

1 Friday, 9 November 2018

2 (10.07 am)

3 MR WILKEN: Good morning, Chairman. Good morning,

4 Professor. I would like to call Mr Rodgers, if I may.

5 CHAIRMAN: Certainly.

6 MR WILKEN: Good afternoon, Mr Rodgers; can you hear me?

7 WITNESS: Good afternoon.

8 MR KHYLE ANTHONY RODGERS (sworn)

9 Examination-in-chief by MR WILKEN

10 MR WILKEN: I know you did it in the oath, but for your

11 record can you just give your full name to the

12 Commission again, please?

13 A. It's Khyle Anthony Rodgers.

14 Q. And you have given three statements to this Commission.

15 Can I take you to them, please?

16 A. Yes.

17 Q. The first one is in C27, page 20685. Can you see that?

18 Can you see that?

19 A. I can just see the first page.

20 Q. Yes. That is the first page of your witness statement.

21 If you can then go to 20690, is that your signature?

22 A. That is correct, yes.

23 Q. And this statement is dated 2 October 2018; correct?

24 A. Correct.

25 Q. If we could then go to C32/24096. Is that the first

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1 page of your second witness statement?

2 A. Yes, it is.

3 Q. If we go to 24102, is that your signature?

4 A. It is, yes.

5 Q. This statement is dated 18 October 2018?

6 A. Correct.

7 Q. If we then go to C34/25789, that's the first page of
8 your third witness statement?

9 A. Yes.

10 Q. Then if we go to 25790, is that your signature?

11 A. Yes, it is.

12 Q. And it is dated the 23rd day of October 2018?

13 A. Correct.

14 Q. Can you confirm that the contents of those statements
15 are true and accurate, as far as you're concerned?

16 A. Yes, they are.

17 Q. And that is the evidence which you wish to give to this
18 Commission?

19 A. Yes, it is.

20 MR WILKEN: Thank you. If you wait there, I believe

21 Mr Pennicott will have some questions for you.

22 Examination by MR PENNICOTT

23 MR PENNICOTT: Good morning, Mr Rodgers. Can you confirm
24 that you can hear me?

25 A. Yes, I can hear you.

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1 Q. My name is Ian Pennicott, I am one of the counsel for
2 the Commission, and I've got some questions for you.
3 When I've finished, counsel for some of the other
4 parties may also have some questions for you as well,
5 and when we've all finished, if Mr Wilken thinks it's
6 necessary or appropriate, he will ask you any further
7 questions that he wishes to do.

8 During the course of the various questioning by me
9 and the other counsel, the Chairman and the Commissioner
10 may also ask you questions as well. So let's make
11 a start.

12 Mr Rodgers, as I understand it, your supervisory
13 role on this project covered the entirety of the EWL and
14 the NSL slabs; is that right?

15 A. That is correct, yes.

16 Q. Am I right in thinking that the sign-in/sign-out process
17 that Leightons had for their sub-contractors and for
18 their general labourers did not apply to supervisors
19 such as yourself?

20 A. No, because we generally went through a different gate.
21 It would register if you swiped your card but not
22 necessarily.

23 Q. Right. So there was no formal process for signing in
24 and signing out so far as you personally were concerned?

25 A. That is correct.

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1 Q. Now, you say, in paragraph 18 of your first witness
2 statement, if you could look at that, please:

3 "China Technology was run by Jason Poon. In the
4 early stages of the project, I would have contact with
5 Poon around once or twice per week."

6 Mr Rodgers, how do you define the "early stages",
7 please?

8 A. When they were kicking off, basically. It was probably
9 pre Jason having a superintendent on the site, the very
10 early stages, when he was mobilising. Hazard a guess,
11 maybe the first month of his contact on site.

12 Q. We know that Mr Thomas Ngai became Mr Poon's
13 superintendent or China Technology's superintendent, and
14 indeed you refer to Mr Ngai in your second witness
15 statement?

16 A. Yes, correct.

17 Q. Mr Ngai has told us that he joined as China Technology's
18 superintendent at the beginning of October 2015, so your
19 contact with Mr Poon probably would have been more
20 frequent up to that point; would you agree with that?

21 A. Only on some things. Depending on what other people he
22 may have had before October, we may have made contact
23 with, but I'm pretty sure our daily meetings started
24 before October, so depending on who was there in the
25 very early stages. But when Thomas did come along, it

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1 was always Thomas I dealt with.

2 Q. Okay. Could I then refer you, please, to paragraph 21
3 of your first witness statement, where you say, about
4 halfway down, "However, at no point" -- do you see that?

5 A. Yes.

6 Q. It says:

7 "However, at no point did he [Jason Poon] ever say
8 to me that there were issues with defective rebars. He
9 never said that the threaded ends of rebars had been cut
10 off. It never came up in one of our daily meetings ...
11 and none of my site team, the Leighton engineers or
12 MTRCL staff ever reported that Poon or any China
13 Technology staff had raised the issue."

14 Now, I appreciate, Mr Rodgers, that you expand upon
15 that in paragraphs 9 to 12 of your second witness
16 statement, but we don't need to look at it, but can
17 I just put this to you, that on one view, Mr Poon has
18 slightly expanded the evidence that he has given about
19 at least one of the meetings he says he had with you.
20 What he says is this, that he had a meeting with you and
21 Gabriel So in September 2015, at some point prior to
22 15 September, at 3 o'clock in the afternoon at the Food
23 Forum in level M of the Hung Hom Station, where he
24 discussed the cutting of rebar with you.

25 Would you like to comment on that contention,

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1 Mr Rodgers?

2 A. I have never been to the level M food court in Hung Hom
3 Station with Gabriel So, let alone with Jason Poon.

4 Q. Okay.

5 Secondly, Mr Poon says that somewhere between 15 and
6 20 September, he, you and Gabriel So had a site walk
7 where you saw some rebar cutting taking place, and that
8 he, Jason Poon, tried to stop the people that were doing
9 the cutting. Do you recall that?

10 A. No, I do not.

11 Q. He also says that Gabriel So instructed the workers
12 doing the cutting to continue to do so. Do you recall
13 that?

14 A. No, because I wasn't there. I don't recall being with
15 Poon and Gabriel So.

16 Q. Okay. Thank you very much.

17 Could I then ask you, please, to look at
18 paragraph 25 of your first witness statement. You say
19 there:

20 "While I was working on the project, I was never
21 aware of any threaded ends of rebars being cut off."

22 A. That is correct.

23 Q. You then say:

24 "I know now that one of Leighton's engineers, Edward
25 Mok, identified rebars with the threaded ends cut off on

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1 three occasions from around September to December 2015
2 and had them rectified immediately."

3 When you say "I know now", when did you first know,
4 Mr Rodgers, about those three occasions?

5 A. About June, or -- earlier this year, only this year.

6 Q. So June 2018?

7 A. Pretty much.

8 Q. And how did you come to know about them at that time?

9 A. It was come through from -- I think it was the MTR
10 witness or statement or something like that.

11 Q. Okay. Presumably, Mr Rodgers, you would accept that the
12 cutting of threaded rebar is a serious matter?

13 A. Yes, it is.

14 Q. And it happened, according to Mr Mok, and I think we now
15 know Mr Cheung agrees with him, on three occasions. It
16 involved, it appears, at least seven to eight rebars.
17 It happened at the EWL slab, and the EWL slab, as you
18 said a moment ago, is essentially on your watch.

19 Is it not slightly surprising, Mr Rodgers, that you
20 weren't made aware of these three incidents at the time
21 they occurred?

22 A. No, not necessarily. If it was raised and put to bed
23 without much problem or fanfare, then yeah, I wouldn't
24 necessarily know about it, if the rectification --
25 usually come across with my work is if there was

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1 something that was a major, that maybe held up progress,
2 sticking to programme, I suppose, or was a major safety
3 issue, then it'll get raised, but if it was something
4 that was raised and actually rectified pretty much
5 straightaway, then yes, not necessarily.

6 Q. The third occasion that Mr Mok identifies gave rise to
7 the issue of a non-conformance report, non-conformance
8 report no. 157. Did you have any knowledge at all of
9 that non-conformance report having been issued?

10 A. No, none that I remember.

11 Q. Have you ever seen non-conformance report no. 157?

12 A. Not that I remember, no.

13 Q. All right. Could I move on, then, to paragraph 26 of
14 your first witness statement, where you say:

15 "I understand that Jason Poon made allegations about
16 my knowledge of these issues in an email that he sent to
17 Anthony Zervaas on 7 January 2017. I have been told
18 that he said that I was 'well aware' and was 'directing
19 the activity' of cutting the threaded ends of rebars.
20 That statement or any statement to that effect, is
21 categorically and completely false. It is simply
22 a barefaced lie. I reject it entirely."

23 Mr Rodgers, the email you mention in the first
24 sentence of paragraph 26, have you ever seen that email?

25 A. No, I don't think so, no.

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1 Q. Can I show it to you, please?

2 A. Yes.

3 Q. It will be found at C12/7940.

4 So, Mr Rodgers, are you telling us that this is the
5 first time you've seen this email?

6 A. Yes.

7 Q. So what the first sentence says is this:

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

11 So this is the first time that you've ever seen this
12 email; is that right?

13 A. That is correct, yes.

14 Q. So it was not shown to you by either Mr Zervaas, Mr Tam
15 or Mr Manning -- I think all three Leighton people --
16 back in January 2017?

17 A. No, it wasn't.

18 CHAIRMAN: When did you finish on the project?

19 A. On the Hung Hom Station?

20 CHAIRMAN: Yes.

21 A. I think it was about -- it was after Chinese New Year
22 that year, so around March, I think, I went to another
23 project.

24 MR PENNICOTT: Mr Rodgers, perhaps it's my error. I should
25 have asked you a question right at the outset, because

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1 in the first line of your first witness statement --
2 could you go to that, please, at 20685 -- you will see
3 you say:

4 "I was, from 1 June 2015 until 15 April ..."

5 Should that say 2017, Mr Rodgers?

6 A. No, that's 15 April 2018.

7 Q. 2018? All right.

8 A. Yes. I worked for Leighton Contractors, so whether it
9 was at the Hung Hom Station or the new project over at
10 PCB, the passenger clearance building.

11 Q. Okay. Sorry, let's just get this clear. On this
12 particular project, the SCL1112 Hung Hom Station, you
13 were still there, as I understand it, in January 2017;
14 is that right?

15 A. Yes. That is correct, yes.

16 Q. And you moved to a different project, Leightons project,
17 in Hong Kong, sometime after Chinese New Year in 2017;
18 is that right?

19 A. Yeah. That is correct, yes.

20 Q. Then you continued on that project until April 2018,
21 when presumably you went a back to Australia?

22 A. That is correct, yes.

23 Q. Okay. So back to where we were. Thank you for that.
24 You weren't shown the email back in January 2017 by
25 either Mr Zervaas, Mr Tam or Mr Manning.

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1 Were you aware that following this email, following
2 receipt of this email, Mr Stephen Lumb, a Leightons
3 senior engineer, carried out an internal review of the
4 issue of cutting threaded rebar? Were you aware of
5 that?

6 A. No, I was not.

7 Q. Could I ask you, please, to be shown Mr Lumb's review
8 report, which is at C27/20242. That's the front sheet
9 of Mr Lumb's review report, Mr Rodgers.

10 COMMISSIONER HANSFORD: Can we scroll down to the date,
11 please?

12 MR PENNICOTT: Yes.

13 COMMISSIONER HANSFORD: Thank you.

14 MR PENNICOTT: You'll see that the first issue was
15 17 January 2017, and the second issue, revision 1, was
16 10 February 2017; do you see that?

