternoon, Mr Poon. May I ask you to look
5 at some letters in January, first of all C12/7863, at
6 the bottom.

7 A. 係。

8 Q. 5 January, Anthony Zervaas to you.

9 Mr Poon, just to tell you what I'm getting; it may
10 actually speed things up. As I keep emphasising, we are
11 not here to sort out who is right and who is wrong in
12 a commercial dispute; understand?

13 A. Yes.

14 Q. All I want to show is the brief point that there is
15 a dispute and I want to know what the dispute is about.

16 A. Okay.

17 Q. At the bottom of 7863, you can see Zervaas to you:

18 "Jason,

19 Please be advised we would never proceed with the
20 loading of formwork without following our TWC process."

21 Then moving to the last paragraph:

22 "Notwithstanding this, during our joint status
23 meeting held at 11 am ... a 'without prejudice' offer
24 was made to you in that we are prepared to immediately
25 release HK\$3 million for achievement of circa
26 50 per cent of the milestone(s) and the remaining

1 HK\$3 million would be released on achievement of the
2 remaining end December 2016 milestone(s); which is
3 forecast for completion at the end of next week. We
4 record that you declined this offer."

5 Then, at the top of this page you replied, basically
6 setting out your stance:

7 "Anthony,
8 We further record", et cetera.

9 And then point 3:

10 "We do not accept the arrangement of partial payment
11 while it is not the content of our agreement."

12 So there was an offer which you rejected and you put
13 forward your position that you disagree that what they
14 are doing is the right thing to do.

15 A. Mmm.

16 Q. A fair way of describing the state of affairs between
17 you and Leighton at the time?

18 A. Yes.

19 Q. Thank you. Then there's a letter which came also on the
20 same day, 7859, 5 January to you, and this letter sets
21 out progress of sub-contract, et cetera.

22 Over the page, there's an offer. It says:

23 "In spirit of our common target on the successful
24 completion of this project and accordance with the
25 milestone and final account payment schedule, we have
26 prepared a cheque of HK\$6 million which can be readily

1 released following your completion of the milestone
2 scheduled for end of December 2016."

3 Do you see that?

4 A. 係。

5 Q. Okay. You gave some evidence about this offer. Can you
6 look at your 4th witness statement, in bundle D2/1059.

7 A. 係。

8 Q. This is a table compiled in your witness statement,
9 where you set out some relevant events, together with
10 some page references, in case documents are available;
11 yes?

12 A. 係。

13 Q. Okay. Turn to 1060. You say "Leighton sent Poon
14 a complaint letter", et cetera, and then:

15 "It was put on written record that Leighton would
16 release a \$6 million cheque, with a condition precedent
17 that Chinat must complete its works pursuant to the
18 December milestone schedule."

19 Do you see that? That's the letter we have just
20 seen; correct?

21 A. yes.

22 Q. The next box, you say:

23 "In fact, Leighton had imposed 2 conditions
24 precedent -- first, Poon must stay silent on the
25 defective steel works; and second, Poon must cooperate
26 with Leighton concerning the Liantang fatal accident."

1 What I suggest to you is there was no such
2 additional conditions precedent accompanying the offer
3 of 6 million. Do you accept that?

4 A. 唔同意。

5 Q. The so-called two additional conditions precedent was --
6 you can see on the right-hand box, there was no
7 document, and not mentioned before in any previous
8 witness statements.

9 A. 其實呢度講得好清楚嘅，可能--我記得喺石律師嘅opening 講過呢600萬
10 嘅，當時就令到大家都誤會咗我要畀禮頓擺600萬，甚至禮頓畀咗600萬畀
11 我，事實上可能石先生喺頭先講7860個封信度見到600萬呢張支票，所以
12 你聯想到呢件事，但係事實上張支票真係存在嘅，係真係存在嘅，張支票
13 其實係跟個milestone payment喺12月應該畀我哋公司，跟住禮頓就拖
14 到去1月初，當時Anthony挾個張支票，要求我收嘅時候，要承諾兩樣嘢，
15 就係個兩樣嘢，跟住我唔肯，所以張支票我有擺到，佢亦都有畀我。

16 Q. So the -- I'm sorry, I should hit myself for forgetting
17 the requirement to wait until the transcript has come
18 up.

19 So the condition precedent was oral, imposed by Tony
20 Zervaas. What I suggest to you is, first, you have
21 never mentioned this in your witness statement --

22 A. 係。

23 Q. -- or recorded in any document; correct?

24 A. 文件紀錄都有。

25 Q. You just made that up, Mr Poon?

1 A. 唔係，你諗下，你塑造緊嘅一個好貪婪嘅商人咁嘛，佢利用呢件事去希望
2 禮頓畀佢咁嘛，甚至你好具體咁講話600萬呢個數字咁嘛，而事實上600萬
3 條票真係喺5號存在㗎嘞，真㗎嘞，呢個貪婪嘅商人唔擺嘞，覺唔覺得有神
4 奇嘅地方呢？會唔會覺得係唔係好合邏輯呢？禮頓封信寫得好清楚嘅，嗰
5 600萬支票雖然佢延誤咗，但係佢仍然出咗嘅，佢出嘅原因就係因為4號我
6 哋公司直頭停工，我哋唔肯開工，但係佢畀支票嗰時候，佢又加兩個條件，
7 所以我唔接受。

8 Q. Thank you, Mr Poon. Your email, on 6 January, can we
9 look at that. C12/7923.

10 A. 係。

11 Q. That is the email that we had seen many times when you
12 first raised the matter with Leighton in writing;
13 correct?

14 A. Correct.

15 Q. I suggest to you that this was really prompted by the
16 letter from Leighton to China Tech offering the
17 \$6 million cheque. You wanted more and you wanted to
18 get a better deal, and so you sent this email. Do you
19 accept that or not accept that?

20 A. 唔同意，唔同意，唔同意，你有咩嘢理據去咁講呢？

21 Q. I will move on. You were hoping to place Leighton under
22 the threat over its head of some unwanted nuisance
23 publicity, so that it would give you a better offer. Do
24 you accept that?

25 A. 完全唔接受，當時呢件事公眾係唔知嘅，無論喺地盤發生嘅事、呢個電郵，

1 公眾係完全唔知嘅。

2 Q. Yes.

3 A. 完全唔知㗎嘞。

4 Q. Let's look at 7926. This was an email about
5 "Arrangement on reporter visit"; yes?

6 A. 係，呢個問過喇。

7 Q. Yes, and your answer was it was because reporters had to
8 come to your office and they may not have a pass to the
9 site; is that your evidence?

10 A. 係，係。

11 Q. There was no reason for reporters to come to the site to
12 find you, Mr Poon, is there?

13 A. 有㗎，我喺地盤㗎嘛。

14 Q. I know.

15 A. 我喺地盤office㗎嘛。

16 Q. But there was no particular topic or reason why
17 reporters would want to interview you or see you about?

18 A. 我唔記得個topic，個topic都好似有關於公共開放空間嘅。

19 CHAIRMAN: Sorry, Mr Poon, I think the suggestion is being
20 made to you that when you look at all the circumstances,
21 is it not the case that you invited the press to your
22 offices, on site, in order to speak to them about the
23 issues that were troubling you?

24 A. 唔係我邀請㗎，唔係我邀請，其實記者會成日搵我嘅，我係香港其中一個
25 政黨嘅成員㗎嘅。

1 CHAIRMAN: So you're saying that you had said nothing to the
2 press prior to your email of 1.18 pm on 6 January 2017,
3 that is you had said nothing to the press about the
4 matters that concerned you in respect of the contract
5 which is the subject of this Commission?

6 A. 冇，冇講過，如果有講過，冇報道喇，如果有講過，就一定會有報道。

7 CHAIRMAN: All right.

8 MR SHIEH: So, Mr Poon, you were saying that the reason why
9 some reporters wanted to come to speak to you is to talk
10 about a topic on the opening of public space, and it is
11 purely a matter of coincidence that you sent your email
12 to Tony Zervaas about arranging them to come in on
13 6 January at 1.18 pm, after you had sent your previous
14 email. That is your evidence; right? Purely a matter
15 of coincidence?

16 A. 係，係。

17 Q. Do you remember which media?

18 A. 唔記得。

19 Q. Thank you.

20 A. 同埋都係coincidence，其實嚟緊11號，我都會一個topic我都--亦都
21 會有一啲訪問。

22 Q. I suggest to you that it is actually a veiled --
23 V-E-I-L-E-D -- threat by you to Zervaas that if you do
24 not receive a better deal or hear back from him, you
25 would make unfounded allegations to the media, you lined

1 up the media, basically. Do you accept that?

2 A. 唔接納。

3 Q. You don't accept what I say, Mr Poon?

4 A. Don't accept.

5 Q. Thank you.

6 In your witness statement, D1, page 23, you said
7 that you had -- it's paragraph 46 -- you said you had
8 already raised the issue of rebar cutting with
9 Mr Zervaas, and in November he actually orally admitted
10 to you that there were practices of cutting threads on
11 rebar. You said that; correct?

12 A. 係呀, yes。

13 Q. In your email itself to Mr Zervaas -- we can look back
14 at that email: C12/7923 -- you did not refer to
15 Mr Zervaas's earlier conversation or confession with
16 you; correct?

17 A. 我寫電郵好少會係“further to”，唔會引段嘅我，亦都其實個電郵亦都
18 講緊--個電郵其實係11月尾，Zervaas我記得佢係認嘅，同埋傾過方案添
19 嘅，跟住去到12月突然間又唔認，突然間就話唔會再認，所以喺寫呢個電郵
20 嗰時個environment、atmosphere就係Zervaas唔認，而我特登畀相
21 證明係。

22 Q. Well, in fact, in your email, you made it sound as
23 though the whole thing only came up during your review
24 on progress photos and videos. It looks as though you
25 were raising something new for the first time. Do you

1 accept that?

2 A. 唔係第一次提出，我係搵相嘅時候，即係其實因為當時嘅背景就係Zervaas
3 就出咗封信，另外一啲信，就話我哋A、B、C、D、E可能就未起晒，所以佢
4 就唔畀得個milestone payment，所以我哋就需要搵--啲相片上搵番啲
5 證據，究竟我哋幾時、幾月、幾日做咗啲乜嘢，個status係點，其實當時
6 搵相嘅目的就係做呢樣嘢，但係啲個過程裏面--仲有一樣嘢就係佢嗰陣時，
7 你見到相嘅，如果你搵番啲電郵，佢影咗好多outstanding works，即係
8 譬如大圍嗰度起咗，突然間有一忽未起，佢就影個個位，所以我哋搵由好多
9 相證明點解嗰忽未起，啲個過程中我就搵番啲相出嚟，即係話嗰兩封夾啲
10 七張相，嘅其中夾咗兩幅相，就鐵證咗Zervaas本來認，跟住又變唔認，話
11 冇cut過鋼筋，呢件--話冇--cut咗鋼筋，都有嘔落去呢件事係真嘅，咁咪
12 夾落去囉。即係我意思就係打番甩佢棚牙之嘛，佢話冇，我咪話畀佢聽其實
13 冇證據，係有嘅。而我唔係話新搵到，冇話過，字面亦都唔係咁講意思。

14 Q. Look at 7937.

15 Zervaas said:

16 "Jason,

17 We are in receipt of your email.

18 It is quite alarming that you have not brought this
19 issue to our attention earlier particularly as the
20 alleged malpractice occurred in September ...

21 Please be advised that an investigation has
22 commenced to review the allegation(s) made in your
23 email."

24 You have been taken to this email reply by

1 Mr Pennicott when he questioned you; do you remember?

2 A. 記得，其實Anthony都講咗，佢都自打嘴巴嘅呢段說話，第二段，佢話
3 我而家先講，第三段，其實佢都調查緊。你覺唔覺得佢其實對第二、第
4 三段完全自相矛盾？佢第二段話「而家你先講，點解你唔早啲講？」第
5 三段就話「其實調查緊㗎喇，你嘅allegation我調查緊㗎喇。」你
6 review緊我嘅allegation，即係話佢喺寫呢個電郵嘅時候係已經落
7 咗一啲order畀佢嘅同事去做對於我嘅allegation做調查，第三段講
8 得好清楚其實佢係知嘅，而且已經調查緊。

9 CHAIRMAN: All right. My reading of it -- which I think,
10 Mr Poon, is an everyday, common-sense reading of this --
11 is that whatever the background to this matter, on
12 an ordinary reading, Mr Zervaas is saying, "You have
13 brought to my attention alarming news of structural
14 safety issues and an investigation has commenced; in
15 other words, we are not going to delay on this matter."
16 So I don't read that as being contradictory. I've
17 interjected there because it's an ordinary reading of
18 a letter, rather than having ten minutes of examination
19 on this issue.

20 MR SHIEH: Mr Chairman, I'm not going to engage in
21 an argument, because there are documents showing how the
22 investigation came about, and, that really is a matter
23 of submission.

24 CHAIRMAN: No, all I'm saying is you can ask as many
25 questions but I didn't want a question going to how you

1 interpret --

2 MR SHIEH: No, I'm not going to go to that, because if he
3 wants to argue, he'll argue, but I will move on. I have
4 put the point and I will move on.

5 CHAIRMAN: Thank you.

6 MR SHIEH: Mr Poon, the response was it is alarming that you
7 only brought this to the attention -- and I think
8 Mr Pennicott had actually asked you why you had not
9 written back and said, "Hang on, stop being silly, you
10 confessed to me"; do you remember questions along these
11 lines have been put to you?

12 A. 記得。

13 Q. In fact, you responded at C12/7940. You said:

14 "Dear Anthony,

15 We had investigated internally and it is quite clear
16 that your site in-charge Khyle Roger[sic] was well aware
17 and directing these activities."

18 Do you see that?

19 A. 係。

20 Q. First of all, it is not as if you didn't go back to him,
21 you did go back to him, but when you went back to him,
22 you didn't say, "Stop, stop messing around, it was you
23 who confessed to me"; you didn't say that, did you?

24 A. 我講過㗎喇，電郵只係我哋溝通其中一個method，當日由4號，4號，甚至
25 12月尾，去到6號、7號、8號，係幾乎日日我都喺佢寫字樓，係喺禮頓嘅

1 site office，即係除咗電郵之外，我哋仲有其他溝通嘅，而且呢個電郵
2 已經係第二日朝頭早嚟㗎喇。

3 Q. All right. Mr Poon, you said in answer to
4 Mr Pennicott's question that, "Look, you see,
5 I mentioned Khyle Roger, I mentioned Khyle Roger, see",
6 you pointed out the name in your email and you said,
7 "Look, I mentioned his name." Do you remember that,
8 when you answered Mr Pennicott's question?

9 A. 有，有。

10 Q. You said:

11 "We had investigated internally and it is quite
12 clear that your site in-charge ... was well aware and
13 directing these activities."

14 But according to your evidence, in your witness
15 statement, it was you who was with Rodgers and So at the
16 site, when you saw the occurrences. So why you say you
17 have investigated internally? You saw that happening.
18 So I'm just wondering why you say you had investigated
19 internally.

20 A. 我再講一次，我唔記得當時嗰一晚，即係1月6號晚我同Anthony、Joe Tam
21 之間嘅談判，其實Joe Tam有份，唔係淨係Anthony，我唔記得咗仔細嘅
22 情況，當時Anthony基本上就係話「我點解會改口呢？一來就係上面寫字
23 樓要，二來就係佢哋調查過，係冇咁嘅事，係冇咁嘅事。」而我就話有，
24 而Anthony大約意思就係「我根本當時唔喺度。」即係佢唔witness呢件
25 事。

1 我又refer番Khyle Rodgers，我呢度講嘅意思就係話Khyle
2 Rodgers應該要對件事負責，我覺得佢有direct，即係有去指導呢件
3 事。而我第一次，即係話之前第一次講Khyle Rodgers個名嘅時候係
4 已經去到呢個email嘅兩年前，2015年嘅9月，第一次就係我同佢同
5 埋Gabriel So喺紅磡站上面個商場嗰個food court度食嘢講呢件事，
6 第二次就係我--當有人話畀我聽有人剪，我故事帶佢去行site，一齊
7 睇到，而Khyle Rodgers過嚟食嗰陣時有講嘢嘅，即係呢個係兩個時
8 段嘅事嚟嘅，2015年9月同埋2017年1月。

9 Q. Yes. Can I ask you to look at your witness statement,
10 bundle D, page 20.

11 A. Yes.

12 Q. Paragraph 36:

13 "In September 2015, I reported the incidents in
14 August 2015 to Mr So ... and ... Mr Rodgers ...
15 I indicated to Mr So and Mr Rodgers that staff members
16 ... were cutting the threaded rebars.

17 Both Mr So and Mr Rodgers told me that they had no
18 knowledge ... They also reassured me that they would
19 inform their staff members not do such acts again and
20 reassured me that no similar incidents would occur again
21 in the future."

22 A. 係。

23 Q. Pausing here, you are not saying in these two paragraphs
24 that Rodgers directed any cutting activities, are you?
25 These two paragraphs didn't say Rodgers directed any

1 activities; do you agree?

2 A. 我同意喺9月嘅時候我唔係講緊“directed”，但係9月之後，當佢買新嘅
3 剷機，當佢收埋嚟剪，呢個我就反而覺得係planned同directed嘅，之前
4 嘅剪其實係好揚--好咩嘢呀？好open嘅，好大模斯樣，跟住就唔係嚟喇，跟
5 住佢哋會改咗去夜晚度先剪，收埋剪，匿埋剪，就有咁大模斯樣，而我覺得
6 planned嘅原因就係呢個。

7 Q. Mr Poon, I see nowhere in your witness statement where
8 you mention Mr Rodgers's involvement in threaded rebar
9 cutting after September 2015.

10 A. 因為Rodgers，Mr Rodgers係個地盤，即係site嘅in-charge，
11 engineering唔係佢，係site嘅in-charge，地盤嘅operation，
12 即係地盤所有嘅運作，尤其是禮頓直接請嘅人，或者直接買嘅架生都
13 必須經Rodgers簽名。

14 Q. Right, Mr Poon. To cut a long story short, you arrived
15 at a form of revised milestone payment schedule, what's
16 called schedule number 2, with Leighton, dated
17 23 January 2017; is that correct?

18 A. 係。

19 Q. I can show you that very briefly at C7944.

20 A. 係。

21 Q. I don't want to get bogged down in the numbers, just to
22 the best of your recollection. Under the original
23 milestone payment schedule which was made in December,
24 the total amount to be paid was 28 million, roughly; do

- 1 you remember? And under this milestone payment, it's
2 33; yes?
- 3 A. 可能咁樣講呢，大家...
- 4 Q. Let me just take you to the actual one, to spare the
5 hassle. 7841. You can see this is the December
6 milestone schedule; yes?
- 7 A. Yes.
- 8 Q. So the total amount, including retention release, was
9 \$28 million; correct?
- 10 A. 係。
- 11 Q. Then, under the revised milestone payment number 2, that
12 is 7945, end of March, 33 million?
- 13 A. Mmm.
- 14 Q. Do you accept that?
- 15 A. 係。
- 16 Q. So after -- or in fact in January, after you sent the
17 emails that we have seen to Leighton, you did not
18 actually take the matter any further or raise any
19 further complaints; do you agree?
- 20 A. 唔同意，我記得嗰時連地鐵嘅Raymond都參與埋嘅，地鐵嘅Raymond。
- 21 Q. Let me show you Raymond. Your witness statement, D1,
22 page 25.
- 23 A. 係。
- 24 Q. This is your witness statement.
- 25 A. 係。

1 Q. It starts at D24. D24 was your --

2 A. Email.

3 Q. -- first email to Leighton.

4 A. Yes.

5 Q. Over the page at D25, then, without referring to
6 Leighton's reply and without referring to your reply to
7 Leighton, you jump to paragraph 50:

8 "Following the 6 January 2017 email, Raymond" --
9 this is Raymond of MTR -- "contacted me by telephone ...
10 asked you to 'stop pushing Leighton'."

11 Yes?

12 A. 係呀，係呀。

13 Q. Why would -- now, first of all, it comes completely
14 disjuncted, Mr Poon, in the sense that there is no
15 explanation as to why Raymond would call you, and two,
16 what you did or did not do after Raymond had called you.
17 It's just a bland statement: Raymond contacted you and
18 asked you to stop pushing, full stop; correct?

19 A. 唔同意，你睇番48段，喺我嘅口供D23。

20 Q. Yes.

21 A. 嗰度其實講過好多次，我哋已經睇過好多次，其實喺9號嗰日，我係--
22 我呀，我親身，我親身打畀Philco Wong，有幾個subjects，其中一
23 個subject就係講cut鋼筋未解決呢個問題，跟住Philco當然唔會成日
24 同我講電話喇，佢係故意指派咗一個叫Raymond，到而家我都唔記得咗
25 佢個姓，指派咗Raymond繼續跟進嗰件事，所以我同Raymond跟住嘅

1 溝通好多。

2 Q. Have you finished?

3 A. 係，係，講完。

4 Q. But you did not say, in this paragraph, paragraph 50,
5 what happened after Raymond contacted you; all right?
6 It's left hanging there.

7 A. Raymond就話其實佢同禮頓都查緊件事，諗緊方法補救，叫我唔好再插手
8 落去，唔好再逼，亦都因為咁，所以喺2017年1月之後，我係等咗成八個
9 月先再追。

10 Q. Well, obviously we are not in a position to tell whether
11 Raymond did or did not call you, but I suggest that if
12 you had any genuine concern, you would not have just
13 taken Raymond's word for it.

14 A. 即係可能你唔係好知，Philco Wong喺建築界嘅地位係超高嘅，佢喺
15 手頭上控制每一年喺建築界嘅turnover比政府任何一個獨立部門都大。
16 我哋雖然只係一個二判，每個人都好驚佢嘅，當Philco Wong，我都
17 夠膽打畀佢，而佢亦都同我講咗，我有理由唔信，即係我最少都要畀啲
18 時間佢解決。

19 Q. I suggest to you that you didn't raise your head or
20 pursue the matter any further after January, because you
21 got a commercial settlement out of Leighton.

22 A. 唔係，唔係，呢個我--如果你繼續响commercial，我哋少少時間，我希望
23 大家清楚啲，唔該睇一睇D1030，D1030其實就係綠色嘅地方就係我哋公司
24 估計，其實呢個--幾時開始嘅呢個表？呢個表好多version嘅，喺2016年

1 嘅10月已經開始咗第一個version，我哋同禮頓嘅喺商務上嘅爭拗好，討
2 論好，re-measurement好，final account嘅measurement好，用咩
3 嘢字眼去講都好喇，其實喺2016年嘅10月份係開始嘅，因為當時我哋留意
4 到我哋--譬如我哋知道自己做咗1千萬工程...

5 CHAIRMAN: Mr Poon, I'm not stopping you at all, I'm happy
6 for you, but is it possible for you to do it in
7 a slightly more abbreviated form?

8 A. Okay, okay。呢個表其實紅色嘅地方就係progress嚟嘅，紅色，即係
9 喺--或者叫beige colour，係progress嚟嘅，就係我哋自己綠色嘅，
10 我哋嘅--當我哋自己計數喇，紅色地方你見到好多係re-measuring in
11 progress嘅，或者in disputes添嘅我直頭覺得，呢個就係我哋QS，
12 即係我哋嘅quantity surveyor同禮頓嘅quantity surveyor如果
13 agree咗嘅，就會喺實際數字，即係譬如個工程有1億2千900萬，就agree
14 咗喇，如果仲係度緊，ongoing process嘅，就叫做re-measuring
15 in progress，如果禮頓直頭唔同意，覺得「呢件事我哋唔會畀錢喇。」
16 就係in dispute。

17 有啲就係甚至乎因為太大量，億幾，要翻度億幾嘅嘢，甚至近2億嘅
18 嘢，咁有啲譬如A3嗰個valuation of variation，禮頓直頭未開始
19 睇添嘅，其實呢個表喺2016年嘅12月10號，即係話喺個表嘅最上...

20 CHAIRMAN: So what are you actually saying?

21 A. The commercial discussion, et cetera, is always an
22 ongoing process.

23 CHAIRMAN: All right, yes.

24 A. I think until March or April. And Leighton refused to

1 make further discussion, then we stop.

2 CHAIRMAN: All right. Thank you.

3 A. Therefore, if you pick up some of the exchange in terms
4 of tabulation or in terms of emails, you will see that
5 particular status.

6 CHAIRMAN: I appreciate that. A photograph is a moment in
7 the history of a series of events, and so if you pick up
8 a particular email it might only be a moment in
9 a history of a series of ongoing disputes.

10 A. Yes, exactly.

11 CHAIRMAN: All right.

12 MR PENNICOTT: Sir, I apologise for interrupting Mr Shieh,
13 but he said a moment ago, and I'm just trying to play
14 catch-up, "Well, obviously we are not in a position to
15 tell whether Raymond did or did not call you." Those
16 were Mr Shieh's words.

17 We do have a witness statement from Raymond,
18 Raymond Au --

19 MR SHIEH: B16/13674.

20 MR PENNICOTT: Sorry, I just want to make sure you haven't
21 missed something.

22 MR SHIEH: Because he's not our witness and therefore we
23 can't --

24 MR PENNICOTT: I don't think there is any dispute, if you
25 look at his witness statement, that he made the call.
26 There's big dispute about what was said.

1 MR SHIEH: Yes.

2 Mr Poon, fast-forward to September.

3 D1/237. In the middle of the page is your email of
4 15 September:

5 "Dear Anthony,

6 It's already 8 months after our report ...

7 We [are] still unable to obtain your feedback and we
8 observe that there is no remedial works being committed
9 on site in these 8 months time.