17 A. Yes, I do.

18 Q. I think I know the answer to this question but I'll ask
19 you anyway: have you ever seen this report before?

20 A. No, I have not.

21 Q. Could I just please ask you to be shown paragraph 1.2 of
22 the report, at 20245. What Mr Lumb says there, in the
23 last sentence, is:

24 "The investigation was carried out on site between
25 9 and 11 January" -- and that should clearly say "2017",

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1 not "2013" -- "and involved" --

2 COMMISSIONER HANSFORD: "2103", it says.

3 MR PENNICOTT: 2103, indeed. It should say "2017".

4 "... and involved an inspection of available site
5 records, and interviews with key members of the
6 construction team."

7 Before I ask you the question, if you go to 20250,
8 please, at the top, Mr Lumb says in the first line:

9 "Having interviewed various members of the
10 construction and supervision teams ...", and so forth,
11 and so on.

12 Then 20253, please:

13 "The organisation structure", you can see there
14 after the bullet points, "for the construction is
15 attached in appendix I."

16 Do you see that?

17 A. Yes.

18 Q. If we go to 20354, we see -- if you go right across to
19 the right-hand side, please -- I think, Mr Rodgers, your
20 name appearing under the box that says "HUH structure
21 day shift"; do you see that?

22 A. That's correct, yes.

23 Q. With that lead-up, is it the case, therefore,
24 Mr Rodgers, from what you've told us so far, that
25 Mr Lumb did not interview you for the purposes of

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1 putting this review report together?

2 A. Yes, that is correct.

3 Q. So the one person that Mr Poon mentioned in his email
4 was not interviewed for the purposes of this report.
5 That seems to be the conclusion, Mr Rodgers. Is that
6 right?

7 A. That is correct.

8 Q. I'll have some questions for Mr Lumb in due course about
9 that. That's Mr Lumb.

10 Did you ever have any conversation at all with
11 Mr Zervaas at any time about this email?

12 A. No, I did not.

13 Q. All right.

14 CHAIRMAN: Sorry, could I just ask -- I'm sure you'll
15 understand it's a bit puzzling, at face value, because
16 what we have is evidence of an email saying that you
17 knew all about this and actually played a part in it,
18 and then a report is done, and you're not interviewed
19 for that report, nor are you made aware of what could be
20 a fairly serious allegation against you. That's your
21 memory, is it?

22 A. Sorry?

23 CHAIRMAN: That's your memory? You don't have any
24 recollection of anybody discussing this with you?

25 A. No.

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1 CHAIRMAN: Okay. You see, while I'm sure everybody would
2 have been fully aware of your integrity, and that's not
3 in question in this question, you may have been able to
4 assist, would you agree, with something? You may have
5 been able to say, for example, "Oh, yes, he did come up
6 with some allegations, he did discuss it with me, we
7 went and did an inspection, and all we found was
8 something very normal and he's talking rubbish,
9 basically." Do you see what I mean? In other words,
10 you might have been able to put that email into full and
11 proper context.

12 A. Possibly --

13 CHAIRMAN: Would you have expected somebody to come and have
14 a chat to you, therefore?

15 A. Probably -- not necessarily, because it might have been
16 antagonising -- something else that'll antagonise me.
17 At that particular time, I think there was issues with
18 China Technology getting things done. I do know there
19 was a lot of pressure on them, especially handing over
20 rooms, and I was putting a lot of pressure on them to
21 get people and get things done safely and clean up, and
22 all that sort of stuff. Perhaps -- I may be surmising,
23 I don't know, I'm not trying do make up things --

24 CHAIRMAN: No, I appreciate that.

25 A. -- but I presume maybe they didn't just so there was no
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1 antagonising done, perhaps. I don't know. I really
2 don't know.

3 CHAIRMAN: Okay.

4 MR PENNICOTT: Mr Rodgers, can I invite you to look at your
5 second witness statement, please, for which I need to
6 get another file; just give me a moment. It's in
7 C32/24096.

8 If you could be shown, please, paragraph 14 on
9 page 24098. It so happens, Mr Rodgers, this is
10 a passage that we've looked at with another witness
11 before, because you helpfully set out the hat-colour
12 system in this paragraph.

13 What I want to focus on is (a), "Red hats indicated
14 banksmen"?

15 A. Yes.

16 Q. My understanding of a banksman is he's a worker who
17 directs the operation of a crane or large vehicles that
18 are carrying loads and maybe despatching loads, and so
19 forth. Is that right? Have I got that right?

20 A. No. Red hats -- partly. Red hats don't direct cranes.

21 Q. Right.

22 A. That's a blue hat.

23 Q. How would you describe a banksman?

24 A. That's a dockman or a rigger.

25 Q. Right.

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1 A. Red hats are purely -- in Leighton's system, red hats
2 are there to direct plant and equipment like excavators,
3 reverse crane lorries or trucks into position, to
4 keep -- be a spotter for excavators and/or earth-moving
5 equipment. They may direct on-site traffic as well. If
6 they are doing directing work, under the Leighton system
7 they have to wear -- apart from the red hat they have to
8 wear a safety vest actually with LED lights, have a red
9 torch so the people can see them, and the trucks can see
10 them, so they can also give them signals depending on
11 which way they hold the torch, and a whistle as well.

12 Q. Thank you very much. The reason for focusing on that,
13 Mr Rodgers -- I expect you can see what's coming -- in
14 paragraph 17 of your second witness statement at 24099,
15 you comment upon the seven photographs that are attached
16 to Mr Poon's witness statement --

17 A. Yes.

18 Q. -- first witness statement. In particular, you comment
19 at 17(b) on photo number 2, at D1/227. If that could be
20 put up, please.

21 You can't look at your statement and look at this
22 photograph at the same time. This is a problem. Let's
23 just -- we've seen the photograph --

24 COMMISSIONER HANSFORD: He's got them both.

25 MR PENNICOTT: You have them both. The wonders of
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1 technology. Thank you so much. Fantastic. Well done!

2 Thank you, Kiki.

3 You say about this photograph in 17(b) --

4 A. Yes.

5 Q. -- Mr Rodgers:

6 "The red hats indicate that the workers are
7 banksmen. They appear to be cutting the protruding
8 diaphragm bars because of cover issues (cover issues are
9 when the steel bar is too close to the finished surface
10 level of the structure so may cause corrosion or
11 durability issues). It looks like the diaphragm wall
12 because of the twin rows of vertical bars, the bars look
13 to have concrete dust on them, there are capping bars
14 joining the vertical bars together and there is a white
15 plastic sheet which is used just outside the diaphragm
16 wall for concrete protection and waterproofing".

17 A. Yes.

18 Q. That's what you say at 17(b).

19 Then if we could go on to paragraph 20, please, of
20 your witness statement, you say this:

21 "The only portable cutting machine I know of was
22 a portable band saw. It was made by manufacturer,
23 Hilti. It was a slow and cumbersome way of cutting
24 rebar. To cut a 50 millimetre rebar would probably take
25 around five minutes. It should only be used if a bar

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1 needed to be cut in situ, such as if a protruding bar
2 was attached to the diaphragm wall (as appears to be the
3 case in photo 2 [that we have just looked at and are
4 still looking at] ...)."

5 Just pausing there, are you saying, Mr Rodgers, that
6 the machine, the cutting machine we can see in the
7 photograph, is the Hilti machine?

8 A. Yeah. I'm not 100 per cent certain. I know Hilti do
9 make one. Whether that one was a Hilti one or not,
10 I can't say 100 per cent for sure, but it looks very
11 similar, yes.

12 Q. Sorry, you were going to add something?

13 A. No.

14 Q. I suppose the first question I would ask is: well, the
15 two workers there are wearing red hats?

16 A. Yes.

17 Q. They are therefore, by your definitions, banksmen?

18 A. Yes.

19 Q. What are banksmen doing using a band saw, cutting rebar,
20 Mr Rodgers? Have you any idea?

21 A. Yeah, they can be used to do other work, apart from
22 being banksmen. A banksman is what they are trained to
23 do. They're not a general labourer as such. But as
24 a general rule we had mostly banksmen with us, whether
25 they were day labour or employed by us, and so any of

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1 the work that was cut in situ from the diaphragm wall,
2 like issues with the cover -- bars, then that was
3 Leighton's responsibility to cut.

4 Q. Right. So Mr Cheung has told us that the two workers
5 that we can see in this photograph at 227 were not
6 Fang Sheung workers, and from what you've just said,
7 I think you would accept that, would you?

8 A. Yes, 100 per cent.

9 Q. So you think these would be labourers hired by Leighton?

10 A. Yes, correct.

11 Q. That's very helpful. Thank you.

12 CHAIRMAN: Can I just make sure I understand this. That
13 photograph, on your estimation, appears to show, and
14 I'll put it in blunt terms, a piece of rebar sticking
15 up.

16 A. Yes.

17 CHAIRMAN: As I understand what you're saying, you're saying
18 when the concrete pour comes about, that bit that's
19 sticking up, if left there, could be right near the
20 surface of the concrete pour or close to the surface and
21 could therefore cause corrosion or durability issues?

22 A. Yes, that is correct.

23 CHAIRMAN: So what you want to do is cut it down so that
24 it's well away from the surface?

25 A. Yes, so we have the cover on the concrete which
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1 depending on -- I think it was about 70 millimetres,
2 from our specification.

3 CHAIRMAN: Okay. Now, you say -- so this type of work, the
4 cutting work of these protrusions would be for Leighton,
5 not for Fang Sheung? Fang Sheung just do the fitting?

6 A. Yes. Anything to do with the cutting of the diaphragm
7 wall bars that were either protruding into the cover
8 zone of the slab maybe need to be trimmed to allow other
9 bars to get through, if they were the installation bars.
10 There are other areas where we cut where there were
11 actually air pits for the -- that went through the
12 diaphragm wall as well. These were all cut with the
13 band saw blade because you can't use oxyacetylene; it
14 eats the rebar.

15 CHAIRMAN: And this work is done by Leighton, not by
16 Fang Sheung?

17 A. Correct, directed by Leightons, yes.

18 CHAIRMAN: So would you expect to see Fang Sheung people
19 using any sort of machine to cut rebars on site?

20 A. No. Generally -- unless -- like I said, the only time
21 you would cut -- use a machine to cut that rebar was if
22 it couldn't be done in situ. They may use it to cut
23 a bar if it -- say, the inspection was done and all the
24 bars were tied around it and they could actually fit it
25 in, they may decide to cut a bar in the slab that
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1 they've set up just, same again, for cover issues, if
2 they hadn't bent a bar correctly, for argument's sake,
3 or it was a bit too long. But as a general rule, the
4 steel fixers would always use their hydraulic guillotine
5 machines, cutting machines.

6 CHAIRMAN: Thank you.

7 COMMISSIONER HANSFORD: Could I just ask, Mr Rodgers, is
8 that the lower layer of steel or the upper layer of
9 steel that they're standing on? Can you tell?

10 A. I can't -- I can only surmise -- I can't see the picture
11 because the court is over the top.

12 COMMISSIONER HANSFORD: Can we blow the picture up?

13 A. Or can you put it to the left-hand side again?

14 MR PENNICOTT: Does the "plus 1.02" give you a clue,
15 Mr Rodgers?

16 A. "Plus 1.02" is just an RL that gives them -- I think
17 it's the upper layer but I can't be 100 per cent sure.
18 It could be the bottom layer or the upper layer, for
19 argument's sake.

20 COMMISSIONER HANSFORD: I was just wondering --

21 A. Sorry, all I do know is it must be close to one of the
22 edges, because of the white plastic there, because that
23 was done on the outside of the diaphragm walls.