10 Concerning the public safety and durability ...
11 which accommodate ..."

12 This is the famous "30,000 pieces" email, Mr Poon.

13 A. Mmm.

14 Q. In your latest witness statement, you gave some reason
15 for why you brought this matter up in December.

16 A. Mmm.

17 Q. Can you look at D2/1063.

18 MR BOULDING: Sir, just while my learned friend is asking
19 that question, I just want to make it clear, in the
20 light of Mr Pennicott's statement, that it is disputed
21 that he made the call in January. If you look at the
22 witness statement, he accepts that he had a call with
23 this witness but it was in December. I want to make
24 that clear.

25 MR PENNICOTT: Sorry, there was a call, yes. Mr Boulding is
26 quite right.

1 MR SHIEH: Mr Poon, D1063. You said, in paragraph 11:

2 "The reason to send another email in September ...
3 to ... Zervaas to follow up on the matter were, first,
4 Leighton failed to provide a satisfactory answer; and
5 second, China Tech, at that time, was about to complete
6 all its works in the Hung Hom Station site, and
7 therefore felt the need to settle all outstanding
8 matters, including the defective steel works and
9 payments."

10 Do you see that? That was what you said; do you see
11 that?

12 A. 係。

13 Q. And yesterday -- can I ask you to look at yesterday's
14 transcript, page 25.

15 A. 係。

16 Q. Line 14. You said:

17 "After the email on 6 January -- well, Anthony ...
18 at the time he told me that Leighton and MTRC at the
19 time were studying the concerns ... including the
20 remedial works, and Anthony at the time said that
21 Leighton already had an independent technical team to
22 study the matter together with MTRC. Raymond also told
23 me that. Raymond did tell me that there was something
24 like that. So I waited for a few months. It wasn't
25 a surprise. We waited for Leighton and MTRC to come up
26 with a solution, and I remember even Raymond told me

1 that the option I raised was possible."

2 Then further down, the chairman asked you:

3 "Did you ever see a team like this in operation?

4 Answer: No ... there were many engineers",
5 et cetera.

6 Do you see that?

7 A. 係。

8 Q. Now, what I am suggesting to you is that this letter,
9 this email, that you sent, occurred in the midst of
10 another commercial dispute with Leighton. Do you accept
11 that?

12 A. 如果你用「商業糾紛」形容，其實我都再講，係冇停過，所有判頭同禮頓
13 做生意，都係一定有商業糾紛，係冇停過嘅。

14 Q. Look at C12/7979.

15 A. 係。

16 Q. This is a letter from Leighton to you of 11 September;
17 yes?

18 A. 係。

19 Q. Making some complaints; yes?

20 A. 係。

21 Q. Which you disagree with; correct?

22 A. 我--喺呢封信，係--即係佢畀我嘅。

23 Q. I know, but you disagree with what this letter says?

24 A. 係。

25 Q. Turn to 7982. This is a letter of 13 September, another

1 letter of complaint from Leighton; yes?

2 A. 係，禮頓發畀我。

3 Q. Leighton to you?

4 A. 係。

5 Q. Then look at 7984.

6 A. 係。

7 Q. Mr Pennicott showed this to you in his questioning of
8 you; remember?

9 A. 係。

10 Q. In the first part of this letter, you refuted or you
11 tried to rebut the complaints by Leighton made against
12 you; yes?

13 A. 係。

14 Q. It only means that there is a dispute between you; yes?
15 There's a dispute between you?

16 A. 係。

17 Q. Then paragraph 7:

18 "We reiterate herewith we had already reported the
19 matter of cheating coupler and threading since this
20 January, and there is no action on Leighton to remedy
21 the problem. We do not want our company or our labour
22 being forced to involve on covering up this illegal
23 fault."

24 Now, Mr Poon, Mr Pennicott had asked you something
25 like this before but I'm going to ask you again: what is

1 the purpose in bringing in this question about coupler
2 and threading, into this letter, which really is to
3 rebut allegations made in the commercial dispute between
4 you and Leighton?

5 A. 原因就係--sorry, 因為你講得快, 所以--中文翻譯好慢嘅, 盡量--可能
6 佢哋好辛苦。其實呢封信, 我係盡量希望, 同我一直做法一樣嘅, 如果你
7 睇晒所有書信, 我係盡量將啲嘢, 將technical、commercial嘅嘢分開
8 嘅, 不過當時2017年嘅9月, 其實我哋公司好辛苦地已經喺港珠澳大橋開
9 緊通宵。喺我嚟講, 我係有啲壓力, 盡量想將紅磡站嘅所有資源擺番晒喺
10 港珠澳大橋同埋其他地盤度, 包括我自己, 所以其實我係好心急解決晒未
11 解決嘅問題。其實亦都睇到嘅, 喺跟住之後我哋冇再追禮頓咁滯㗎喇, 錢
12 都有追過。

13 Q. Well, in terms of payment, you reached a final account,
14 you settled your disputes by the agreement of
15 18 September; correct?

16 A. 唔係, 唔係, 喺9月18號會議裏面有討論嘅。

17 Q. The complaint was made in January by you to Zervaas;
18 correct?

19 A. 係, 2017年1月, 係, 書面。

20 Q. There was no reason why you would want a reply
21 coincidentally in September, instead of, say, June or
22 August or July?

23 A. 第一, 點解1月之後我靜咗呢? 就係因為我一定要畀個空間畀Philco Wong,
24 Dr Philco Wong同埋Raymond去解決, 呢個亦都係正常嘅。第二, 就係

1 其實我哋唔係咁得閒，淨係睇地盤一件事，我真係唔係。我哋跟住喺蓮塘口
2 岸，喺港珠澳大橋，喺上水水廠幾個大地盤一齊同時做，我本人亦都係fully
3 engage嘅，所以我真係唔係話無時無刻我都可以追住、追住、追住，追住。
4 而去到喺9月嘅時候，當我知道我哋喺site嗰team人，即係話仲係留喺紅磡
5 team人全部都可以撤退，我就覺得應該要嗰啲時間解決晒所有未解決嘅問題。
6 就係咁。

7 Q. To the extent of emailing the Secretary for Transport
8 and Housing, Mr Frank Chan; yes?

9 A. 係，係。

10 Q. C12/7991.

11 A. 係。

12 Q. Mr Poon, if what you were trying to do was to sort
13 things out and wrap things up --

14 A. 係。

15 Q. -- with Leighton, what's the point of involving the
16 Secretary?

17 A. 因為呢個工程其實唔係單純禮頓同港鐵之間嘅工程，我好清楚沙中線係政
18 府entrust畀港鐵管理嘅工程，當我見到，我已經提出咗，1月--2017年
19 1月我已經提出咗，唔單只向禮頓，仲向港鐵正式提出咗個問題，而佢哋應
20 承我去解決嘅時候，遲咗八個月，我哋要走喇，都未解決，所以我唔係淨係
21 對住禮頓㗎，其實我係邀請埋港鐵一齊傾，我嗰時都唔可以話完全一齊淨係
22 投訴，我係希望喺政府嘅介入或者見證之下，我哋、禮頓、港鐵幾方面一齊
23 坐低解決呢件事，好清楚。

24 Q. I suggest to you that you sent an email to the

1 Secretary, copying Zervaas in, again as a veiled threat
2 to Mr Zervaas that if no progress is made to resolve
3 your commercial dispute, you would create unwanted
4 trouble for Leighton; yes? Agree or not?

5 A. 唔agree, 唔同意。

6 Q. Very well. I'm not going to go through the details of
7 your witness statement but I'm just going to refer you
8 to the substance of what you've said.

9 You said in your witness statement that on
10 15 September you had an appointment with Mr Zervaas for
11 a site inspection; do you remember?

12 A. 9月15?

13 Q. Yes.

14 A. 我9月15係約咗Zervaas先生喺地盤開會。

15 Q. A meeting or an inspection?

16 A. Meeting. Inspection喺9月16號嘅。

17 Q. Mr Zervaas disagrees that he had an appointment to meet
18 you on the 15th --

19 MR WILKEN: The 16th.

20 MR SHIEH: Mr Zervaas does not accept that he had a
21 pre-arranged appointment to see you on the 15th at site.
22 I gather you would disagree with him?

23 A. 我唔同意, 係, 我唔同意。

24 Q. There was a meeting that day, on the 15th, between you
25 and Mr Zervaas and Mr Speed, but it was not

1 an unpleasant meeting; do you accept that?

2 A. 係。

3 Q. Not unpleasant?

4 A. Not unpleasant? No. Very unpleasant.

5 CHAIRMAN: It was very unpleasant?

6 A. Yes.

7 MR SHIEH: I think the lines are clear. We say it's not
8 unpleasant. He says it's very unpleasant.

9 Mr Zervaas and Mr Speed said that they didn't make
10 any threats against you, and Mr Speed reassured you that
11 you had not been blacklisted; do you accept that?

12 A. 相反，我唔接受。

13 Q. Let's look at some emails. G3/2042.

14 A. 睇到，睇到。

15 Q. This is an email on 15 September by Leung Sai Ho from
16 the Transport Bureau to you; do you see that?

17 A. 係呀。

18 Q. "Thank you for your email this morning and our telephone
19 conversation this afternoon. According to your
20 information provided over the phone, your concerns would
21 be technical in nature about the site works of ... 1112
22 and you agreed to have a discussion with professional
23 staff ... which is the technical department closely
24 monitor being the MTRCL and the works of Shatin to
25 Central Link.

1 By copy of this email, my colleague, Vincent Chu,
2 who is a senior engineer ... will approach you shortly."

3 Do you see that?

4 A. 係，睇到。

5 Q. Vincent Chu actually tried to call you but could not
6 reach you; remember? Look at 2043.

7 A. 係。

8 Q. Vincent Chu sent an email to you:

9 "Please note that I tried to call you three times at
10 around 5 pm today but you were not available. Please
11 give me a call ... to discuss your concerns."

12 Do you see that?

13 A. 係，睇到。

14 Q. Do you accept --

15 A. Accept。

16 Q. -- that you did not call back?

17 A. 係--唔係，係有打番畀佢，不過喺5點鐘嘅時段真係冇接過佢三個電話，
18 原因當時我已經喺禮頓嘅headquarter，灣仔headquarter，當時就
19 好激烈咁樣同Karl Speed鬧緊交。

20 Q. So you did not receive the calls on that day. You got
21 this email; correct?

22 A. 呢封電郵係電郵嚟㗎嘛。

23 Q. I know.

24 A. 即係喺個會度，我有睇到㗎。

25 Q. You have no reason to dispute that calls have been made

1 in an attempt to reach you?

2 A. 我有爭論，我有爭論，我有爭論。

3 Q. Thank you. Then 2046.

4 Actually, yes, 2044 --

5 A. Mm-hmm.

6 Q. -- you actually replied:

7 "Sorry that I was engaged in a meeting that time.

8 Will phone you back tomorrow 9 am."

9 That was from you to Chu?

10 A. 係。

11 Q. Then 2046.

12 A. 係。

13 Q. Christie Wong --

14 A. 係。

15 Q. -- on a Saturday morning sent an email to you and

16 referred to the telephone conversation, and you

17 expressed a preference to discuss with Vincent Chu on

18 Monday; do you see that?

19 A. 係呀，係呀。

20 Q. And you did not call him on Monday, or you did not speak

21 to Chu on Monday; correct?

22 A. 有冇同佢傾？我真係唔記得清楚，因為我記得同朱生又或者同呢位--我唔記

23 得係咪Christie，即係有位小姐，都係工程師嚟，記得，都有一啲對話嘅，

24 但係我就唔記得清楚喺電話對話嘅內容。

25 Q. What you say, Mr Poon, is that on the Saturday, the

1 16th, you had a site inspection with Mr Zervaas?

2 A. 係。

3 Q. And there was an agreement by you not to say anything or
4 disclose anything to the government until Monday; that's
5 what you say?

6 A. 係，就當時--可唔可以我講多啲，令到個進程快少少？

7 Q. No. You have said what you wanted to say in your
8 statement. I'm just reminding you that that was the
9 gist of what you had said. Members of the Commission
10 and Mr Chairman can read your statement to see what you
11 wanted to say in writing, so there's no need to repeat
12 it for the benefit of those who do not have the document
13 in front of them.

14 A. Okay.

15 Q. But what I suggest to you, what I put to you, is that
16 Mr Zervaas did not have the site inspection with you on
17 Saturday. Do you accept that?

18 A. 佢冇準時，佢冇準時到，結果有到。

19 Q. Can you look at C8/6172. This is in/out record for
20 Hung Hom site.

21 A. 係。

22 Q. In fact, there's no record at all of you signing in for
23 September 2017.

24 A. 呢個我唔再重複，即係我再講呢，禮頓嘅check-in、check-out，尤其係
25 我，係唔啱嘅。即係你意思個文件上有我名添，係咪呀？

1 Q. Yes. And Mr Zervaas said he was not on site that day.

2 A. 有，我仲打電話追佢，嗰日其實主要睇咗咩嘢位置呢？就係主要睇係可以好
3 平、好feasible咁樣鑽鋼針之嘛，冇乜特別嘢。

4 Q. Anyway, fast-forward. It is not in dispute that the
5 final account and the confidentiality agreement were all
6 signed and concluded on 18 September, yes, the final
7 account and the confidentiality agreement, 18 September;
8 remember that?

9 A. 同意，我補充，其實嗰日好多嘢嘅，呢度只係其中一部分。

10 Q. I was just asking you whether you agree that these two
11 documents were concluded that day. I'm sure many other
12 things happened, including anniversary of the tragic
13 events of 9/18 in China, many, many years ago, but let's
14 not get bogged down in that, Mr Poon. I've got my
15 answer.

16 We can see that as soon as the documents were
17 signed, you withdrew the allegations that had been made
18 to Mr Frank Chan by your email at C12/8006.

19 A. 係，見到。

20 Q. We don't need to dwell on the wording of this email, but
21 can I ask you to look at your 4th witness statement, at
22 D2/1062?

23 A. 係。

24 Q. You said there that this email was reviewed and amended
25 by Leighton before being sent out?

1 A. 係。

2 Q. Now, Mr Poon -- and also, I think in your testimony
3 yesterday, you said that it was actually sent on your
4 mobile phone; correct?

5 A. 係。

6 Q. And with Leighton people --

7 A. Anthony。

8 Q. --basically talking to you about the wording, while you
9 maybe typed out the language on your mobile phone; yes?

10 A. 係。

11 Q. Now, Mr Poon, do you agree that this idea that the email
12 was composed with the assistance and help or even
13 editing of people from Leighton has never been mentioned
14 before in your witness statements until your 4th witness
15 statement? Do you accept that?

16 A. 我記得，我唔記得內容，我記得喺6月13號都有同地鐵講嘅，喺個地鐵
17 investigation度，係跟住禮頓wallace stop㗎，因為佢話
18 commercial。

19 Q. Mr Poon, I suggest to you that you had to resort to this
20 notion that it was sent on your mobile phone, with
21 Leighton people next to you, helping you with the
22 wording, because otherwise you cannot show any draft
23 toing and froing between you and Leighton, so you had to
24 drag Leighton in, and you have to say that somehow they
25 stood next to you and helped you with the wording.

1 A. 咁樣嘅，佢又唔係捉住我隻手寫，係Anthony要我寫，就close個file，我
2 寫嘅嗰一段說話得一句嘅啫，就係話further to我同禮頓之間嘅協議，禮頓
3 亦都承認喺嗰個--唔係，禮頓會undertake喺嗰啲technical問題上面會補
4 救，所以我哋將個file close，但係Anthony唔同意咁寫。

5 即係當時其實個氣氛--係傾得幾好嘅，18號，其實係氣氛係好嘅，我係
6 一直除咗有啲commercial agreement，有啲confidential agreement，
7 亦都有啲蓮塘，有啲跟住點對數、點樣畀錢啲嘢之外，仲有就係我要求禮頓係
8 寫番一個security畀我哋公司，就係我哋公司曾經提出過呢件事，亦都禮頓
9 同港鐵應承自己解決，而將來有事，唔關我哋公司事，indemnify我哋公司。
10 當啲電郵度，我都係有個咁嘅concept，所以我就寫咗話禮頓應承佢自己解決。

11 Q. The security or the indemnity wasn't signed; correct?

12 A. 冇呀，喺個--本來諗住就係喺confidentiality agreement裏面有嘅，
13 但係結果冇，跟住Anthony 就話佢會用回覆番我電郵嘅形式去畀番個
14 indemnity畀我哋。

15 Q. I simply put it to you, Mr Poon, that the email of
16 18 September sent to Mr Frank Chan by you has not been
17 reviewed or amended by Leighton. Do you accept that?

18 A. 唔接受，唔接受，如果呢個係用--我哋公司系統嘅電郵係經Gmail嘅，而
19 我哋公司唔喺灣仔嘅，我哋公司喺尖沙咀，我當時喺港島冇地盤，如果你
20 搵--我好記得喺禮頓寫字樓send嘅，喺佢會議室send嘅，喺新鴻基中心
21 send出去嘅，如果搵得番嘅，最好添喇，即係如果traceable到send
22 嘅地方。

23 Q. Now, we just move on, Mr Poon. In April 2018, you were

1 in dispute with Leighton because of the termination of
2 the Liantang construction contract; correct?

3 A. 係，嗰個係爭議嘅尾段，2、3月開始爭議嘅。

4 Q. Look at C12/8077.

5 A. 係。

6 Q. In fact 8075.1 is the English version. 8077 I think is
7 the Chinese. So it depends on which one you want to
8 see.

9 A. 我諗英文版。

10 Q. The email is English but the Chinese attachment is on
11 the next page. But let's look at the English version --
12 let's look at the email:

13 "Dear Mr Anthony Zervaas,

14 Without prejudice, a sudden email we received at
15 3.45 pm as follows from a local news agency and an
16 agreement of confidentiality we made at our final
17 account stage in project SCL 1112 are both referred.

18 Pursuant to the agreement, we report hereby our
19 company, our staff and our agent did not release any of
20 our documents and information to any 3rd party, however
21 certain information seem being obtained by the news
22 agency and therefore asking us to make response.

23 We do not accept any damage on our goodwill due to
24 any possible public news, especially it is Leighton's
25 negligence on the relevant malpractice and
26 mismanagement. We shall therefore feedback the news

1 agency at 10 am tomorrow. We have drafted hereby our
2 reply as follow while we had not disclosed any
3 confidential information according to the agreement. If
4 we do not receive any adverse comment from you by 10 am
5 29 May 2018 we will send it out as our formal response."

6 Do you see that?

7 A. 睇到，希望讀慢啲，因為佢其實翻譯個好慘。

8 Q. It's okay because you wrote it, so maybe you skip over
9 my reading and you can just look over the text of the
10 email, and you look at your draft reply.

11 A. 係。

12 Q. "To whom it may concern", and then over the page -- and
13 then you have the whole page of reply; yes?

14 A. 係。

15 Q. Let's look at the request from Apple Daily, the enquiry
16 from Apple Daily. The English translation is 8075.1; do
17 you see that?

18 A. 得，我睇到，我睇到。

19 Q. The Chinese, if you want the Chinese, it's 8078.

20 A. 係。

21 Q. But for the benefit of the Commission, let's look at the
22 English version:

23 "According to information received by us
24 [Apple Daily], your company was engaged by Leighton
25 Contractors in mid-2015 in respect of the Hung Hom

1 Station ... We are informed that your company sent
2 emails to Mr Zervaas ... on the respective dates of [6,
3 7 and 15] ... In the said emails, your company referred
4 to the discovery of problems with a number of couplers
5 in the 2 underground diaphragm walls inside the station
6 ... these couplers had been dislocated ... The said
7 emails also mentioned that, after investigation by your
8 company, your company was informed that Mr Khyle
9 Roger[sic] ... knew about the improper act, or even
10 partook in guiding the improper act. Email was copied
11 to the senior staff ... including Jon Kitching ...
12 attaching photos ... We would like to enquire about the
13 following:

14 Whether your company had sent emails to Leighton ...

15 When did your company discover the dislocation ...

16 When did your company discover that Leighton workers
17 had cut short rebars ...

18 In the emails, your company alleged that Mr Khyle
19 Roger[sic], the superintendent ... knew about the
20 improper act ... Do you have any evidence ...

21 Did Leighton send reply to your company reporting to
22 you about the investigation ...

23 ... please send us reply before tomorrow ... Please
24 call me if you have any queries."

25 Do you see that?

26 A. 係。

1 Q. Let's call a spade a spade, Mr Poon: you caused the
2 emails to be leaked to Apple, didn't you?

3 A. 唔同意，如果係我，電--《蘋果日報》就唔會email畀我，亦都唔會上我
4 哋寫字樓喇。

5 Q. Mr Poon, you can use a dummy email account, you can buy
6 a phone with a disposable SIM card. There are all kinds
7 of ways to do it, Mr Poon.

8 A. 可能你唔知我為人，我不黷光明磊落嘅，我如果做一樣嘢，我企起身做添，我
9 唔需要咁樣學你所講你諗到嘅方法，要用個dummy account、要用乜物物物，
10 我無需要咁樣，我做人光明磊落，我做緊壞事咩？點解你會諗到咁嘅方向嘅呢？

11 Q. I'm not here to answer questions, Mr Poon.

12 So what you are suggesting is that from some unknown
13 source, Apple Daily laid their hands on the emails that
14 you had sent to Leighton, and were asking you for
15 comments. That is what you would have this Commission
16 believe; correct?

17 A. 我相信係港鐵之嘛，我話我懷疑係港鐵，因為其實喺呢個email之前，喺
18 2018年3月《東方》都爆咗紅磡站嘅另一件事嘅，NAT tunnel嘅醜聞，我
19 反而覺得係港鐵想燒炮仗，即係想快快脆脆報一報，等傳播媒界冇咗興趣。

20 MR SHIEH: Chairman, I can see the time. Perhaps it is
21 an appropriate moment to take a break.

22 CHAIRMAN: Yes, certainly. Ten minutes. Thank you.

23 (3.39 pm)

24 (A short adjournment)

25 (3.55 pm)

1 MR SHIEH: Mr Poon, I now want to move on to the topic of
2 this idea or suggestion that you had been selling to the
3 media and the politicians that you are somehow gagged --
4 G-A-G-G-E-D -- or prohibited by Leighton from freely
5 speaking out about the subject matter of threaded end
6 cutting. I'm on that subject of so-called gag.

7 A. 冇問題。

8 Q. When you started giving evidence, you said you only
9 spoke to the media about what was already known to the
10 public or by way of reply to what the MTR had said.
11 That was your evidence; correct?

12 A. 係。

13 Q. Now let's look at what you have been saying to the
14 media. Look at C32/24117. This was a press release
15 from your company, dated 1 June; right?

16 A. Okay, 係。

17 Q. 1 June.

18 A. 係。

19 Q. It's in Chinese but I will read out the first paragraph:

20 "我司前線人員" --

21 I'll start from the beginning:

22 "就港鐵沙中綫紅磡站SCL1112擴建工程，有人涉嫌在屯馬線石矢層
23 螺絲頭接駁工序做假的事件上，我司特別說明：

24 我司前線人員早於2015年7月已揭發，開始時只屬個別事件。我司管
25 理層獲悉後，已於2015年9月（8月？）初向總承建商禮頓亞洲的兩名涉事

1 superintendent級別人員反映並要求停止。我司所觀察得悉，情況
2 一度獲得折折騰騰的改善。期後再度發現相同情況，並且完全超越我
3 司管制能力。故已輾轉向禮頓更高層報告及要求改善，最終於2017年
4 書面向禮頓總部高層投訴及要求善後。"

5 A. 係。

6 Q. See that?

7 A. 係。

8 Q. Then at point number 3 --

9 COMMISSIONER HANSFORD: Sorry, can we just --

10 MR SHIEH: Slow down, yes.

11 COMMISSIONER HANSFORD: Okay.

12 MR SHIEH: Then move to point number 3:

13 "我司曾經被警告，我司在港鐵沙中線紅磡站SCL1112擴建工程與
14 禮頓簽有保密協議，故不能透露合約範圍內被禮頓設定為保密的內容。
15 而事實上我司在2018年5月29日被記者問及此事時，亦被條文所規限
16 需要向禮頓報告。"

17 A. 係。

18 Q. Right, that's what you said?

19 Mr Poon, this was before the so-called misleading
20 advertisement by MTR --

21 A. 係。

22 Q. -- later in June; correct?

23 A. 係。

24 Q. And in this news release, you were revealing the fact

1 that, according to you -- we are not accepting it as
2 fact, obviously -- but you are telling the media that
3 first of all your company's staff already discovered
4 alleged cutting in July 2015. That is what is said in
5 the first paragraph; correct?

6 A. 係。

7 Q. You also said that you made complaints in August to two
8 superintendents; correct? Correct?

9 A. 係。

10 Q. You then said later on it looked like it was improved
11 but later it went out of control; correct?

12 A. 係。

13 Q. That's not something already known to the public,
14 Mr Poon.

15 A. 公眾知道剪鋼筋咁嘛，係。

16 Q. Mr Poon, whatever the public may know, you were feeling
17 uninhibited in telling the public about what you say to
18 be your company's knowledge about time and internal
19 dealings about who had spoken to who; yes, in
20 paragraph 1?

21 A. 我答問題，係咪？

22 Q. Yes.

23 A. 呢段中文字或者翻譯做英文嘅意思好清楚嘅，第一；第二，其實呢一個新聞
24 稿個重點喺第二段；而第三，港鐵喺呢個新聞稿之前，係連續發表咗三、四
25 次，三、四次完全誤導嘅說話，其中有一次，我記得佢同新聞界講，就係話

1 我哋有商業糾紛，跟住田議員就話係中科扭扭擰擰、刁喬扭擰，中科唔肯搞
2 番掂呀咁之類，就講到中科紮鐵嘅，係中科負責將啲coupler扭成咁。所以
3 其實喺第二點先係呢個新聞稿個重點，頭先我都講過。不如你讀埋第二段，
4 好唔好呀？建議，完整性好啲。

5 Q. If your counsel wants to read anything out, he can do
6 so, but I am asking you about paragraph 1.

7 In paragraph 1, you attempted to talk about
8 so-called discovery of your company's staff; correct?

9 A. 係，係，呢個係回應香港鐵，我記得好似係黃智聰Jason Wong，港鐵嘅
10 General Manager，喺大概5月31或者5月30，我喺個新聞片度見到佢回應，
11 而回應嘅background，我見到港鐵嘅人員同記者其實喺EWL track slab或
12 platform slab上面，即係喺地盤裏面嘅，當時佢係一口否認有剪鋼筋呢件事。

13 Q. Mr Poon, you then thought that this justified you in
14 exposing the fact that there is cutting of threaded end
15 of rebars; correct?