24 COMMISSIONER HANSFORD: Yes. I was just wondering,
25 Mr Rodgers, if it were the lower level, why would one be

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1 concerned about cover issues of a protruding bar?

2 A. It could be also, if you get have a look at those bars,
3 get a gap in between so they can lay the horizontal bars
4 through -- I don't know. Just when I look at the
5 picture, it's just what comes to mind. And then seeing
6 the double-railed bars -- yes, it sort of reminds me of
7 the diaphragm.

8 COMMISSIONER HANSFORD: Okay, thank you. That's helpful.

9 MR PENNICOTT: Give me one moment.

10 CHAIRMAN: While Mr Pennicott is looking, can I ask you
11 something more general. You said you were putting
12 pressure on China Technology.

13 A. Yes.

14 CHAIRMAN: Would it be correct to say that you were also
15 putting pressure on other sub-contractors, such as
16 Fang Sheung?

17 A. Not as much. On the later stages of early 2017, there
18 was a big push, especially by the MTR, to get a lot of
19 these rooms handed over to the other contractors, like
20 1153 and 1173, all the people that were doing the
21 fit-out and the M&E work, et cetera, for these rooms for
22 the station, because of the lead-time. So there was
23 probably more pressure on China Tech with formwork,
24 because the rooms were pretty much opposite the way the
25 EWL slabs work; it required the formwork to be there

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1 before -- or generally the formwork to be there before
2 they could tie reinforcement. So you had to put one
3 side of the wall up, then they would tie reinforcement,
4 then they had to close it up and pour the concrete. So
5 it was more a factor of enough people there to get the
6 formwork done. It was more time-consuming than, say,
7 the slabs. The slabs were more time-consuming with the
8 rebar, with the amount of rebar.

9 CHAIRMAN: All right. Then just one thing else. We've
10 heard from two sources now that the actual job, the
11 fitting the rebars, it was not an easy job; it was quite
12 a tough job. What would be your comment on that?

13 A. Yeah, it could be hard. It can be tough.

14 CHAIRMAN: I don't mean generally --

15 A. More because of the size of the bars and the way the
16 layers worked, yes.

17 CHAIRMAN: On this particular job, that is?

18 A. I don't know. I can't 100 per cent really say. This is
19 probably the first job I've used couplers to the extent
20 that they have been used. In construction, as a general
21 rule, we don't use them that much in Australia.

22 CHAIRMAN: Thank you.

23 MR PENNICOTT: Just one last question on that photograph,
24 just to make clear the position, Mr Rodgers. I think
25 you may have answered this but perhaps not -- I will ask
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1 you anyway -- the machine that you think is a Hilti
2 machine, was that owned by Leighton?

3 A. Could have been, yes. Could have been. But I think
4 a few different people would have it. They were
5 reasonably readily available.

6 Q. All right. Can I ask you to be shown a photograph,
7 please, at E5/1293.

8 If you blow the photograph up, please, and just go
9 down slightly so Mr Rodgers can see the red annotation
10 on the right. That's it. Thank you.

11 Mr Rodgers, you see a group of workers gathered
12 around a gentleman wearing black with a white helmet; do
13 you see that?

14 A. It's not black, it's navy blue.

15 Q. Yes. Is that person you?

16 A. Yes.

17 MR PENNICOTT: Thank you very much.

18 Sir, I've got no further questions.

19 CHAIRMAN: Thank you.

20 MR PENNICOTT: Thank you, Mr Rodgers.

21 Cross-examination by MR SO

22 MR SO: Good morning, Mr Rodgers.

23 A. Good morning.

24 Q. I represent China Technology. I have some questions for
25 you.

26

1 A. Yes.

2 Q. The first thing is, you just -- when you were answering
3 the Chairman's question about whether Fang Sheung
4 workers would have the chance of cutting rebars -- do
5 you recall that answer?

6 A. Which one?

7 Q. When you were answering the question of the Chairman,
8 you did mention that sometimes Fang Sheung workers would
9 cut the rebars?

10 A. I said they may cut the rebar when it was in situ. If,
11 say, it was tied in place and they had a cover issue or
12 there was some other issue and they couldn't remove the
13 rebar, then they may cut it, but if they needed to, as
14 a general rule, they would use their guillotine or their
15 hydraulic cutter.

16 Q. I just want to clarify one matter. When you say "they
17 may", have you actually seen that on the site in
18 SCL1112?

19 A. Fang Sheung?

20 Q. Yes.

21 A. No, not that I can recall.

22 Q. So, when you say they may cut the rebars, are you
23 referring to the threaded section of the rebar or the
24 unthreaded section of the rebar?

25 A. The unthreaded section of the rebar.

26

1 Q. I wish to move to another topic. On occasions we heard
2 from evidence that Leighton might put dowels into the
3 diaphragm wall when there were problems in the couplers.
4 Were you aware of that?

5 A. No.

6 Q. So you were not aware that sometimes it would be
7 requested by Fang Sheung workers that certain couplers
8 don't actually work, so Leighton would fix dowels; you
9 are not aware of this?

10 A. No, that is correct.

11 Q. When Mr Pennicott was referring you to the NCR157, you
12 told us you were not aware of that NCR; correct?

13 A. Correct, I'm not -- I don't recall it, no.

14 Q. Did you recall engineers, any engineers from Leighton,
15 mentioning to you verbally or on paper, in writing, that
16 they saw any cuttings of the threaded section of the
17 rebar?

18 A. No, I did not.

19 Q. So presumably you would also accept that an NCR would
20 only be issued if there are certain serious matters
21 occurring in the site; correct?

22 A. It's a non-conformance so it's not -- how would you put
23 it? It's a non-conforming report which means it doesn't
24 conform to the specifications. The seriousness of it is
25 usually probably calculated on how quick it is closed

26

1 out.

2 CHAIRMAN: So, in other words, an NCR by its nature may or
3 may not be serious?

4 A. Correct.

5 CHAIRMAN: The non-conformance may in fact be relatively
6 small and not of great moment. On the other hand, the
7 non-conformance may be very serious?

8 A. It could be. Generally, in construction, and in my
9 experience, the more serious of an NCR is how long it
10 takes to actually close out, because, you know,
11 sometimes, if it's serious and it's non-conforming, it
12 just can't be closed.

13 COMMISSIONER HANSFORD: Mr Rodgers, sorry. Is
14 a non-conformance report different to a warning letter?

15 A. I think the general rule -- non-conformance is something
16 that doesn't conform to the specification or whatever.
17 Something a bit more serious is a corrective action
18 report, and a warning letter is probably more to do with
19 contractual than anything, under the quality system.

20 COMMISSIONER HANSFORD: So your understanding or what you're
21 telling us is non-conformance reports, corrective
22 actions and warning letters are three different things?

23 A. I think so. Under what I understand, quality, it's more
24 about non-conforming, it's the product, so it doesn't
25 meet the specification, it can be corrected or it can be

26

1 said that it doesn't hinder the thing the client may
2 approve it. A corrective action means you've got to do
3 something to correct the actual situation. And
4 a warning letter, I think the warning letter sent to,
5 say, a sub-contractor or someone is more about
6 contractual issues.

7 COMMISSIONER HANSFORD: Thank you. That's helpful.

8 MR SO: I just want to follow up that point, Mr Rodgers.

9 Insofar -- you can tell us if you don't know -- how many
10 NCRs were issued in SCL1112?

11 A. I've got no idea.

12 Q. All right. Thank you.

13 Can I just bring you to the first witness statement
14 you have given to the Commission. Can I go to
15 paragraph 19. In the witness statement, you mentioned
16 that money became an issue for China Technology;
17 correct?

18 A. Yes, I believe so.

19 Q. Insofar as I understand, you, being the superintendent
20 of the site, your primary responsibility is the
21 technical side of the project, namely project safety and
22 the progress; is that right?

23 A. My first priority was safety, and then which followed
24 productivity from there, yes.

25 Q. So is it correct that the financial aspect of the
26

1 project is not something that you would have knowledge
2 of?

3 A. I would understand some -- there were some meetings
4 I attended where it was spoken about, yes.

5 Q. Can I suggest to you that you were simply speculating
6 that money has become an issue for China Technology?

7 A. Yes, that's correct.

8 Q. Can I just move on -- in the same paragraph you say you
9 believe that Jason Poon reduced the grade of workers
10 that did attend site. Did you actually know about it?

11 A. Yeah, I believe so, just by looking at how they did
12 things on site, yes.

13 Q. So did anyone tell you that they had workers with less
14 experience coming into the site, or you are just
15 speculating?

16 A. No, no, just from what I could see from the work that
17 was being done, how quickly it was being done, the
18 issues we had with the formwork collapsing and that,
19 yeah, I would say the grade of workers would be less.

20 Q. Can I bring you down to paragraph 22. There you said
21 you heard some of the staff had taken Mr Poon to the
22 Labour Tribunal for unpaid wages; correct?

23 A. Yes, that's correct.

24 Q. I have to put it to you that that is again speculation.

25 A. No. Like I said, it was only a comment that was made to
26

1 me --

2 CHAIRMAN: Does that help me? Sorry, does that help me?

3 I mean, he's heard this. Is there any substance in it
4 or not? It helps me if you say it didn't happen, or it
5 may help me if you say, "Yes, we accept it did happen;
6 we will explain later the circumstances" or something.

7 MR SO: I put it to him that it did not happen, so that's
8 complete speculation.

9 CHAIRMAN: Would you accept, if you were told it didn't
10 happen, that perhaps that didn't happen?

11 A. Sorry, is that directed to me?

12 CHAIRMAN: Sorry, yes, about being taken to the Labour
13 Tribunal. It's suggested it didn't happen. What would
14 be your answer?

15 A. It would be the same thing. It's easy enough to see.
16 Like I said, it was just a comment that was made to me.
17 But if it was taken to the Labour Tribunal, then it
18 would be on record, I presume, with the Labour Tribunal,
19 so one way or the other it can be checked.

20 MR SO: Can I bring you to the last bit, paragraph 23. In
21 paragraph 23, you mentioned -- you described, actually,
22 Mr Poon as being an aggressive and manipulative
23 individual, and you provided the reason, because both
24 yourself and Mr Poon were arrested on one occasion and
25 were bound over; is that correct?

26

1 A. Yeah, that's correct, yes.

2 Q. You were arrested on 13 March 2017. Do you have a rough
3 recollection of that?

4 A. Yeah. I don't know the date, but I do know it was after
5 Chinese New Year.

6 Q. And of course you were legally advised at that time,
7 I presume; correct?

8 A. Yes.

9 Q. And you were eventually brought to the Magistrates'
10 Court for bound over, according to what you say in your
11 witness statement; correct?

12 A. That is correct, yes.

13 Q. On that occasion, when you were bound over in the
14 Magistrates' Court, was Mr Poon with you together?

15 A. No.

16 Q. Mr Rodgers, I have to put it to you Mr Poon was simply
17 never charged.

18 A. Okay. That's fine.

19 Q. So where did you get the information from that he was
20 charged and bound over?

21 A. No, I just assumed he was, that was all.

22 Q. So you were guessing?

23 CHAIRMAN: Well, he's assuming, yes.

24 MR SO: Mr Rodgers, I have to put it to you that the police
25 actually also told you that one of the reasons that you
26

1 were bound over is because Mr Poon agreed that you would
2 be bound over in this common assault case.

3 A. No. That is incorrect.

4 Q. Do you agree or disagree?

5 Sorry, I cannot hear your answer.

6 A. No.

7 MR SO: I have no further questions.

8 CHAIRMAN: Thank you.

9 Yes?

10 Cross-examination by MR KHAW

11 MR KHAW: Mr Rodgers, I am acting for the government and

12 I have a few questions to ask.

13 A. Yes.

14 Q. May I take it that you are still working for Leighton?

15 A. No, I am not.

16 Q. When did you leave Leighton?

17 A. Sorry?

18 Q. When did you leave Leighton?

19 A. April 2018.

20 Q. I see. And you are still working in the construction
21 industry, I guess?

22 A. That is correct, yes.

23 Q. If we can take a look at the organisation charts of
24 Leighton, which would tell us the workforce and also
25 your position. That is C7/5536.

26

1 We can blow that up a little bit and try to find
2 your name. Got it, yes.

3 We can see that there are various supervisors
4 working under you; right?

5 A. Yes.

6 Q. And the position was more or less the same in 2016; is
7 that correct? Because this organisation chart shows the
8 position in 2015, when the project just started.

9 A. Yeah, pretty much, I think.

10 Q. So you were supported by quite a big team of
11 supervisors, technicians and foremen; is that correct?

12 A. That is correct, yes.

13 Q. Now, as a superintendent, I just want to know more about
14 your responsibilities.

15 A. Yes.

16 Q. Am I correct to say that you would be responsible for
17 providing on-site coordination for all phases of the
18 project?

19 A. Of that particular area, yes.

20 Q. And you were also responsible, obviously, for
21 coordinating sub-contractors?

22 A. Yes.

23 Q. And one of your main duties was to ensure that all the
24 specifications were strictly followed?

25 A. At a high level, yes.

26

1 Q. And in your witness statement, you also talked about
2 safety as your first priority; do you remember that?

3 A. Yes, that was --

4 Q. Now, in relation to safety, I suppose it has two aspects
5 in relation to your job. Correct me if I am wrong, one
6 aspect obviously is to ensure the safety of the site, ie
7 the site safety for workers; right?

8 A. Correct. That was my major --

9 Q. Another aspect of safety is obviously to ensure that the
10 works carried out would comply with quality requirements
11 in order to ensure safety for future use?

12 A. Correct.

13 Q. In your witness statement, you have also described your
14 routine and inspection; do you remember that?

15 A. Yes.

16 Q. Perhaps before we go into this area -- you just told us,
17 I believe, when Mr Pennicott asked you some questions,
18 that you actually were assigned to work for another
19 project after Chinese New Year in 2017?

20 A. Yes.

21 Q. At that time, this Hung Hom project was still under
22 quite a lot of time pressure; is that right?

23 A. Yeah, mainly with the room handover, the rooms and the
24 area handover to the different -- the following
25 contractors.

26

1 Q. Right.

2 A. The majority of it had been done.

3 Q. Can you tell us the reason why you were at that time
4 assigned to another project?

5 A. They had a safety issue over there. The general manager
6 had gone to the other project and pretty much told me if
7 they didn't sort it out then a lot of people were going
8 to get sacked. They directed me over there because
9 I had been doing a lot of that work and probably being,
10 I suppose, what do you call it, a gweilo would help out
11 with getting the safety fixed up and the system of being
12 actually able to do the work safely, done better.

13 Q. I see. So you were asked to deal with the safety issues
14 in relation to that particular project which were quite
15 important?

16 A. There were -- same again, there was a fair bit of time
17 pressure over there. There was a heavily reinforced
18 concrete arrival deck at the passenger clearance
19 building. There was issues with steel fixing, working
20 at heights, and the method of actually having to do the
21 work. So it was more about someone being there all the
22 time to tell people what to do and at what particular
23 time to do it, all that sort of stuff, work with the
24 cranes.

25 Q. Can you tell us, before you were assigned to work on
26

1 another project, after Chinese New Year 2017, when you
2 were still working for the Hung Hom project, were you at
3 the same time also responsible for other projects?

4 A. No.

5 Q. Just Hung Hom project at that time?

6 A. Yes, correct.

7 Q. Okay. Thank you.

8 You remember in your witness statement you talk
9 about your work including the fact that you walked
10 around the site in the morning with the supervisor for
11 that particular area, observing their works, and you
12 also discuss issues or problems relating to safety,
13 production or working conditions with your team. Do you
14 remember that?

15 A. Yes, correct.

16 Q. I just want to know whether this sort of routine duty
17 on site that you were responsible for involved
18 personally supervising and inspecting coupling works?

19 A. No.

20 Q. So there would be another team of supervisors who were
21 responsible for coupling works; right?

22 A. Generally, it was done, as I understand it, with the
23 engineers and the supervisor, with possibly Fang Sheung
24 as well.

25 Q. Yes. So am I correct in saying that you personally
26

1 would have close contact with Fang Sheung people?

2 A. No, not necessarily, because number one, none of them
3 spoke -- there was only one that spoke English.
4 Everyone else spoke Cantonese or Chinese. So it was
5 more on -- if I needed anything from Fang Sheung, it
6 would either be with my supervisor or with the engineer.

7 Q. Right. So am I correct in saying that you sort of
8 delegated the supervising and inspection work to the
9 site supervisors for the purpose of looking at the
10 coupling works done by Fang Sheung?

11 A. Supervisors and engineers, correct.

12 Q. And how many quality control supervisors from Leighton
13 were there for the purpose of taking care of the
14 coupling works?

15 A. Just the supervisors we have, that was -- part of their
16 brief was safety/quality. It's Leightons' requirements,
17 they're a part of that, with the engineers.

18 Q. I see. Can you just name a few people who are the sort
19 of key people responsible for taking care of the
20 coupling works, ie supervising the coupling works?

21 A. Any of those guys up there generally. Chan Chi Ip,
22 Leung Yuk Ming; they had a couple of others there.
23 Jerry Tse would have done couplers in area A. Wong
24 Chun Hong would do it as well. There's a couple missing
25 off that. The guy under Jon Bayliss also, Kwok Wa

26

1 Tsang, Lau Kam Yip.

2 Q. Anyone else?

3 A. Any of those guys. There was couplers -- in any of
4 those areas there were couplers as well. They would
5 all -- like I said, with the engineers as well.

6 Q. So they were working closely with Fang Sheung; is that
7 right?

8 A. Sorry?

9 Q. They were working closely --

10 A. Yes, if the steel fixers were there, then they would
11 work with Fang Sheung, yes, correct, they would.

12 Q. Have you ever seen a document called the quality
13 supervision plan?

14 A. Have I seen a document called -- I don't know. Which
15 document are you referring to?

16 Q. Quality supervision plan. Can I just take you to have
17 a look at H9/4265.

18 A. No, I don't think so, no.

19 Q. 4277?

20 If you can take a look at 4269, have you ever come
21 across this document called "Quality supervision plan"?

22 A. No.

23 Q. If we can go to 4267, under (b), we can see that -- it
24 says:

25 "The frequency of the quality supervision should be
26

1 full supervision by RC of the mechanical coupler
2 works ...

3 The minimum qualification and experience of the
4 quality control supervisors are to be the same as grade
5 T3 (TCP), as stipulated in the Code of Practice for Site
6 Supervision."

7 Now, are you aware of the Code of Practice for Site
8 Supervision?

9 A. No.

10 Q. You are aware of the meaning of "grade T3 (TCP)"?

11 A. No.

12 Q. So are you aware of any supervision requirements for
13 coupling works?

14 A. Only under the general supervision, and -- the engineers
15 may be, but I am not.

16 Q. Only under general supervision? I see. So any
17 particular requirements that you are aware of for the
18 purpose of supervising coupling works?

19 A. No.

20 Q. Without any parameters, then how did you know how to
21 ensure that supervision work was properly done, as
22 a superintendent?

23 A. That there was no issues with the MTR, nothing raised,
24 the engineer signed off as well with the inspections
25 with the MTR.

26

1 Q. Right. So do you know whether there was any parameter
2 that your supervisors would apply for the purpose of
3 supervising and inspecting coupling works?

4 A. Sorry, what was the question again?

5 Q. Do you know whether there was any parameter, any
6 standard, that your supervisors would apply for the
7 purpose of supervising and inspecting coupling works?

8 A. No, not that I'm aware, but like I said the engineers
9 may have had a way of doing that with the supervisors.

10 Q. Right. So I suppose the supervisors would report to you
11 on a regular basis regarding their work; is that
12 correct?

13 A. We walked around the site, to check their areas, the
14 areas they were in control of, yes, on a daily basis.

15 Q. Right. Were you aware of any incident where coupling
16 works were actually carried out in the absence of
17 Leighton people?

18 A. No. Not that I could say.

19 Q. And your knowledge was based on what your supervisors
20 told you; is that right?

21 A. The on-site supervision, yes.

22 Q. Sorry, my question was: your knowledge was based on what
23 your supervisors told you; is that right?

24 A. Yes.

25 Q. You know whenever coupling works were carried out by,
26

1 for example, Fang Sheung bar fixing workers, for
2 a particular bay, how many people from Leighton would be
3 there to supervise their work? Do you know? Can you
4 give us a rough figure?

5 A. In each of the areas, there was a supervisor or senior
6 supervisor. Under him would be either two or three
7 either foremen or junior foremen, depending on the area.
8 Also, within that, there would be a site agent, then
9 they had engineers with them as well, maybe three or
10 four. So, yeah, any particular area could have at least
11 six staff of Leightons.

12 Q. Did you keep any record for the daily sort of routine
13 work that you did regarding your site visits or site
14 walk?

15 A. No. We just do the site walk and then each day, as I've
16 said in my statements, we had a site meeting with my
17 supervisors, engineers, and the sub-contractors,
18 Fang Sheung and China Technology.

19 Q. Right. So, if you encounter any problems during your
20 site walk, site visit, every day, then did you have
21 a problem of putting in -- putting the problems or
22 recording the problems into a particular document?

23 A. No. No. As a general rule, most of the problems we had
24 or I had within the areas was generally of a safety
25 nature or a production nature in regard to material
26

1 getting in there or out of there, et cetera, as
2 a general rule.

3 Q. If you can take a look at your first witness statement,
4 paragraph 16 -- C20687 -- there you said:

5 "I would have meetings every day, usually at
6 4.30 pm, with my senior supervisors, Leighton's
7 engineers and representatives of Fang Sheung and China
8 Technology."

9 So am I correct to say that you in fact did have
10 meetings with Fang Sheung people every day, but probably
11 you did not personally talk to them? You asked your
12 colleagues to talk to them; is that correct?

13 A. I didn't, unless there was an issue with Fang Sheung,
14 then I might ask questions that had to be translated,
15 yes.

16 Q. Now you are aware of the three incidents regarding
17 defective bar fixing works which occurred in 2015,
18 according to the evidence of Edward Mok -- now you are
19 aware of that, right?

20 A. Yes.

21 Q. But you told us that you were not aware of any single
22 incident regarding defective bar fixing work until June
23 this year; right?

24 A. Yes, as far as I'm aware, yes.

25 Q. You were also not aware of the NCR until then; right?

26

1 A. Correct.

2 Q. I just want to ask you whether you actually were given
3 any NCRs during your work at the Hung Hom site, any
4 other NCR were you given?

5 A. Not on a quality issue. There were safety ones that
6 were assigned to me. I can't honestly say there was any
7 quality NCRs given to me.

8 Q. Right. Because we asked Mr Plummer yesterday whether,
9 at the material time, he was aware of the NCR and he
10 said no. Today we are asking you and you also were not
11 aware of the NCR until recently. I just want to know
12 how your people actually decided whether to give you
13 an NCR or not. Is that a particular area?