16 A. 喺鋼筋螺絲呢件事上面，因為我哋公司有跟到個保密協議向Anthony Zervaas
17 發出電郵，而Anthony Zervaas有回應電郵，而令到我哋覺得可以講。我係咁
18 多答案。

19 Q. So you were not gagged? You were not prohibited from
20 speaking?

21 A. I am prohibited or gagged to announce or discuss in public
22 the subjects that Leighton thinks confidential. On this
23 particular subject, on thread cutting, I myself have sent
24 an email to Anthony Zervaas, and he made a reply clearly.

1 Q. Mr Poon, I suspect you are talking about C8080.

2 MR PENNICOTT: C12.

3 A. Yes.

4 MR SHIEH: So Anthony Zervaas replied, 29 May 2018:

5 "Jason,

6 With respect to your email ... Leighton are not
7 aware of any malpractice ..."

8 Do you see that?

9 A. Yes.

10 Q. In this email, Zervaas actually did not say, one way or
11 another, whether you are allowed or not allowed to say
12 anything; correct?

13 A. I did acknowledge him, on C12/8080.

14 Q. I know.

15 At the top of that page, you then interpreted that
16 as meaning that you will feed back freely; correct?

17 A. I would rather say I acknowledge him.

18 Q. So, Mr Poon, you interpreted this email as meaning that
19 Leighton did not object to your responding or feeding
20 back to the media on the subject matter; correct?

21 A. Yes.

22 Q. You did not feel that you had been gagged by the
23 confidentiality agreement, upon receiving Zervaas's
24 email; correct?

25 A. on this particular subject matter.

26 Q. The subject matter being the allegations of threaded

1 rebar cutting forming the subject matter of the
2 complaint in the emails which Apple Daily approached you
3 about --

4 A. Yes.

5 Q. -- correct?

6 A. Yes.

7 Q. And if you were to look at Apple Daily, C32/24182.

8 A. Yes.

9 Q. This is Apple Daily.

10 A. Yes.

11 Q. 28 June.

12 A. Yes.

13 Q. Over the page --

14 A. es.

15 Q. -- in the middle of the page it said:

16 "潘表示，最初得悉有人剪短鋼筋是2015年7月，一個月後他亦親自
17 到地盤視察，親眼目睹有工人剪短鋼筋。潘形容，剪短鋼筋是有系統，絕
18 非工人手工問題，「佢哋後期匿埋，仲轉埋工具剪，剪鋼筋嘅速度同數量
19 都提升咗」，他估計被剪短的鋼筋數以千計。"

20 A. 係。

21 Q. You see that?

22 A. 係。

23 CHAIRMAN: Just a little slower, if you would. Thank you.

24 MR SHIEH: You did not feel in any way gagged or prohibited
25 in talking about how the cutting took place and the

1 manner of cutting, and also your own estimate as to the
2 number of threaded rebars that had been cut; correct?

3 A. 係呀，有關剪鋼筋呢個subject matter。

4 Q. Move on to Hong Kong 01, C32/24219.

5 A. Okay.

6 Q. This is Hong Kong 01.

7 A. Yes.

8 Q. "港鐵沙中線紅磡站剪短鋼筋事件持續發酵，中科興業董事總經理潘焯鴻今早
9 接受電台訪問時稱，曾親眼目睹鋼筋被剪短，更謂工程總承建商禮頓初時嫌
10 剪鋼筋速度慢，故再買新的「超級油壓剪」，以加快速度，更疑隱蔽進行剪
11 鋼筋。"

12 So again, here, you do not regard yourself as
13 prohibited or gagged in talking about your personal
14 observation of cutting and the tool used for cutting;
15 correct?

16 A. 呢個我諗唔係第一身嘅，呢個應該係佢引述喺28號朝早電台訪問嘅，我
17 冇接受佢咁訪問。

18 Q. Yes. It was quoting what you said in a radio interview;
19 correct? Correct?

20 A. 係，但係電台我有講「超級」個字嘅。

21 CHAIRMAN: Sorry, can I just -- but in your radio interview
22 did you say words to the effect that because the cutting
23 of the rebars was considered to be too slow, a new
24 hydraulic cutter had been obtained to speed up the
25 process?

1 A. Yes.

2 CHAIRMAN: Okay.

3 A. But the Chinese wording is "super".

4 CHAIRMAN: Did you know that? I may have missed that. I'm
5 aware of a green cutter, I'm aware of a red cutter, I'm
6 aware of cutters that throw off sparks and cutters that
7 don't.

8 A. Mmm.

9 CHAIRMAN: I'm not aware, however, of any evidence that
10 Leighton or any of their sub-contractors had actually
11 purchased a new hydraulic cutter to speed up cutting.

12 A. 禮頓嘅人話畀我聽嗰兩個紅色嘅油壓剪係禮頓嘅，禮頓買嘅。

13 CHAIRMAN: Who told you?

14 A. 禮頓其中一個科文。

15 CHAIRMAN: And when, roughly, were you told this?

16 A. 當我問佢嘅時候，我唔記得咗幾時，大概可能係2016年--唔係，2015年嘅
17 10月或者11月，即係個年尾嘅時間。我澄清一下，當時我以為一個，當時
18 我以為一個，即係以為只有一架，一部。

19 CHAIRMAN: Please forgive me, but to me that's quite
20 important. I mean, because what we've got is, on your
21 evidence -- I appreciate it's hearsay, but we won't go
22 into the technicalities of that at the moment. What
23 you're saying there, as I understand it, is that
24 sometime towards the end of 2015, you were in
25 conversation with one of the foremen of Leighton, who

1 confided in you that in order to speed up the illicit
2 work of cutting these rebars, that is cutting the
3 threads, I take it, as opposed to legitimate cutting,
4 they had actually got themselves another machine.

5 A. 大概嗰時嘅conversation，就係話如果繼續用嗰個手磨劑機去剪，剪完出
6 嚟，崩口嘅，又要磨番個口，而且會有火花，個個見到，中科尤其是嘈喧巴
7 閉，所以禮頓買咗個hydraulic cutter，個hydraulic cutter就唔需
8 要再磨邊。

9 CHAIRMAN: You today have complained, and I've allowed you
10 to complain, in very, very explicit terms, about how
11 disappointed you are in this Commission of Inquiry of
12 being asked all sorts of questions which are irrelevant.
13 Okay? I appreciate -- that's not a criticism, I'm just
14 recording the fact. But, you see, this is an important
15 piece of evidence as far as I'm concerned. It's down to
16 earth, it's a conversation with a man from Leightons, it
17 shows illicit activity, and the first time I'm getting
18 it, by word of mouth directly in this Commission room,
19 is now.

20 MR WILKEN: May I assist you briefly -- I'm sure
21 Mr Pennicott will be able to help with the references,
22 but this allegation of a large hydraulic cutter was out
23 there and formed part of the requests made by Lo & Lo of
24 the various involved parties.

25 CHAIRMAN: Yes.

1 MR WILKEN: You will hear from Fang Sheung at some point and
2 they will say, "No, there wasn't such a machine", in
3 response to the precise question that was asked by
4 Lo & Lo. So this allegation was out there, the parties
5 were asked, and everyone said "no".

6 CHAIRMAN: Yes. I have, now that you bring it up -- thank
7 you so much, because I did have a blank there but
8 I remember it now.

9 Can you see -- I don't wish to give you a lecture,
10 although I am doing exactly that, but I think it is
11 important for the public at large to appreciate these
12 things -- for me, I'm now going to question, I'm not
13 saying I will reject it, but I'm going to question just
14 how much reliance I can place on this piece of evidence
15 you have now given me, because it hasn't appeared in any
16 statements in a concise form, that I know of, it hasn't
17 been spoken to in this hearing, and now at the very
18 it comes up.

19 I'm not saying I'm going to reject it, but what it
20 does do, I would like you to recognise, is it indicates
21 the way in which the veracity and reliability of
22 evidence can be tested in our system. Do you see the
23 point I'm making?

24 A. (Nodded head).

25 CHAIRMAN: So when counsel for the various parties have
26 asked you questions earlier today, it hasn't just been

1 a rambling attempt at trying to upset you. It's been to
2 test the credibility of your evidence in exactly the
3 same way as I have now asked you questions about this
4 important piece of evidence which, up until now, I have
5 not read in a statement in any detail or heard evidence
6 of.

7 Do you understand the point I make?

8 A. (Nodded head).

9 CHAIRMAN: Okay. I have your evidence now and I will weigh
10 it. As I say, forgive me for the lecture but this is
11 a Commission of Inquiry, it's for the public good, and
12 I don't want the public to be under any misunderstanding
13 that this Commission is allowing rambling, vindictive
14 questioning. It has been satisfied all along that the
15 questions are of real, central relevance to the
16 important issue, Mr Poon, of determining your
17 credibility, because you have been the fountainhead of
18 so much of this. Well, you are the sole fountainhead.
19 You are the wellspring. That's not a criticism, and we
20 may back you up entirely and support you, but your
21 evidence has to be tested.

22 Do you understand the point I make?

23 A. 明白，但係Lo & Lo畀我哋封信一開始已經講咗佢哋已經睇晒啲新聞嘍。

24 CHAIRMAN: All right. Thank you. I understand that.

25 MR PENNICOTT: Sir, I wonder if I could intervene at this
26 stage, because perhaps to some extent I can take some

1 responsibility. But, sir, to be fair to Mr Poon, in
2 certain paragraphs of his witness statement he does
3 refer to a hydraulic disc cutter.

4 CHAIRMAN: Yes.

5 MR PENNICOTT: I accept entirely there's nothing in the
6 statement about Leighton conversations and the like that
7 we've heard. That is obviously brand new and you are
8 absolutely right about that.

9 Sir, what I think we've overlooked, if I may say so,
10 and I'm as guilty as anybody, is what Mr Poon does say
11 in paragraph 41 of his witness statement:

12 "On 22 September 2015, I, again, saw staff of
13 Leighton cutting the threaded bars with a hydraulic disc
14 cutter."

15 I suppose what we should have done, and I've
16 overlooked it, is to ask Mr Poon to look at one or more
17 of the photographs and say, "Is that the hydraulic disc
18 cutter or is that some other disc cutter?", because it
19 may be that there is some confusion here. He does refer
20 to a hydraulic disc cutter in I think at least four
21 paragraphs of his statement.

22 CHAIRMAN: I'm aware of that. In fact I think when I set
23 out my understanding I spoke about a disc cutter that
24 cut and made a whining noise, which I always understood
25 to be a hydraulic disc cutter, it was always described
26 as such, and a grinder which throws off sparks.

1 MR PENNICOTT: Yes.

2 CHAIRMAN: But I wasn't aware of a conversation about
3 this --

4 MR PENNICOTT: No, absolutely not, sir.

5 CHAIRMAN: -- where a foreman turns around and says,
6 effectively -- if you will excuse a bit of play acting
7 for a moment -- "Look, do you know what's gone on here,
8 mate? What's going on here, mate, is we've actually
9 just got in a bit more machinery so we can speed up
10 cutting corners."

11 MR PENNICOTT: Yes.

12 CHAIRMAN: That's what that says in good old-fashioned
13 English.

14 MR PENNICOTT: Yes, sir. That's entirely right on that
15 front. I just thought I had better point out that we
16 haven't overlooked the references to the hydraulic disc
17 cutter in his statement. If somebody wanted to pursue
18 that further, they could.

19 CHAIRMAN: No.

20 Again, Mr Poon, don't get me wrong, I'm not
21 rejecting your evidence, but I'm saying when it suddenly
22 appears late in the day, it naturally raises questions.
23 All right? Thank you. And those are the sorts of
24 questions counsel have been asking you.

25 MR SHIEH: Mr Poon, can I then ask you to look at C32/24179.

26 A. yes.

1 Q. Blow it up, please. This is the web page of an online
2 radio station called D100.

3 A. Mm-hmm.

4 Q. And it actually says:

5 "港鐵政府收嘢啦!"

6 I don't know what the "嘢" which they are supposed to
7 "收" means. I presume some nasty things.

8 A. Mm-hmm.

9 Q. "吹哨者首度現身受訪，詳述港鐵工程造假來龍去脈！他認為最大罪的人是..."

10 Further down, and there is somebody blowing
11 a whistle. Obviously you are not responsible for that
12 visual image. I'm not blaming you for that.