14 A. Sorry?

15 Q. Is that a particular area relating to a particular
16 non-conformance that they would report to you, or there
17 are some other areas that they would not report to you?
18 I just want to know --

19 A. Like I said before, it would probably depend on how
20 quick it was closed out. It's like most things in life.
21 You can raise an NCR for anything, as long as it's
22 non-conforming to the specification or supply material
23 or whatever. If it's closed out quickly, it's not
24 classed as a big issue, I suppose. If you get NCRs
25 regularly, like daily or weekly, then I presume the MTR

26

1 would have raised a corrective action.

2 COMMISSIONER HANSFORD: Can I ask, Mr Rodgers: is your
3 understanding that NCRs are issued to you by MTRC, or is
4 it your understanding that Leighton raises NCRs to MTRC?
5 Which way around is it?

6 A. You can -- Leightons raise an NCR, so they can raise
7 an NCR for anything, especially if they know it's
8 non-confirming. So you can raise an NCR, for argument's
9 sake, that the finished surface level of concrete
10 doesn't meet the specification, your corrective action
11 for that may be to leave as is. All right? But the MTR
12 can raise an NCR as well.

13 COMMISSIONER HANSFORD: Okay. Thank you.

14 MR KHAW: Can we now have a look at paragraph 25 of your
15 first witness statement. You said:

16 "While I was working on the project, I was never
17 aware of any threaded ends of rebars being cut off.
18 I know now that one of Leighton's engineers, Edward Mok,
19 identified rebars ..."

20 You are talking about the three occasions in 2015.

21 "I would generally only find out about defects that
22 were addressed immediately (for example as
23 work-in-progress rectifications) if I came across them
24 during my rounds of [visit]. I am therefore not
25 surprised that I did not learn about the defective

26

1 rebar identified by Edward Mok."

2 Just pausing here, you told us that in general, you
3 found out defects which were identified at the time when
4 you carried out your site visit; right?

5 Can you hear me, Mr Rodgers?

6 A. I can hear you. Can you ask the question again?

7 Q. Yes. Here you said:

8 "I would generally only find out about defects that
9 were addressed immediately (ie as work-in-progress
10 rectifications) if I came across them during my rounds
11 of the site."

12 Obviously, during your rounds of the site, you might
13 not be able to pick up all problems; do you agree?

14 A. Yeah.

15 Q. So you would have to rely on other people to report to
16 you what problems were identified; is that correct?

17 A. Yes.

18 Q. So how did you keep track of the performance of the
19 works?

20 A. Generally by not being able to do the progress more than
21 anything. If there was a major NCR that couldn't be
22 closed out, then that would stop a concrete pour
23 happening, so therefore it would be a problem with the
24 programme, so therefore, like I said, it would become
25 a major issue or a major NCR, because it couldn't be

26

1 closed out quick enough, but generally, if something is
2 raised and it's closed out maybe on that day or the next
3 day or whatever, and it didn't affect how progress went,
4 then I might not necessarily know about it.

5 Q. So you talk about "a major NCR", so in your mind you
6 would be able to differentiate a major NCR from a minor
7 NCR; right?

8 A. The way I generally differentiate between a major and
9 a minor one is how quick they get closed.

10 Q. I see. So now if you have a chance to look at the NCR
11 regarding the bar fixing work, which was found in 2015,
12 would you regard it as a major NCR or a minor NCR, since
13 it involved cutting of rebars?

14 A. I would probably have to say a major one. I would be
15 surprised -- I'd want to know why, put it to you that
16 way.

17 Q. And when you were on the Hung Hom site, were you ever
18 aware of any incident where couplers on a diaphragm wall
19 were found to be defective after they were exposed?

20 A. No.

21 Q. Not a single incident?

22 A. Sorry?

23 Q. Not a single incident?

24 A. Not that I'm aware of, no, or nothing that was, like
25 I said, probably held up production.

26

1 Q. You were not aware of any incident where, because of
2 defective coupler on the diaphragm wall, then something
3 called a dowel would need to be inserted on the
4 diaphragm wall? You were not aware of any incident?

5 A. Not that I'm aware of. Nothing that comes to mind.
6 There could have been. It would have been
7 an engineering solution.

8 Q. Now, earlier on, when you answered the Chairman's
9 question, when he asked you about whether Fang Sheung
10 people would need to use the cutter to cut steel bars,
11 you told us what you thought would be the occasion when
12 such an act would be carried out; do you remember that?

13 A. Yes.

14 Q. Can you recall whether you actually heard -- from your
15 supervisors, from your colleagues or from anyone on the
16 site -- that such cutting was done on the site?

17 A. No. Not as a general thing -- what, specifically
18 Fang Sheung?

19 Q. So when you were answering Chairman's question, on what
20 basis did you come to a view that this could be
21 an occasion where cutting was required?

22 A. As I said to the Chairman, I think the only reason
23 I would see that a steel fixer would use the electric
24 cutter to cut a bar would be if it was in situ, and say
25 there was an issue with cover, after the steel had been

26

1 tied, and it was actually quicker to use that than to
2 then actually take the bar and get it cut. That would
3 probably be the only reason.

4 But they weren't small machines either, so, you
5 know, they had to have a bit of room around them to
6 actually use them.

7 Q. Okay. If we can go to paragraph 22 of your second
8 witness statement. That should be C24101. There you
9 mention in the last four lines:

10 "If the threaded end of a rebar was damaged, the
11 workers would just go to BOSA and have it rethreaded or
12 get a new bar. There was no good reason for a worker to
13 get the band saw and spend minutes cutting off the end
14 if it was damaged. It would be quicker ... to get a new
15 bar."

16 Do you see that?

17 A. Yes.

18 Q. How long would it take for workers to go to BOSA and get
19 a rethreaded bar?

20 A. It wouldn't take long. BOSA were doing threading on
21 site in the early stages.

22 Q. So if Fang Sheung workers on site would need to get
23 rethreaded rebar, they could actually go to BOSA
24 directly, or they have to go through you; do they have
25 to go through Leighton?

26

1 A. We supplied the threaded bar -- or Leighton supplied the
2 threaded bar to Fang Sheung, for them to either bend
3 ends on them or to cut them to length as required.

4 There were a lot of threaded bars supplied to
5 Fang Sheung.

6 Q. So, on site, they could contact BOSA people for
7 replacement; is that what you are saying?

8 A. Or go through the supervisor, yes.

9 Q. Were you aware of any occasion where, during the bar
10 fixing works, there was insufficient supply of threaded
11 bars regarding type A couplers?

12 A. No.

13 Q. How did you know that if one is to cut a threaded rebar
14 by using a band saw, it would take minutes? Have you
15 tried that yourself?

16 A. Yeah. Like I said to the Chairman, before those photos
17 of the bars that are getting cut in the diaphragm wall,
18 we cut any of the protruding bars out of the diaphragm
19 wall that were either in the cover zone or required to
20 be taken out for any of the air ducts through the
21 diaphragm wall.

22 Q. Just for avoidance of any possible confusion, when you
23 were talking about portable band saw, if I can take you
24 to have a look at a picture. C40. Or maybe we can
25 actually see the real thing instead of just a picture.

26

1 (A physical exhibit was held up to the camera)

2 Is it the portable band saw that you were referring
3 to?

4 A. Correct, yes.

5 Q. Thank you. So it's like an electrical saw?

6 A. Yes. It's got a saw -- it's a saw with a blade.

7 Q. Right.

8 If we can go back to paragraph 20 of your witness
9 statement, just to understand a bit more about the
10 situation where cutting of rebar would be required
11 on site. Here you said:

12 "The only portable cutting machine I know of was
13 a portable band saw. It was made by manufacturer ..."

14 I think Mr Pennicott has referred you to this.

15 "It was a slow and cumbersome way of cutting rebar.
16 To cut a 50mm rebar would probably take around five
17 minutes. It should only be used if a bar needed to be
18 cut in situ, such as if a protruding bar was attached to
19 the diaphragm wall ..."

20 So apart from the situation where a protruding bar
21 was attached to the diaphragm wall, which according to
22 your evidence would need cutting of rebar, were you
23 aware of any other situation where cutting of any rebar
24 would be required on site?

25 A. No.

26

1 Q. We heard some evidence from Mr Joe Cheung of Fang Sheung
2 yesterday. You know him; right? You know Joe Cheung;
3 right?

4 A. Yes. He was the on-site foreman for Fang Sheung.

5 Q. Yes. Were you in contact with him regularly on site?

6 A. He was on site regularly each day, yes. He would come
7 to the 4.30 meetings each day, yes.

8 Q. Right. According to his evidence, under Fang Sheung's
9 contract with Leighton, the repair or replacement of
10 couplers was not within the scope of duties of
11 Fang Sheung.

12 A. Yes.

13 Q. Would you agree?

14 A. Yes.

15 Q. Were you aware of any incident where repair work was
16 required for couplers on site?

17 A. No, not -- no, I can't say, no. There probably would
18 have been some.

19 Q. There probably would have been some?

20 A. Yes.

21 Q. Right. So you were only aware of actual incidents where
22 couplers were replaced but not repaired on site; right?

23 A. No, not even replaced. As I said before, unless there
24 was an issue, say the coupler -- they couldn't be
25 repaired or replaced, or there was some other major
26

1 issue that would hold up our pour dates, then I would
2 know about it. But I don't know of any of them.

3 Q. Were you aware of any incident where Leighton's direct
4 labourers or any labourers hired by Leighton were
5 responsible for doing any part of the bar fixing work
6 for this project?

7 A. No, not that I'm aware. As I said before, about the
8 only thing we did with -- involving the rebar was
9 anything to do with the diaphragm wall in regards to
10 bars having to be cut off removed for any of the air
11 ducts, or if they are in cover zones, or some other
12 rectification needed to be done.

13 Q. Right. Now can we take a look at some of the pictures
14 that you refer to in your second witness statement. If
15 we can take a look at D1/227.

16 We can see two workers wearing red hats; you saw
17 that?

18 A. Yes.

19 Q. And apparently, wearing red hats means that they were
20 banksmen; is that correct?

21 A. They were trained as banksmen, yes.

22 Q. And people from Fang Sheung actually told us that they
23 did not have any banksmen wearing red hats. Do you
24 agree?

25 A. Yeah, they would say that, yes.

26

1 Q. And you agree?

2 A. Yes.

3 Q. So would you know who employed them?

4 A. These guys here?

5 Q. Yes.

6 A. I would say they're a sub-contractor but they are
7 doing -- like I said to you, it seems like they are
8 doing work for us. As I said before, I think it's
9 for -- on the diaphragm wall.

10 Q. So are you saying that apart from Fang Sheung, Leighton
11 also engaged another sub-contractor for doing bar fixing
12 work?

13 A. No, I am not.

14 Q. So when you talk about sub-contractor, you are talking
15 about sub-contractor doing the work that we can see from
16 the pictures; right?

17 A. Correct.

18 Q. And apparently their work is bar fixing work; right?

19 A. No. No. Those guys -- I think I've said before --
20 Leightons did not have many direct employee labour. We
21 would hire labour from other sub-contractors on a daily
22 basis for daily works.

23 Q. I see. So those workers, apparently -- because from
24 this picture they were working on reinforcement bars --
25 they would be working with Fang Sheung workers on site;

26

1 is that correct?

2 A. They would have been directed -- looking at the picture
3 and surmising that it is the diaphragm -- as I said
4 earlier, it looks like it's part of the diaphragm wall
5 because of the location of it, with the white plastic
6 there -- and looking at what they are doing with the
7 vertical bars they are cutting, they are cutting the
8 vertical bars on the diaphragm wall, for either cover
9 issues or for the rebar to be able to be placed in its
10 proper position, as this was not Fang Sheung's work or
11 under their contract.

12 Q. I see. If we can take a look at 232. You told us that
13 they were also not Fang Sheung workers; right?

14 A. Sorry, these ones?

15 Q. You said they were Fang Sheung workers; correct?

16 A. To me, if you ask me the question, I would say they were
17 Fang Sheung workers, yes.

18 Q. On what basis do you say that?

19 A. Because generally they wore yellow hats, probably the
20 gloves they're wearing, probably their attire.

21 Q. Any particular features in those areas that you could
22 identify for the purpose of telling us that they were
23 Fang Sheung workers?

24 A. No, not necessarily. We didn't have much general
25 labour.

26

1 Q. Leighton workers would also wear yellow hats; right?

2 A. As a general rule, we did not have that many general
3 labourers that worked for Leightons. Most of our guys
4 that worked -- that we hired on a daily basis would have
5 been banksmen or riggers or dockmen.

6 Q. But you just told us, when we were looking at 227 --

7 A. Yeah.

8 Q. -- that they were Fang Sheung's workers; right? Sorry,
9 they were Leighton's workers; right?

10 A. Yes.

11 MR WILKEN: Actually, his answer was they were
12 sub-contracted labour that Leighton had taken, hired.

13 MR KHAW: I'm sorry, yes. Yes.

14 If we go back to 232, you said you could identify
15 from the hats, the gloves, et cetera, that they were
16 Fang Sheung workers.

17 A. No, I never said that I could identify that they were
18 Fang Sheung workers. I said, if asked the question,
19 I would say they were probably Fang Sheung workers;
20 all right? Mainly because they had the gloves, their
21 attire, it's a bit dirty, I suppose, and most of
22 Fang Sheung workers wore nondescript uniform.

23 Q. If you can then take a look at 228. What do you think
24 that worker was doing?

25 A. It looks like he is cutting the threaded bar.

26

1 COMMISSIONER HANSFORD: Sorry, can we blow this photo up?

2 Thank you. Sorry.

3 MR KHAW: Can you tell us, according to what you can see

4 from this picture, what this worker was doing?

5 A. It looks like he is cutting the threaded bar.

6 Q. Right. Can you tell us whether there was any reason for
7 him to do so?

8 A. I cannot think of a reason.

9 Q. If you or somebody witnessed this worker doing this kind
10 of activity, would that raise concern?

11 A. Yes, it would. I would ask the question.

12 Q. If you or any of your colleagues saw a particular worker
13 doing such -- carrying out such an activity, like what
14 you said, he was apparently cutting a threaded rebar,
15 would that raise concerns?

16 A. Yes, I think it should, yes.

17 Q. From this picture, can you tell us whether he is
18 Leighton's worker or not?

19 A. No, I can't say for certain.

20 Q. We can blow this up and you can see his hat and also his
21 clothing clearly.

22 A. Yes.

23 Q. Any idea where he came from?

24 A. Like I said, if I was shown that straight up, I would
25 say he was a steel fixer, mostly because of his attire

26

1 and the gloves and having a yellow hat.

2 Q. Am I correct in saying that daywork labour engaged by
3 Leighton would also wear yellow hats?

4 A. If they were general labour. As I said before --

5 Q. Yes, so --

6 A. -- generally we didn't have that many general labourers.
7 Most of our people were banksmen or riggers.

8 Q. Let me put it this way. General labourers engaged by or
9 hired by -- directly hired by Leighton would wear yellow
10 hats; that is correct, right?

11 A. Yes. Generally people who weren't banksmen or riggers,
12 or they didn't hold a high-class risk position on site,
13 so carpenters could hold a -- could have a yellow
14 helmet. Who else? General labourers, jackhammer people
15 can have a yellow helmet, they're general labourers as
16 well.

17 Q. Would Leighton also hire general labourers as
18 sub-contractors, not directly employed by Leighton?

19 A. What are you saying: that would Leighton hire
20 sub-contractors who wore yellow helmets?

21 Q. Yes, and they work as general labourers.

22 A. Could I clarify the -- can you clarify the question
23 again in what you're looking for?

24 Q. Of course. You just told us that Leighton directly
25 employed general labourers, and such general labourers

26

1 would be wearing yellow hats on site; do you remember
2 that?

3 A. General labourers and/or carpenters and/or nondescript
4 high-risk workers.

5 Q. Yes. My earlier question was, apart from such general
6 labourers directly employed by Leighton, did Leighton
7 also hire general labourers as sub-contractors, ie not
8 as direct employees?

9 A. Yeah. China Tech wore yellow helmets, their carpenters
10 wore yellow helmets. Tung Yat and Man Shun wore yellow
11 helmets as a general rule. Fang Sheung wore yellow
12 helmets as a general rule. Probably those were the
13 major ones.

14 Q. Did Leighton directly employ banksmen?

15 A. Sorry?

16 Q. Did Leighton directly employ any banksmen?

17 A. We had some on our books directly. Most of them were in
18 the other section, on the HHS.

19 MR KHAW: I have no further questions. Thank you.

20 CHAIRMAN: Thank you.

21 MR BOULDING: We have no questions, sir.

22 CHAIRMAN: Thank you very much.

23 MS CHONG: I have no questions.

24 CHAIRMAN: Thank you.

25 MR WILKEN: I have no re-examination.

26

1 Questioning by THE COMMISSIONERS

2 COMMISSIONER HANSFORD: I have a question.

3 Mr Rodgers, as a superintendent, I'm interested in
4 your priorities.

5 Could you just tell me, between progress and safety,
6 which was the higher priority for you and for Leighton?

7 A. Safety.

8 COMMISSIONER HANSFORD: Safety was the higher priority.

9 Similarly, between progress and quality, which was the
10 higher priority for you and for Leighton?

11 A. It would be quality.

12 COMMISSIONER HANSFORD: Quality would take priority over
13 progress?

14 A. As a general rule, and being a longstanding company,
15 then at the end of the day, if the quality is not
16 correct, then you'll pay the price eventually.

17 COMMISSIONER HANSFORD: So that would mean, would it, that
18 the priority order is safety, then quality, then
19 progress?

20 A. Yeah, yeah, I would say that.

21 COMMISSIONER HANSFORD: Thank you.

22 CHAIRMAN: Anything arising?

23 MR WILKEN: No.

24 CHAIRMAN: Thank you very much, Mr Rodgers.

25 WITNESS: You're welcome.

26

1 CHAIRMAN: It's very good of you to come along. I know it's
2 an inconvenience for you and we are most indebted to
3 you. Thank you.

4 WITNESS: No, that's fine. I'm happy to help.

5 CHAIRMAN: Good. We can perhaps have the morning
6 adjournment now.

7 MR PENNICOTT: 15 minutes?

8 CHAIRMAN: 15 minutes, yes. Thank you.

9 (The witness was released)

10 (11.59 am)

11 (A short adjournment)

12 (12.22 pm)

13 MR CHEUNG CHIU FUNG, JOE (on former affirmation in Puntì)

14 Cross-examination by MR SO

15 MR SO: Good morning, Mr Cheung.

16 A. 係，早晨。

17 Q. I am Simon So. I am the counsel for China Technology.

18 I have some questions for you. I hope you can answer in
19 a direct manner and do it slowly so that interpretation
20 can be made to the Commission.

21 A. Okay.

22 Q. Mr Cheung, you are the foreman of Fang Sheung, and
23 I understand you are also the most senior frontline
24 staff of Fang Sheung?

25 A. 係。

26 Q. We know that Fang Sheung Construction Co Ltd was

1 incorporated in 2016?

2 A. 係。

3 Q. Shortly after it was incorporated, in September 2016,
4 you were allotted 3,000 shares of Fang Sheung
5 Construction Ltd?

6 A. 係。

7 Q. So, in other words, you became a 30 per cent shareholder
8 of Fang Sheung Construction Ltd?

9 A. 名譽上係咁。

10 Q. I don't quite understand what you mean by "nominally".

11 A. 「名譽上」嘅意思就係話潘先生想成立呢間泛迅建築有限公司，咁加咗我個
12 名落去間公司度，所以我間公司有三個人員，潘先生係董事。

13 Q. Right. But would it be right if I say that you are also
14 one of the bosses or one of the owners of Fang Sheung?

15 A. 成立咗2016年嘅公司，可以咁講。

16 Q. So, in other words, your relationship with Mr Pun was
17 not just subordinate and superior, but you two were also
18 business partners?

19 A. 係。

20 Q. Can I bring you to the transcript of Wednesday, which is
21 Day 13, page 93, line 15. That was the examination by
22 my learned friend Mr Pennicott. In the examination of
23 Mr Pennicott, he asked you, at line 15:

24 "Throughout the course of the project that we're
25 concerned with, SCL1112, where we know Fang Sheung was

1 a sub-contractor to Leighton for the bar bending and
2 fixing works, I think I'm right to say, am I not, that
3 you were the most senior person on site so far as
4 Fang Sheung is concerned?

5 Answer: Correct."

6 Your answer is, "Correct", and then a question
7 follows:

8 "And, as I understand it, Mr Cheung, you were there
9 from day one, when Fang Sheung started their rebar work,
10 throughout the whole period; save perhaps for periods of
11 leave and holiday, you were there every day.

12 Answer: You can put it this way."

13 You remember that exchange?

14 A. 記得。

15 Q. So were you there every day save and except, say,
16 weekends and long holidays?

17 A. 有需要嘅地盤，我都會喺度。

18 Q. Insofar as the construction --

19 COMMISSIONER HANSFORD: Sorry, we need the translation.

20 MR SO: I do apologise.

21 INTERPRETER: For sites that needed me, I was there.

22 Q. Mr Cheung, you said when the site needs you, you will be
23 there. So when SCL1112 was in progress, did you in fact
24 stay in the construction site every day?

25 A. 大致都喺度。

26 Q. So, on the days that you were not on the construction

1 site, where would you be?

2 A. 病、唔舒服或者屋企有事，我咪唔喺地盤囉。

3 Q. Can I jog your memory back to when, in the course of
4 SCL1112, do you recall taking any long holiday, say for
5 a month or more than a month?

6 A. 一個月嘅以上長假如，我有。

7 Q. And you have just mentioned to us those days like long
8 holidays or when you were sick or had family issues,
9 there would be definitely someone substituting your role
10 in the construction site; correct?

11 A. 冇錯。

12 Q. So you told us just before that you have not spent
13 a long vacation for over a month?

14 A. 冇錯。

15 Q. So can you confirm to us, in November and December 2015,
16 were you actually working with Fang Sheung and staying
17 on site?

18 A. 多數喺地盤。

19 Q. Can the witness be shown bundle C9, page C6360.

20 Mr Cheung, this is the sign-in/sign-out record of
21 Leighton, and if you take a look at the code 2041,
22 approaching to the end of the page, you can see your
23 name; correct?

24 A. 冇錯。

25 Q. So that is the sign-in/sign-out record of yourself into

1 SCL1112?

2 MR PENNICOTT: Which month?

3 COMMISSIONER HANSFORD: Sorry, which month are we in?

4 MR SO: This one is in September. It is at the top of the
5 date, where you can see "9/1". So this is the
6 sign-in/sign-out record on September.

7 A. 睇到。

8 Q. Can you confirm that, Mr Cheung?

9 A. 係。

10 Q. Now I wish to bring you to C6379. This is the December
11 sign-in/sign-out record. We cannot find your name on
12 this sign-in/sign-out record. Can you tell us, if you
13 know, what is the reason of that?