13 A. And so do on the title.

14 MR SHIEH: It's a programme hosted by Li Wei Ling; correct?

15 A. Yes, I think so.

16 Q. Mr Jat told me he actually listened to it, and together
17 appearing was Audrey Eu SC; right?

18 A. Yes.

19 Q. Right. So you were blowing the whistle, exposing matter
20 not previously known to the public in this radio
21 programme; correct?

22 A. The title「吹哨者首度現身受訪，詳述港鐵工程造假來龍去脈！他認為
23 最大罪的人是」--呢個唔知咩嘢號，叫做。括住「《左右大局》訪問分判商
24 中潘焯鴻」都唔係我講嘅嘢嚟。

25 Q. But, Mr Poon, obviously if it's worth appearing in

1 a programme, you've got to be talking about things which
2 were not already known, because otherwise why ask you to
3 go up? You've got to be adding to or responding to
4 things already known; correct?

5 A. 可能你唔知，點解你唔問下點解我會上咗去或者點解我會聲會喺呢度出現
6 呢？我係冇事先安排接受訪問嘅，係收到一個電話，而個電話原來就係呢
7 個節目，跟住佢就話「等一等，我哋有啲嘢想問。」跟住就係問喇，...

8 Q. Right.

9 A. ...而且裏面都有啲新嘢。

10 Q. From what --

11 A. 即係我係冇去到嗰個現場。

12 Q. Mr Poon, you know very well the issue is not whether you
13 took the trip to the radio station. You may have
14 received a phone call and you may have spoken to the
15 host on the telephone; right?

16 But my point is you had been freely speaking to
17 radio hosts about this project and the incident of rebar
18 cutting.

19 A. 我記得喺呢個節目度，因為係第一次，所以我都講過嗰個保密協議，我記得
20 SC Audrey Eu都提「喂，潘生，可能真係--因為佢有啲可能犯法嘅成分，
21 嗰個保密協議其實未必apply。」但係我都有聽佢講，我都有講其他嘢，
22 我都有講其他嘢，都係講緊cut鋼筋件事啫，冇講其他嘢。

23 Q. So let's get it out of the way: you felt that you were
24 not gagged in speaking freely about the threaded rebar
25 cutting incident; correct?

1 A. Yes.

2 Q. But it is true, is it not, Mr Poon, that all along you
3 had been creating this image to the media and to
4 politicians that Leighton had been trying to gag you
5 from exposing wrongdoing about threaded rebar cutting?

6 A. 「剪鋼筋不當行為」，我有講過，我一直講--其實我一直知個地盤仲有好多
7 好多其他結構上嘅問題，包括亂咁改圖、唔跟圖做嘢，我知嘅，但係我都從
8 來冇講出口，而喺我嘅心目中，呢啲所有嘅結構問題係integrated嘅，唔
9 係獨立嘅，唔可以獨立睇，但係我仍然只講剪鋼筋，如果你覺得我咁樣都唔
10 係受到壓制而唔講其他嘢嘅話，而我又咁outspoken嘅話，應該我都已經講
11 埋其他subjects出嚟喇。

12 Q. Mr Poon, can I ask you to look at C32.

13 A. Yes.

14 Q. Page 24262.

15 A. Yes.

16 Q. This is the HKC News article or report that we have seen
17 previously. Do you see that, HKC News? Sorry, 24260.

18 A. Okay.

19 Q. HKC News; yes?

20 A. Yes.

21 Q. Turn to 24262.

22 A. 係。

23 Q. And this is Apple. If you look at the top:

24 "潘焯鴻目擊及攝錄剪鋼筋的過程，當時所見是哪方人員剪鋼筋？潘焯鴻

25 表示，曾與禮頓簽署保密協議，不能作答。"

1 A. 哪方剪鋼筋喎，如果我一答，禮頓即刻告喇，我好清楚係禮頓，而家我好
2 freely咁講添，禮頓當時搵盡方法想告我喇。

3 Q. But I thought, if you look at 24220 --

4 A. Yes.

5 Q. -- there, you are reported to have said:

6 "他指，禮頓前線於現場剪短鋼筋"

7 Do you see that, Mr Poon?

8 A. 禮頓，邊度？24220，係咪？

9 Q. 24220, the paragraph at -- yes?

10 A. 哦，哦。

11 Q. "他指禮頓前線於現場剪短鋼筋，初時為「光明正大，粗嘢」"

12 Do you see that?

13 A. 唔係，你問番記者喎，呢個唔係我寫㗎喎。

14 Q. So now you --

15 A. 我諗要解釋清楚邊啲係我講嘅或者我寫嘅，我寫嘅全部喺我新聞稿裏面。

16 如果記者引述某啲報道而寫嘅，你如果問我，就我唔作答，你最好問番啲
17 個記者。

18 Q. So you are now suggesting that Apple Daily misquoted
19 you; yes?

20 A. 呢個係咪《蘋果》㗎？

21 Q. It is. No. 01. You are saying that HK01 misquoted
22 you?

23 A. 我唔想評論。

24 Q. All right. Look at 24219.

1 A. 係，有寫，係，「今早接受電台訪問」吓嘛，我有受佢哋訪問。

2 Q. Mr Poon, it doesn't matter whether you were interviewed
3 by 01 or by some other radio. The fact, you know very
4 well, is it is reported here that you had said in
5 a radio programme that Leighton thought that the cutting
6 of threaded rebars were too slow and they had to buy new
7 equipment.

8 A. 係，太慢而買新設備同埋用個字眼“systematic”同埋“planned”都係
9 我講嘅。而且我喺度澄清喇，我記得石律師喺opening嗰度用咗好多
10 “widespread”嘅字去形容我講嘅嘢，但係其實我有講過“widespread”，
11 我係講“systematic and planned”，而港鐵其實用咗“industrial”
12 呢個字，我都有講過。

13 Q. In that passage, it also reported that you named
14 Leighton; correct?

15 A. 即係你再想講番24220最耐嗰段話「禮頓前線於現場剪短鋼筋」嗰幾個字，
16 係咪？

17 Q. No. No, Mr Poon, 24219, you named Leighton as being the
18 party who thought the old instrument was too slow and
19 who bought a new instrument; correct?

20 A. 「嫌太慢」、「新嘅剪」肯定我有講過，有冇講過「禮頓」個名，我真係要
21 聽番。

22 Q. Right, I'm sure there are many people who would want to
23 ask you questions about that. Let me just cut to the
24 heart of -- I'm sorry.

25 Let me cut to the heart of the matter, Mr Poon.

1 This constant reference to your being gagged by the
2 confidentiality agreement is just a media stunt on your
3 part to create an adverse impression that Leighton was
4 trying to stop you from talking about threaded rebar
5 cutting. Do you accept that, Mr Poon?

6 A. No.

7 Q. You know very well that sound bites such as "being
8 gagged", "confidential agreement", would appeal to the
9 media who would find these concepts easy to understand,
10 when in fact you did not feel gagged at all; do you
11 accept that?

12 A. 唔同意，其實石律師引述嗰幾個報道其實都係源自一個電台訪問，只不過係
13 唔同媒體佢引述嗰個電台訪問，你就好似製造到我接受咗好多個唔同媒體訪
14 問咁，其實唔係咁㗎。我諗公平啲去睇，因為你係put it to me，所以
15 你應該喺某一個講個報道嘅時候，你講清楚報道來源好啲，持平少少。

16 CHAIRMAN: I think in fact he did quote the source, and
17 indeed on one occasion he was corrected as to the source
18 that he had quoted.

19 MR SHIEH: And, Mr Poon, when you come to give evidence in
20 this Commission, you still say that because you are
21 constrained by confidentiality agreement, you only speak
22 out on certain matters now in the hearing room; remember
23 that?

24 A. 可能係我係slip of tongue，我唔係咁意思，我話係嚟到，我就可以講，
25 我意思係咁，所以我對個獨立調查委員會一直有期待。

1 Q. You meant you can speak now but not put in the form of
2 witness statements beforehand? Is that what you mean?

3 A. 我再回應，我證人供詞，我再講一次，我summarise講一次，8月20號
4 2018年，我哋收到--我個人收到Lo & Lo律師樓畀我哋八頁嘅紙，要
5 求我哋做證人供詞，上面我大概identify到有二十幾項要我哋公司答，
6 個deadline--sorry，7月20號，7月20號收到信嘅--出到--發信嘅，
7 我幾日之後收到，個deadline係8月10號我要交，結果我哋交唔到嘅，
8 過程之中，我需要搵律師，亦都需要搵大律師，需要搵資料，對我嚟講，
9 時間係好短，所以我哋只能夠集中盡量回答佢問嘅問題，我再講嘅嘢都
10 咁多喇。

11 Q. Mr Poon, I suggest to you that you knew from day one
12 that you had extremely flimsy evidence to support the
13 allegation of threaded rebar cutting, and that was why
14 you constantly referred to this excuse of having been
15 gagged to justify your inability to say anything more
16 than what you had already said to the media; correct?

17 A. 有人剪鋼筋嘅證據確鑿，並不薄弱，相片見到，扭落去見到，證據非常、
18 非常確鑿，而且喺港鐵畀禮頓嘅NCR亦都證據確鑿。

19 CHAIRMAN: Sorry, a mental block for a moment. What's an
20 NCR again?

21 MR SHIEH: Non-conformance report.

22 CHAIRMAN: Thank you.

23 MR SHIEH: I guess it's the ultimate test of media
24 neutrality. I suggest to you that the evidence is not
25 clear-cut and not clear at all, and at most your people

1 said there were instances of threaded rebar cutting, and
2 there is no evidence to support systematic, organised
3 rebar cutting. That is our stance. Do you accept or
4 not accept?

5 A. Not accept.

6 Q. Thank you.

7 A. Do you need me to explain?

8 Q. No. If your counsel wants you to make a speech in
9 re-examination, he can. Can I move on.

10 I now move on to that part of your evidence when you
11 mentioned what I called the C word, "corruption"; do you
12 remember the moment when you mentioned the word
13 "corruption"?

14 A. Yes.

15 Q. Now, that was at a point in time, if you remember -- and
16 I don't want to turn up the transcript because I want to
17 save time and complete the cross-examination today --
18 that was as a result of the Chairman asking you: Why
19 would anyone engage in some form of organised,
20 systematic cutting of threaded end of rebar?

21 Then you suddenly mentioned, for the first time in
22 this Inquiry, the word "corruption"; do you remember
23 that, Mr Poon?

24 A. Yes.

25 Q. Do you accept that the word "corruption" has never
26 featured in any of your emails that we can find in the

1 bundles or in your witness statement? Do you accept
2 that?

3 A. No.

4 Q. You don't accept that? Fine. I'll leave it to your
5 counsel to sort it out.

6 Can I ask you to look at Lo & Lo's Salmon letter.
7 Bundle D1, page 1.

8 MR PENNICOTT: It's not a Salmon letter.

9 MR SHIEH: It's not a Salmon letter, but the letter calling
10 for information.

11 MR PENNICOTT: Yes.

12 MR SHIEH: Can you look at D, page 5.

13 A. 係。

14 Q. "Given your answers to the matters in paragraph 5,
15 explain to the best of your company's knowledge how the
16 defective steel works came about and the reasons for the
17 shortening, cutting or defectively connecting the steel
18 bars and also why the defective steel works had been
19 allowed and overlooked."

20 Do you see that?

21 A. 係。

22 Q. So that is an express request, in the form of a letter
23 from the Commission's lawyers, so it has the force of
24 law, because the law enables the Commission to request
25 information from parties, to explain, to the best of
26 knowledge, so you don't need to have personal knowledge,

1 it's only to the best of your knowledge, how they came
2 about and the reasons for shortening and cutting; right,
3 Mr Poon? You understand this?

4 A. Yes.

5 Q. Therefore, if you believe there is any substance in any
6 allegation of corruption, you ought to have included
7 that as part of your answer to this question, Mr Poon.
8 Do you accept that?

9 A. No.

10 Q. Very well. Your witness statement did not contain any
11 allegation of corruption; is that correct?

12 A. 我喺6月13號同港鐵嘅會議有講一次。

13 Q. Mr Poon, we are talking about a proper, solemn witness
14 statement signed for this Inquiry which would be backed
15 up by an oath at risk of perjury. You did not say
16 anything about corruption in your witness statement;
17 correct?

18 A. 咁樣同假證供有乜關係呢? 石律師, 我諗你拖得太遠喇, out of context,
19 我有喺嗰度講, 即係冇喺答呢一點度講唔代表我唔知或者我唔將會講, 如果
20 你話乜嘢我都要喺個witness statement喺嗰二十日內答晒呢八版紙問題,
21 一字不漏, 一個point都有漏嘅話, 我諗我係聖人喇, 係咪? 仲有, 如果係
22 咁, 唔需要oral喇, 就咁入written咪得囉。

23 Q. Mr Poon --

24 A. Yes.

25 Q. -- let me move on. In your oral answer to questions,

1 you resorted to the Prevention of Bribery Ordinance and
2 said that you are not supposed to talk about
3 investigation; do you remember that?