14 A. 呢份表,我唔清楚。

15 Q. I see. This situation similarly occurred on page C6372.
16 This is the November sign-in/sign-out record, and again
17 your name was not there. Do you know the reason of it,
18 if you know?

19 A. 我記唔起,可能我已經係攞番部車,揸車出入。

20 Q. But we can be sure that you were on the construction
21 site in November and December 2015; is that correct?

22 A. 我一定係喺地盤。

23 Q. Can I bring you to your witness statement, in bundle E6,
24 page E877, and the English translation is on E879.3.

25 Can I bring you to paragraphs 8(j) and 8(k). There you

1 have confirmed in your witness statement that:

2 "The head of steel bars screws for threaded steel
3 bars were not cut short. All problematic screw cups
4 would be followed up and fixed by Leighton."

5 8(k) The screws for threaded steel bars were not cut
6 short. Such condition is uncommon in the industry, and
7 also unacceptable."

8 You have adopted this witness statement as part of
9 your evidence, in your evidence-in-chief; correct?

10 A. 啱。

11 Q. So, insofar as cross-examination and
12 examination-in-chief goes that far today, are you saying
13 that paragraphs 8(j) and 8(k) are still accurate and
14 correct?

15 A. 係。

16 Q. So, as a matter of fact on SCL1112 -- as a matter of
17 fact, not as a matter of imagination -- there was no
18 threaded heads of the rebars were being cut; is that
19 your evidence?

20 A. 係。

21 Q. So you have not seen any threaded heads being cut?

22 A. 我有親眼見過。

23 Q. Right. And you have not heard anybody telling you that
24 threaded heads were being cut; is that your evidence?

25 A. 有聽過螺絲頭剪嘅問題。

1 Q. But you would accept that this point was not mentioned
2 whatsoever in your Commission witness statement?

3 A. 可以咁講。

4 Q. What do you mean by "you can put it that way"? Is it
5 there or is it not there?

6 A. 冇。

7 Q. Thank you.

8 Your boss, Mr Pun, came to give evidence this
9 Tuesday. He gave a comment saying that the cutting of
10 the threadings is an insult to the industry. Do you
11 know this?

12 A. 知道。

13 Q. Would you agree with this observation or this comment
14 being passed --

15 A. 同意。

16 Q. -- as being one of the members of the profession?

17 A. 同意。

18 Q. Mr Cheung, I wish to discuss with you the incidents that
19 you were told that threaded section of the rebars were
20 being cut by Mr Edward Mok.

21 CHAIRMAN: To avoid any ambiguity, there's no suggestion
22 that the rebars were actually cut by Mr Edward Mok;
23 rather, that Mr Mok made the report.

24 MR SO: Right. I do apologise for not putting that
25 precisely.

1 Insofar as you are concerned -- maybe I will bring
2 you to Mr Edward Mok's witness statement. It is in
3 bundle C12, page C8114. Can I bring you to
4 paragraph 30. This is relating to the first incident
5 around September 2015. The witness statement of Mr Mok
6 says this, in the second sentence:

7 "I also mentioned the incident to Fang Sheung's
8 supervisor, Joe Cheung [so that's you]. I said I had
9 discovered a cut threaded rebar on site and please
10 ensure his workers checked the threaded bars were in
11 good condition and being screwed into the couplers.
12 I do not recall his exact response, but I believe it was
13 along the lines of 'Yes, I will remind my workers.'"

14 I recall you mentioned yesterday that when Mr Mok
15 told you about the third incident -- not the first, the
16 third incident -- that you feel very ashamed, angry. So
17 were you feeling shocked or angry when it was in the
18 first occasion when Mr Mok told you?

19 A. 第一次莫先生經已搵泛迅嘅員工去做番好，然後莫先生再同我講嘅第一次，
20 我忽略咗，我唔為意個嚴重性，所以去到第二次，我先至清楚原來有工人
21 自己用個人嘅行為去cut咗個鋼筋嘗試去裝。

22 Q. So your answer to us is you were not very shocked when
23 it was in the first incident?

24 A. 因為莫先生佢叫我哋嘅工人可以處理咗，如果處理咗咁簡單嘅問題，我相信
25 喺建築唔係問題，所以我忽略咗呢個嚴重性，當莫先生第二次有嘅事情，佢

1 再同我講嘅時候，我清楚原來有cut到呢個螺絲帽，所以我好震驚。

2 Q. Sorry, I don't quite understand why this would be
3 a simple problem? Isn't this an insult to the
4 profession, cutting threaded end of a rebar -- isn't it,
5 Mr Cheung?

6 A. 如果呢個問題能夠可以用時間儘快解決嘅話，呢個就唔係問題，因為我哋嘅
7 監管亦都係有問題，點解會有啲疏忽同埋呢啲自把自為嘅工人？

8 Q. So now is it your evidence that as long as it can be
9 remedied, cutting of the threaded section of a rebar is
10 not a problem, is not an insult?

11 A. 呢個我唔排除，呢個角度上係有問題。

12 Q. All right. So let me focus back on the conversation you
13 had with Mr Mok. So, when Mr Mok told you about that,
14 did you enquire with Mr Mok, "So did you actually find
15 out who cut it?"

16 A. 我經已即時訓示我嘅員工，同埋檢查，同埋查詢我哋嘅員工，但係我冇員工
17 肯回應我嘅問題，所以我即刻去訓示，這件事情係相當之嚴重嘅事情，唔可
18 以日後有同樣嘅事情發生。

19 Q. Pardon me. Maybe I have not put myself too clear. Let
20 me ask it again. Did you ask back Mr Mok, "Hey, you
21 Leighton people are here; did you find out who cut the
22 threaded rebars"?

23 A. 我有咁問。

24 Q. Then the next question is: did Mr Mok ask you, "Hey,
25 Mr Cheung, you are the foreman, you are always here. Do

1 you know who cut it?"

2 A. 我印象中唔記得喇，因為大家都係用口講嘢嘅話，事隔咗咁耐，我唔記得。

3 Q. So let me bring you to the second occasion. That is in
4 paragraph 32 of the witness statement:

5 "The second occasion was around one month later in
6 October or November."

7 I won't trouble you to go through paragraph 32 in
8 its entirety. I just want you to appreciate that was
9 one month after the first incident.

10 Can I bring you to paragraph 34:

11 "After the inspection, I mentioned the matter to one
12 of my supervisors (either Joe Leung or Andy Ip). I also
13 told Joe Cheung, Fang Sheung's supervisor about the
14 matter. I told him to ensure his workers checked the
15 threaded bars were in good condition and being screwed
16 into the couplers. I recall Joe Cheung being a little
17 surprised that the same issue had arisen again, and he
18 said he would take appropriate steps to ensure it would
19 not happen."

20 Regarding this incident, again, did Mr Edward Mok
21 ask you, "Hey, Mr Cheung, who actually cut the threaded
22 rebars?"

23 A. 冇。

24 Q. Did Edward Mok actually ask you, "You must go and find
25 out who it is and you've got to remedy the problem"?

26 A. 莫先生只係同我講有咁嘅事情，第二次嘅鋼筋，「Joe，千祈唔好有呢啲事情

1 發生。」叫我好好睇住我哋嘅工人，「你哋應該要做好你哋嘅coupler。」
2 因為呢個事情嘅話，係唔容許我咁嘅。

3 Q. Would it be fair for me to say the situation did not
4 remedy after the first -- or did not improve after the
5 first occasion, but it actually happened shortly after
6 the first occasion? Would you accept that?

7 A. 同意。

8 Q. So in light of this, after the second occasion being
9 reported to you, did you go and look out who actually
10 cut the threaded rebars?

11 A. 有。

12 Q. Did you find out who it is?

13 A. 我搵唔到。

14 Q. Did you ask the workers, for example, in private, "Did
15 you see any colleagues cutting threaded rebars?"

16 A. 我叫齊我嘅員工，我訓示佢哋，我有私底下，我只會一次過訓示我嘅員工，
17 講解第二次嘅問題。

18 Q. You, according to what I recall, also gave a briefing to
19 the workers after the first occasion; correct?

20 A. 我有略略講過，呢個係我疏忽。

21 Q. In the second occasion you also briefed your workers;
22 correct?

23 MR WILKEN: Sorry, could Mr So slow down a bit for those of
24 us who were receiving the translation.

25 MR SO: I do apologise.

1 A. 第二次，我再講多一次，第二次係有cut到coupler，所以我覺得我好震驚，
2 我先至開始加強番檢查coupler同埋調配人手去做coupler。

3 Q. Sorry, Mr Cheung, when you said couplers were cut, do
4 you mean threaded sections of the rebars are cut?

5 A. 螺絲頭。

6 Q. So, regarding the first occasion, it is also the
7 first -- it is also the threaded section of the rebars
8 being cut?

9 A. 第二次我先至知道。

10 Q. So what did you know in the first time?

11 A. 我由第二次先至得知道原來第一次都有同樣嘅事發生。

12 Q. Can I bring you back to paragraph 30 of Mr Mok's witness
13 statement. Mr Mok says:

14 "I said I had discovered a cut threaded rebar
15 on site and please ensure his workers checked the
16 threaded bars were in good condition and being screwed
17 into the couplers. I do not recall his exact response,
18 but I believe it was along the lines of 'Yes, I will
19 remind my workers.'"

20 A. 冇錯。

21 Q. So you recall you did say something to Mr Mok along the
22 line of, "Yes, I will remind my workers"; correct?

23 A. 啱。

24 Q. To remind them of what?

25 A. 提醒佢哋應該做番好個coupler，我個誤意就係話可能嗰啲紋冇裝上到完善、

1 盡量扭入嘅意思，所以佢叫我做番好啲coupler嘅話，我咪提醒我嘅工人應該
2 著重做好番好coupler。

3 Q. So you were saying Mr Mok told you it was only the
4 Fang Sheung workers did not screw in all of the threads
5 of the rebar into the couplers; is that your evidence?

6 A. 我諗佢同我講嘅意思啫。

7 Q. Mr Cheung, don't think. What did Mr Mok actually tell
8 you?

9 A. 莫先生第一次實際上同我講嘅，就係第一次有一條不妥善嘅螺絲頭安裝有
10 問題，跟住佢搵我嘅員工經已妥善安裝好，先通知我，然後話畀我聽啲
11 coupler，叫我哋嘅員工，即係話泛迅紮鐵嘅員工應該好好咁做番好我嘅
12 coupler，扭番好佢，做番好。

13 Q. So are you saying that Mr Mok here lied, and he did not
14 actually tell you a cut threaded rebar was found
15 on site?

16 A. 係地盤有一條--即係話有一個事項，有一條嘅鋼筋冇做好，佢搵咗我哋啲
17 工人做番好。

18 CHAIRMAN: Sorry, Mr Cheung. Straight answers always help.
19 I'm not suggesting you're trying to avoid the question.
20 But did Mr Mok on this first incident, to your memory
21 now, say to you anything concerning the fact that he had
22 discovered that the thread of a rebar had been cut?

23 A. 冇。

24 MR SO: So Mr Mok just told you it was not properly screwed,
25 and your evidence was that you were only notified about

1 this in the second occasion; is that your evidence?

2 A. 係。

3 Q. So, in the second occasion now I'm focusing on, Mr Mok
4 told you, "Hey, I found another incident where threaded
5 sections were being cut"?

6 CHAIRMAN: I know you don't mean that to be a trick
7 question.

8 MR SO: I don't mean it.

9 CHAIRMAN: But what he said is he wasn't told in respect of
10 the first incident anything about the cutting of
11 a rebar, so he wouldn't have said on the second
12 incident, "Look, I've got another finding of rebar being
13 cut."