4 A. Details, details of investigation.

5 Q. Details of investigation, yes.

6 Can I now have shown on the screen provisions in the
7 Prevention of Bribery Ordinance. (Handed).

8 First of all, Mr Poon, are you saying that you have
9 not included allegations of corruption in your witness
10 statement because you actually thought that you were
11 prevented by this Ordinance or by law to do it in
12 a witness statement?

13 It's a simple question, Mr Poon.

14 A. 係，我係咁諗。

15 Q. You thought, "I was prevented by this Ordinance from
16 including it in the witness statement"?

17 A. 係，係，我諗大部分香港人都係咁諗嘅。

18 Q. Right. Then why did you say it in the witness box,
19 Mr Poon?

20 A. 其實我講嘅時候，我係有specific 講嗰個調查嘅details嘅，我有講查
21 緊乜，我有講邊個被查，我有講佢查緊邊啲details，我大概講咗禮頓公司
22 個form of co-build ... (indistinct) 嘅問題，而導致corruption，
23 大概講咗點解會出現有第三者代一啲判頭剪鋼筋，安裝啲螺絲頭。

24 Q. Therefore, Mr Poon, you could very well talk about what
25 you knew or thought to be the allegations of corruption,

1 without referring to any investigation in a witness
2 statement; correct, Mr Poon? Correct?

3 A. Correct.

4 Q. Yet you did not do so, Mr Poon.

5 A. So?

6 Q. So we would ask the Commission to find -- and I will
7 give you a chance to accept or deny -- that you
8 basically decided on the spot to utter the C word just
9 as another media stunt, because you knew full well the
10 media would go on a frenzy upon hearing the C word,
11 Mr Poon.

12 A. 唔同意。

13 Q. In fact, Mr Poon, you live in a parallel universe from
14 all of us in this courtroom. Everyone in this courtroom
15 speaks with a view to addressing Mr Chairman and the
16 Commissioner. You, however, speak with a view to
17 addressing an audience elsewhere; that is your
18 motivation, throughout your testimony. Do you accept
19 that, Mr Poon?

20 A. 唔接受，反而我覺得石先生你係，你喺opening度已經屈咗我哋公司去要脅
21 禮頓600萬，你成功擺晒頭條，你成功抹黑咗我哋公司。

22 Q. Have you finished, Mr Poon?

23 What the effect of the law is is not a matter for
24 you, Mr Poon, because that is a matter for argument, but
25 can I suggest to you that you knew very well that even
26 the law does not prohibit you from disclosing what you

1 knew or thought about acts of corruption, as long as you
2 don't say anything that there is an investigation going
3 on. Do you understand that? Do you accept that?

4 A. 而我明知喺調查當中，如果我講，咪中囉。

5 Q. Mr Poon, I am not going to get bogged down with you.
6 This suggestion that somehow you thought you were
7 prevented by the Prevention of Bribery Ordinance to make
8 these allegations in the form of a witness statement is
9 the same type of excuse about the confidentiality
10 agreement.

11 A. No.

12 Q. You just rushed to this as a deceptive and misleading
13 excuse for justifying your improvisation in the witness
14 box. Mr Poon, do you accept that?

15 A. Disagree, and let me explain.

16 Q. Go ahead.

17 A. Thank you. Let me find out first. Okay. Please go to
18 my witness statement, D1/D35, paragraph 82.

19 Q. Yes.

20 A. You are saying that I did have a tactic or strategy to
21 build up an atmosphere that I am gagged by the
22 confidentiality agreement, and that is not true.

23 Please go to paragraph 82. Mr Wallace is the
24 corporate counsel of Leightons, and the foreground of
25 this paragraph 82 is that at that particular moment that
26 I participate into the investigation invited by MTRC on

1 13 June 2018. And before the investigation, MTR --
2 I can't remember the exact name of the leading person --
3 suddenly vacated the meeting room and only left me
4 myself and Leighton's two representatives. At that
5 particular moment, Leightons showed me -- Mr Wallace
6 showed me an email that's issued by his corporation,
7 limiting me on the scope of discussions in the
8 investigations.

9 I asked him, if I reject, shall I go ahead? He said
10 no. And I asked him to send this to my email.

11 Therefore, Mr P Lee, another Chinese assistant to
12 Mr Wallace, sent the email to my corporate email, and
13 the email contents have been quoted in paragraph 82.
14 Please see.

15 The three points -- there are three points --
16 emphasise it is a waiver. It is a waiver to the
17 confidentiality agreement. The first one is:

18 "The waiver is solely for matters to be discussed in
19 the MTR interviews tomorrow and Jason Poon is not to
20 discuss the subject matter of the interviews to any
21 person afterwards".

22 You see, Leighton is always enforcing the
23 confidentiality agreement on me. That is issued on
24 13 June 2018.

25 Please go to the third point. He even further limit
26 me to discuss only the technical issues of the couplers

1 and not to any commercial discussion or settlement.

2 Q. Thank you. I've seen it. Have you completed your media
3 speech, Mr Poon?

4 CHAIRMAN: With respect, I think read by a layperson, it's
5 quite important, actually.

6 MR SHIEH: Mr Poon, did this prevent you from speaking to
7 the media in the various interviews that I had read out
8 earlier, after 13 June 2018, about Leighton cutting,
9 about machinery, about estimate of numbers, Mr Poon?
10 Mr Poon?

11 A. Be patient. I am waiting for the translation; okay?

12 我再重申，我係得到Anthony嘅電郵回覆，再我加個電郵acknowledge
13 佢，我先至淨係講，喺傳媒淨係講cut鋼筋嘅問題，有冇喺傳媒聽到我講你哋
14 禮頓亂咁做--亂唔跟圖做，有冇講過我？我有講過。

15 Q. Mr Poon, in answer to the chairman's question, you said
16 that you have actually spoken about the corruption
17 matter with Mr Plummer; do you remember that?

18 A sit-down talk with Mr Plummer; correct?

19 A. Plummer, yes.

20 Q. Mr Zervaas's predecessor; correct?

21 A. Yes.

22 Q. You didn't raise it to him by an email, did you? No.

23 And you didn't raise the matter with Mr Zervaas by
24 email; correct?

25 A. 唔係--yes, yes.

1 Q. If you thought there was anything in this allegation,
2 you would have raised your concern with either
3 Mr Plummer or Mr Zervaas; do you accept that?

4 A. 我有足夠支持㗎，我直接去咗廉政公署。

5 Q. You have not given evidence in these proceedings and
6 I will move on.

7 Can I now move to the final topic. You remember
8 yesterday you were examined on the "30,000 couplers"
9 email?

10 A. Yes.

11 Q. You then went on for some time to talk about a number of
12 complaints other than threaded ends being cut; remember?

13 A. 係。

14 Q. You talked about the need for a torque meter; remember
15 that?

16 A. Yes.

17 Q. You talked about rebars not being screwed in fully;
18 remember?

19 A. Yes.

20 Q. You engaged in a wide-ranging commentary on the BOSA
21 instructions; correct?

22 A. 係。

23 Q. You then also talked about your concerns on some defects
24 in the holes or in the wall, apart from the torque meter
25 complaint and the "not being screwed in fully"
26 complaint?

1 A. 係，即係我意思就係話用咗落嚟，鑽窿種鐵個樣嘢。

2 Q. Now, for these complaints other than threaded ends being
3 cut, apart from maybe the torque meter, which was in the
4 "30,000 coupler" email, these other complaints have no
5 prior complaint or discussion by email. Do you accept
6 that?

7 A. Yes.

8 Q. No prior complaint by email?

9 A. No, no.

10 Q. Thank you. So can I suggest to you, Mr Poon, that the
11 long discursion yesterday in the witness box, when you
12 engaged in this wide-ranging survey of possible
13 complaints, or complaints, other than threaded ends
14 being cut, when you were questioned by the Chairman, was
15 an exercise in diversion, to create the impression that
16 there are other matters which the Commission ought to be
17 looking into but is refusing to look into. Do you
18 accept that?

19 A. 拒絕我唔講--Because the Chinese translation is using
20 the words "refused by the Commission to study those
21 particular subjects", I would rather say -- I will use
22 English -- I am reporting to the Commission my
23 understandings and my best knowledge on the scope of
24 defective connections, because, maybe due to my previous
25 interview in the media, and the perception being taken
26 by Lo & Lo or being taken by the Commission, due to the

1 interviews, misleads the Commission that the scope of
2 defective connection is only oriented on the
3 thread-cutting subjects.

4 I'm just trying to help and assist the Commission to
5 have a full picture on the scope of defective
6 connections.

7 MR SHIEH: Chairman, I think I only have about 15 minutes
8 left, so instead of adjourning today and then continuing
9 tomorrow, can I just have 15 minutes' indulgence to
10 complete my cross-examination?

11 CHAIRMAN: Yes, you may.

12 MR SHIEH: Mr Poon, can I suggest to you this way, that you
13 knew, in your heart of hearts, that your allegations on
14 organised and systematic rebar cutting is doomed to be
15 rejected, and you were finding ways to introduce
16 inconsequential complaints, to continue to sustain your
17 whistleblower image and to undermine this Commission in
18 case things go against you.

19 Do you accept that?

20 A. 唔同意, to me, 鑿開佢就已經睇晒, 我根本唔使講咁多, 我亦都覺得根本
21 鑿硬嘅, 好快大家就知道邊個講緊大話。

22 Q. Mr Poon, you remember the question of when you named
23 Mr Ian Pennicott in your witness statement, your first
24 witness statement, as being an attendant in the MTRC
25 investigation interview?

26 A. Mmm.

1 Q. And according to the letters we have seen, Mr Pennicott
2 wasn't even in Hong Kong on that day.

3 Mr Poon, there was no reason --

4 A. You know. I don't know. Sorry.

5 CHAIRMAN: No, it's not important.

6 MR SHIEH: It's not important.

7 There was no reason why you had to name that Western
8 gentleman in that interview; correct?

9 A. First of all, 喺嗰個清單上面, 點解我特別去注意邊個有出席或者我特
10 別寫我喺嗰個6月13號調查裏面講講過啲咩嘢呢? 事實上我到而家, 我知道
11 我哋都契而不捨咁去追緊要求港鐵交代將我哋當時討論內容講番出嚟嘅, 原
12 因就係因為主要原因就係因為我哋零零舍舍見到我哋中科嗰份證供, 即係喺
13 6月13號調查證供被抽走咗, 跟住我哋又發現所有--我哋用所有方法, 包括
14 我哋搵港鐵, 乜嘢都好, 都係有辦法實現到我哋攞到嗰個調查嘅一啲資料,
15 所以我就盡量寫清楚, 其實去identify番啲人係好難嘅, 係事實好難, 我
16 亦都盡可能嚟identify佢哋。當時我再講, 我係根本唔知Ian Pennicott
17 係被聘請為Commission嘅counsel, 有任何資料可以畀到我, 亦都有其他
18 purpose。

19 Q. Mr Poon, in that list of names -- it's a very long
20 answer to my very simple question. I might as well put
21 the suggestion to you, Mr Poon. When you have
22 difficulty giving a straight answer, you engage in
23 a long ramble of diversion, to bring in sound bites to
24 appeal to the media, to conceal your inability to give

1 a straight answer. Do you accept that?

2 A. No.

3 Q. Mr Poon, if he's a Caucasian gentleman whose name you do
4 not know, you could simply say he's a Caucasian
5 barrister from Des Voeux Chambers, just as you described
6 the other guy from Des Voeux Chambers or who you thought
7 to be from Des Voeux Chambers. Do you accept that?

8 A. Therefore, therefore我喺跟住嘅十日--十鬆啲日, 當我收到--我哋收到
9 Lo & Lo封信之後, 我已經即刻review同埋即刻withdraw同埋道歉, 我哋
10 特登因為咁而做咗一個witness statement㗎。

11 Q. Mr Poon, was it not an attempt, although a doomed
12 attempt, to undermine the credibility of the Commission
13 by suggesting that counsel for the Commission had
14 an earlier involvement in the investigation?

15 A. 唔係。

16 Q. Can I just touch on a small topic. You remember last
17 Friday, when Mr Li, your staff, was being
18 cross-examined --

19 A. Yes.

20 Q. -- when he talked about being in area B of the EWL.

21 A. Mmm.

22 Q. And we had a discussion about whether he could have seen
23 any work on rebars on 12 January; remember that?

24 A. Yes.

25 Q. Then you remember that your counsel, or China Tech's

1 counsel, stood up and said there were photographs which
2 could show --

3 A. Yes.

4 Q. -- that pouring was taking place on 14 January; do you
5 remember that?

6 A. Yes.

7 Q. And we had to adjourn earlier for that photographic
8 evidence to be properly put before the Commission and to
9 the lawyers; do you remember that? That was last
10 Friday.

11 A. Yes, 四幅相。

12 Q. And it became 11 photographs on Monday; remember that?

13 A. 11 photographs but two graphics.

14 Q. Right. Now, can I ask you to look at your 4th witness
15 statement.

16 A. 5th or 4th?

17 Q. 4th witness statement. Sorry, my mistake. It's the
18 5th. Bundle D2, page 1084.

19 A. Yes, here.

20 Q. 1086, I'm sorry. My apologies. 1086.

21 A. Yes.

22 Q. It's paragraph 21.

23 A. Yes.

24 Q. "If one refers to the EWL slab, as opposed to confining
25 it to the EWL track slab, the very last area in which
26 concrete was poured was area A2."

1 A. Yes.

2 Q. "We were still pouring it on 14 January ... I refer to
3 the eleventh photo ... ('Photo 11') ... showing Chinat's
4 workers in blue shirts ...", et cetera.

5 Do you see that?

6 A. Yes.

7 Q. Can I also ask you to look at paragraph 9.

8 A. Yes.

9 Q. You accept, in paragraph 9, that pouring in area B4&5
10 completed just before 11 pm on 12 January?

11 A. Mmm.

12 Q. Do you accept that? This is your statement; yes?

13 A. 係。

14 Q. So, as far as B4&5 are concerned, there is no dispute
15 that pouring completed maybe late at night but
16 12 January; correct?

17 A. B4&5, yes.

18 Q. Right. We're talking about B4&5.

19 And the area to which the 14 January photo is
20 relevant is area A2; correct?

21 A. Well, it's relevant. It's not irrelevant. Do you need
22 me to explain?

23 Q. Let me take you to the letter before you explain. I'm
24 asking you that you accept that B4&5 completed on the
25 12th?

26 A. On 23 hours of the 12th.

1 Q. Yes, all right.

2 Can you look at D1102.

3 A. Yes.

4 Q. This is a schematic diagram attached to your witness
5 statement; do you see that?

6 A. Yes.

7 Q. You can talk about where Mr Li was that night. He said
8 he's in area B, Mr Li.

9 A. I'm going to point out?

10 Q. Yes. We see where B is on this diagram. We can see
11 what B is, where area B is; yes?

12 A. Mm-hmm.

13 Q. And photo 11, which was the only photograph on the
14 14th --

15 A. Okay.

16 Q. -- is A2; correct?

17 A. Mm-hmm.

18 Q. Mr Li never said he was anywhere near area A2; do you
19 remember? If you don't remember, it doesn't matter.

20 A. 我記得，我記得好清楚，第一，嗰日唔係唯一一幅相，嗰日有四幅相。

21 Q. No, Mr Poon, I'm asking you about area A2. My question
22 is: Mr Li's evidence did not say he was anywhere near
23 any area A2; correct?

24 A. 其實當時...

25 Q. Now, Mr Poon, I want you to be released today, if that's
26 possible.

1 A. 唔係，我覺得呢個好重要嘅，因為個調查委員會其實係個geographical
2 或者係three-dimensional嘅vision好多時搞亂咗，我必須要澄清。
3 當時其實先係Ian Pennicott，跟住去到Wilken，佢都不斷put it to
4 李先生就話A、B、C、區都已經完成落石屎，你冇可能睇到鋼筋嘅、紮鐵嘅，
5 當時我成日--我喺出面係聽到好多時重複呢句說話。而點解A2我擺出嚟呢？
6 一來A2就係根本就係A、B、C嘅其中一部分，二就係其實可能你--可能大家
7 都唔知，或者你可以叫禮頓嘅其他staff去clarify，李生行出去B區同C
8 區，一定要必經呢度嘅，係必經之路嚟嘅。所以李生見到紮鐵，佢係一啲都
9 冇講錯嘅。

10 而李生其實再講，佢當時喺B、C區之間嘅，而我其中一張相，喺當日
11 擺出嚟佐證，就見到--我故意搵番張影住B4、5落石屎，但係見到嘅石屎車
12 同泵車擺嘅位置，故意畀大家睇，嗰張相其實就係...

13 CHAIRMAN: I think we remember that photograph.

14 A. Okay，而嗰個擺石屎車同泵車嘅位置其實就係B同C區交界嘅C1-5，因為
15 我哋落石屎嗰區係B4-5，所以個石屎車唔可以擺喺要落個位置嘅，要擺佢
16 隔離嘅，而李生係負責管個落石屎，所以佢係當日、當晚，其實佢係不斷喺
17 落石屎個位，B4-5同埋C1-5之間走來走去，佢活動範圍其實不只於落石屎
18 嗰嚟，佢活動範圍係包括個pouring point、discharge point，而正
19 正就喺嗰個位，即係C1-5同C1-4之間就有個窿望落去，亦都見到NSL紮鐵，
20 但係佢當時佢唔知邊度係NSL。

21 我當日我再apologise，其實係我搞到延誤咗入嗰個witness
22 statement，係我，原因就係因為畫呢個3D chart，我係怕我--無論我
23 擺邊一點喺邊度，又或者我張相喺邊度影，我都必須要好仔細咁樣去...

1 CHAIRMAN: That's all right; you don't need to worry about
2 that.

3 A. 但係其實我係想話畀大家聽其實嗰日李生講嘅嘢100%係真嘅。反而我見到
4 就係可能喺--因為我哋冇呢啲咁嘅3D圖...

5 CHAIRMAN: With respect, it's for the Commission to look at
6 the evidence. We won't look at it, Mr Poon --

7 A. Thank you.

8 CHAIRMAN: -- in an isolated fashion. Believe me, I'm well
9 aware of the responsibility to look at all the evidence
10 together, and to compare, to contrast. Okay?

11 So what you've told us now will obviously be taken
12 into account, but we won't take into account the fact
13 that you testified that his evidence is true; all right?

14 A. Thank you.

15 MR SHIEH: Mr Poon, on this topic, can I suggest to you that
16 you actually misled the Commission, and maybe your
17 lawyers, into thinking that the photographic evidence
18 would show pouring going on in area B4/B5, or maybe even
19 C, on the 14th, when in fact the 14 January pouring, or
20 the photograph, is in a completely irrelevant area of
21 A2. Do you accept that?

22 A. 當時再三講，我不斷聽到嘅就係話A、B、C區最後一倉石屎係1月12號，
23 呢個唔係事實，而你哋因為呢個講法就去令到一個證人甚至懷疑自己個
24 睇到，當時因為佢講佢出到去仲見到紮鐵嘅工作，仲見到鐵嘅，而你哋
25 覺得佢出到去只會見到石屎，見唔到鐵嘅。

1 Q. Thank you. I'll move on --

2 CHAIRMAN: Mr Poon, thank you. We are not interested in
3 what he may have told you outside.

4 MR SHIEH: Mr Poon, I come to the final points -- a number
5 of suggestions to you by way of roundup. You can either
6 say you agree or disagree.

7 A. 唔。

8 Q. In relation to the allegations of cutting of threaded
9 ends of rebar, we suggest to you -- as I've suggested
10 before, but I'll do it again by way of roundup -- you
11 realised the flimsiness of the evidence that you could
12 marshal, even after any supposed confidentiality
13 restrictions are gone. You realised how flimsy your
14 case was. Do you accept that?

15 A. 唔接受，我覺得好solid。

16 Q. At first, when you raised it with the media, you did not
17 expect it to grow into a Commission of Inquiry where you
18 have to testify on oath and have your testimony tested
19 critically, Mr Poon. Did you expect that? No?

20 A. 唔係，我有諗過，啱嘅，啱嘅，我諗都有諗過，啱嘅，跟住後面就唔係喇，
21 後面因為有人開始問話要獨立調查委員會問我同唔同意。

22 Q. Now you have to face the music and be tested on your
23 evidence on cutting of threaded ends of rebars, you were
24 keen to divert and digress by reference to
25 inconsequential complaints on other matters. Do you

1 accept that?

2 A. 唔接受，完全係個獨立調查委員會嘅terms of reference裏面嘅。

3 Q. You had been keen to build up an image of a brave but
4 oppressed whistleblower for yourself.

5 A. 冇。

6 Q. In the course of your evidence, you have been paving the
7 way to making suggestions in case things turn badly for
8 you: that, "Oh, it's unfortunate the Commission has not
9 looked at this", or you disagree that the Commission has
10 not looked at that, paving the way for you to attack the
11 Commission if things go against you. Do you accept
12 that?

13 A. 唔啱，我有份畀錢嚟嗰，我做咩嘢攻擊打爛佢呀？

14 Q. I think on Day 1 you even suggested that Mr Pennicott
15 was targeting you when he said in his opening that he
16 wishes to put your evidence under the microscope.

17 MR PENNICOTT: "First".

18 MR SHIEH: "First".

19 A. 我係咁話，我係咁話，事實上亦都係Pennicott係咁講，而事實上你亦都
20 引用佢去咁講。

21 Q. So you were trying to undermine the credibility and
22 authority of this Commission, to pave the way for you,
23 in case turn badly for you.

24 A. No。如果我呢度我一定要講一講，如果我想去減低個credibility of
25 this Commission，我必定大力質疑點解唔查NAT隧道，我更加會大力

1 質疑點解喺Commission嘅opening度竟然會鑽揚港鐵同埋禮頓好合作，
2 我指喺查NAT隧道件事，我見到document唔係咁寫嘅，我重申，我睇落
3 去，我覺得北面隧道係fall into the scope of the terms of
4 reference。

5 Q. And you were expressing discontent that the Commission
6 should decide that it isn't and not look at it; yes?

7 A. 表達不滿，我表達唔同意。

8 Q. Very well. I'll move on quickly. You know that people
9 in general, and Hong Kong people maybe in particular,
10 prefer a romanticised version of David against Goliath,
11 the small man against the giant, and you portrayed
12 yourself as David fighting against Goliath, skilfully,
13 before the media.

14 A. 我唔想評論香港人嘅睇法，你都係香港一個，你講嘅嘢可能...

15 Q. I supported Croatia in the World Cup final.

16 A. 但係我覺得事實...

17 CHAIRMAN: I'm happy so far, Mr Shieh, but I think more
18 putting like this becomes more an ingenious way of
19 making an address to the Commission.

20 MR SHIEH: Mr Chairman, I don't want this witness to
21 ultimately say I've been unfair when we make criticisms
22 of him in our submissions, because I can very well see
23 very often these things -- different views can be taken,
24 but as I said, the final few questions.

25 CHAIRMAN: Yes. Certainly then.

1 MR SHIEH: Mr Poon, continue.

2 CHAIRMAN: I think he's completed his answer there.

3 MR SHIEH: You don't agree, Mr Poon?

4 A. Yes.

5 Q. Lastly, the way you give evidence, I suggest, rather
6 than putting forward what you saw, you gave the
7 impression of trying to fight for a pre-set agenda, to
8 try your very best to find points that you could argue,
9 for example, the BOSA instructions, and you had to go
10 back and find out more, to justify your pre-set
11 conclusion. Do you accept that? Do you accept that's
12 your mindset, your approach?

13 A. 成件事好自然嘅，我係受過教育嘅人，喺我面前見到嘅bundles，我知道
14 嘅資料，我向委員會反映正常不過，我亦都有講過一句大話，全部資料亦都
15 有證有據。

16 MR SHIEH: Thank you very much, Mr Poon.

17 It's been a tiring day but I have completed my
18 questions, Mr Chairman.

19 WITNESS: Thank you.

20 CHAIRMAN: Good. Thank you very much.

21 MR PENNICOTT: Sir, I was just pondering tomorrow.

22 Obviously Ms Chong, Mr Boulding and Mr Khaw I understand
23 all have questions. No doubt there will be some
24 re-examination. I don't know whether that's going to
25 take up the full day, it may well do, in which case no
26 problem. But I was going to suggest that whether it did

1 or whether it didn't, we just have Mr Poon tomorrow and
2 we don't think about lining up any other witnesses for
3 Friday.

4 I don't know if anybody else is ad idem with that.

5 CHAIRMAN: I would rather just get from counsel a very rough
6 estimate of how long they think they might be, because
7 I still remember an infamous occasion when counsel told
8 me they only needed one witness the following day, and
9 we started at 9.30 and by quarter to ten he was
10 finished. I'm not suggesting any ill-faith on the part
11 of any counsel, but sometimes things can turn.

12 MR PENNICOTT: I fear history won't repeat itself tomorrow,
13 sir, but that's a very sensible --

14 CHAIRMAN: Just a brief indication.

15 MS CHONG: I think I will have half an hour.

16 CHAIRMAN: All right.

17 Mr Boulding?

18 MR BOULDING: Sir, obviously it always depends upon the
19 length of the answer and that sort of thing, but I'll do
20 my best to finish in, say, a couple of hours.

21 CHAIRMAN: All right.

22 Yes?

23 MR KHAW: I believe I'll be around one and a half hours.

24 CHAIRMAN: All right.

25 Yes?

26 MR TO: Re-examination is basically one hour.

1 CHAIRMAN: In which case, I think you are quite right.

2 I don't want to bother a potential witness having to

3 wait around outside the whole day --

4 MR PENNICOTT: No.

5 CHAIRMAN: -- when it's quite clear we may even have to

6 extend a little bit tomorrow evening.

7 MR PENNICOTT: Yes, sir.

8 CHAIRMAN: Thank you very much. Tomorrow morning, 10 am.

9 (5.30 pm)

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

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