14 MR SO: I do apologise.

15 CHAIRMAN: Do you see what I mean?

16 MR SO: I see what you mean. I do apologise.

17 CHAIRMAN: It's no problem. These questions sometimes are
18 asked unintentionally.

19 MR SO: So maybe like this, Mr Cheung, can you tell us how
20 did Mr Mok report the second occasion to you?

21 A. 喺地盤，用口講。

22 Q. Right. Can you tell us the content of the conversation;
23 what did Mr Mok actually tell you?

24 A. 好簡單，就係有coupler剪過，叫我好好咁睇住我班工人，叫佢唔好有呢啲
25 事發生，同埋「你應該要檢查清楚。」

1 Q. That's all?

2 A. 喺地盤嘅話，用口講，未必記得咁詳細。

3 Q. So it is a short conversation?

4 A. 係。

5 Q. So how did he tell you about the first occasion where
6 the threaded rebars was cut?

7 A. 同樣，都係用口講，話畀我聽有咁嘅事情發生，有鋼筋扭唔好，但係冇提及
8 剪鋼筋。

9 MR SO: Sir, would that be a convenient moment? I am moving
10 to another topic.

11 CHAIRMAN: Yes. Thank you very much indeed. We will
12 adjourn now for lunch. 2.15. Thank you.

13 (1.00 pm)

14 (The luncheon adjournment)

15 (2.19 pm)

16 MR SO: Good afternoon, Mr Cheung.

17 A. 係，午安。

18 Q. Just before we adjourned for the luncheon adjournment,
19 we were discussing about the first and second occasions
20 where Mr Edward Mok reported to you that he came to find
21 out some threaded rebars were being cut.

22 So you told us that on the first occasion when he
23 reported to you, you were not told that threaded ends
24 were cut; correct?

25 A. 係。

1 Q. So it was until the second time that he reported to you
2 that he saw threaded ends being cut that he then also
3 told you that actually the first time it was the same
4 situation; is it like that?

5 A. 係。

6 Q. So did you ask Mr Mok, "Why did you not tell me the
7 first time?"

8 A. 冇，因為我顧住第二次嘅問題。

9 Q. So am I correct to put it this way: the second time, you
10 were much more concerned than the first time?

11 A. 係。

12 Q. Because obviously, not screwing the threaded rebars into
13 the coupler is a smaller thing?

14 A. 第一次嘅時候，我唔清楚原來有關於牙紋鋼筋嘅，第二次我先至知道，我先
15 較為緊張。

16 Q. So, insofar as the first incident is concerned, you only
17 knew that the threaded rebars were not properly or fully
18 screwed into the couplers?

19 A. 據我所知，係咁。

20 Q. And compared to cutting threaded rebars, this is
21 definitely a less serious matter?

22 A. 係。

23 Q. In the second occasion where Mr Edward Mok told you, did
24 he mention what machine was used to cut those threaded
25 rebars?

1 A. 冇，佢只係話畀我聽，第二次，「你嘅工人做得唔好，我經已搵番你嘅工人做
2 番好。」但係有剪螺絲嘅牙紋嘅，希望我督促我啲員工做番好佢，唔好有咁嘅
3 事發生。

4 Q. Thank you. Can I bring you to your police witness
5 statement, please. It is in E1575, the Chinese version,
6 and the English version is in E1584.1.

7 Do you recall you made this police witness
8 statement?

9 A. 記得。

10 Q. And of course what you told the police would have been
11 the truth?

12 A. 係。

13 Q. Can I bring you to page E1582, regarding question and
14 answer number 4.

15 Is the Chinese witness statement in front of you?

16 A. 有。

17 Q. The question reads like this:

18 "When Fang Sheung was carrying out the works for SCL
19 Hung Hom Station, did you witness or hear of anyone
20 cutting short the threaded sections of rebars with
21 machinery, in order to pretend that the rebars were
22 already screwed into couplers?"

23 And this is your answer, Mr Cheung:

24 "I have not witnessed or heard of it."

25 Mr Cheung, this could not be correct then; correct?

1 A. 係。

2 Q. Why did you not tell the police --

3 CHAIRMAN: Sorry, I think the answer is equivocal.

4 COMMISSIONER HANSFORD: "Yes" to what?

5 CHAIRMAN: Yes.

6 MR SO: I will confirm that with the witness.

7 Is answer 4 not correct?

8 CHAIRMAN: Well, perhaps we could put it this way. In that
9 answer, in the first sentence, you have said that you
10 have not heard of it; correct?

11 A. 係。

12 CHAIRMAN: But in fact, is it not correct that you had heard
13 of it; you had heard of it from the Leighton
14 supervisors, in respect of your own people?

15 A. 係。

16 MR SO: Mr Cheung, why did you not tell the police about the
17 occasions that were reported to you by Mr Edward Mok?

18 A. 因為我認為唔係要講我嗰八支嘅NCR同埋不合格，我認為係講緊喺沙中線嗰度
19 有冇大規模去剪鋼筋，我唔錯咗個意思。

20 Q. Mr Cheung, the question asked by the police was very
21 straightforward. It was asking whether you heard or
22 witnessed cutting of threaded rebars. It was not
23 whether you heard or witnessed massive cutting of
24 threaded rebars -- is it not?

25 A. 我誤咗佢嘅意思。

1 Q. Mr Cheung, if you go to the last page of the witness
2 statement.

3 COMMISSIONER HANSFORD: Sorry, the witness statement?

4 MR SO: The police witness statement. I do apologise, sir.
5 It's page 1584.10.

6 You were of course notified, Mr Cheung, of your
7 right to make any changes, amendments or supplements to
8 your witness statement, but you did not.

9 A. 冇。

10 Q. So are you trying to suggest that you simply realised
11 you had misunderstood the police question just now?

12 A. 係。

13 Q. May I also refer you to the Commission witness
14 statement. That is in E2/879.1, and if you go to
15 E879.3, at 8(j) and 8(k), are you also trying to suggest
16 that you were just meaning that there were no massive
17 scale of cutting of heads of steel bars, the threaded
18 end of the head of steel bars, and the problems of
19 screwing the couplers -- are you just referring to
20 massive scale?

21 A. 你可唔可以講多次畀我聽?

22 Q. Of course.

23 COMMISSIONER HANSFORD: We didn't get the translation of
24 that, I don't think.

25 MR SO: The translation was: "Can you repeat the question?"

26 COMMISSIONER HANSFORD: Thank you.

1 MR SO: I do apologise, sir.

2 Paragraph 8(j) and 8(k), Mr Cheung. When you were
3 saying there were no cutting short of the threaded ends
4 of the rebars, are you now saying there were no cutting
5 whatsoever, or no cutting in a massive scale?

6 A. 係我有親眼見到。

7 Q. Can I bring you to bundle E1, page E5 --

8 COMMISSIONER HANSFORD: I'm sorry, I don't understand the
9 answer that was just given. "I didn't witness" what?
10 "I did not witness it personally." "I did not witness"
11 what personally?

12 MR SO: Maybe I can clarify.

13 COMMISSIONER HANSFORD: That would be helpful.

14 MR SO: Mr Cheung, when you said you have not witnessed it
15 personally, what was the "it" you were referring to?

16 A. 個情況係我有親眼見到，只有由相片嗰度先見過嘅。

17 COMMISSIONER HANSFORD: We still have an "it".

18 MR SO: We still don't quite understand, Mr Cheung: what
19 situation did you actually not witness?

20 A. 係，冇錯，就係你所講嘅當時目擊嘅情況，我係冇目擊。

21 Q. What situation, Mr Cheung? Do you mean cutting of the
22 threaded rebars?

23 A. 頭先你問我係唔係見到有人cut螺絲頭，我有現場亦用親眼去目擊到嘅情況。

24 Q. Can I bring you to E5. Can I draw your attention to
25 7(a). You were expressly required by the solicitors of

1 the Commission to explain whether you have any knowledge
2 of the defective steel bar. Why had you not told the
3 Commission that you actually heard this?

4 A. 我嘅理解能力水平，所以我理解唔到個句子嘅含意，所以呢樣嘢係我疏忽。

5 Q. Mr Cheung, I have to suggest to you: you clearly
6 understand both the request by the police and by the
7 Commission, and you elected to avoid answering it. Is
8 that so?

9 A. 唔係，唔會。

10 Q. Mr Cheung, can I bring you to bundle C1, C43.

11 Mr Cheung, according to the evidence you gave to us
12 yesterday --

13 A. 係。

14 Q. -- you have not seen this non-conformance report at the
15 time when it was actually issued; correct?

16 A. 係。

17 Q. On other occasions, you have sometimes mentioned
18 a warning letter.

19 A. 係。

20 Q. When you were talking about warning letter, according to
21 your evidence, is it the same thing with this NCR, or is
22 it something else?

23 A. 係呢一份不合格嘅報告書NCR。

24 Q. So you have not received something separate in the form
25 of a letter that warns Fang Sheung; is that correct?

- 1 A. 我有收過，第三次不合格報告NCR係莫生有同我提過「公司會發警告信畀你」。
- 2 Q. So the words "warning letter" come from Mr Edward Mok?
- 3 A. 唔清楚。
- 4 Q. The term "warning letter" comes from Mr Edward Mok?
- 5 A. 係。
- 6 Q. Insofar as you are aware, is this the only NCR that
- 7 Fang Sheung received?
- 8 A. 冇錯。
- 9 Q. You told us yesterday that you only received this NCR at
- 10 the MTRC interview. Is that correct?
- 11 A. 係。
- 12 Q. May I bring you to C44 and then C45, 46, scrolling down,
- 13 and there are some photos, 47 and 48.
- 14 A. 睇到。
- 15 Q. When you received this NCR during this MTRC interview,
- 16 were these photographs also shown to you?
- 17 A. 有。
- 18 Q. Were you shocked on the day when you were interviewed by
- 19 seeing these photographs?
- 20 A. 好深刻。
- 21 Q. All right. Was this NCR given to you prior to you
- 22 entering into the conference room or during the
- 23 interview in the conference room?
- 24 A. 會面嘅時候，6月13日下晝港鐵會面嘅時候，畀呢張合格嘅--不合格通知書
- 25 我睇嘅。

1 Q. Sorry, perhaps I am not asking the question too
2 precisely. Let me ask it again; I do apologise. Is it
3 before you entered into the conference room or when you
4 were already in the conference room?

5 A. 喺會議室內。

6 Q. So it was during questions being asked, then they showed
7 you this NCR; is that right?

8 A. 係。

9 Q. So did you ask for some time to actually read this NCR?

10 A. 我都唔識啲啲英文。

11 Q. I understand that a solicitor surnamed Fung was actually
12 with you during the MTRC interview; correct?

13 A. 冇錯。

14 Q. Did you ask for the assistance of this solicitor to
15 perhaps translate to you what was inside this NCR?

16 A. 唔需要，因為都清楚有呢件事發生，自己都好慚愧，點解仲要搵呢件事提番
17 自己呢？

18 Q. Right. This is also the third incident, according to
19 your evidence, that Mr Mok reported to you that he
20 witnessed the cutting of the threaded rebars?

21 A. 係。

22 Q. So of course this time you would be even more furious,
23 even more shocked; correct?

24 A. 冇錯，因為係發生第二次嘅話，我覺得係呢件事比較真係好重要，所以我都
25 唔可以忽視。

1 Q. Did you report this matter to your business partner,
2 Mr Pun?

3 A. 我有話畀潘生聽，潘生亦都係好憤怒，然後嘅話，我就將件事情更加
4 嚴管同埋督促我啲工人，同埋亦都提醒我啲所有嘅工人呢件事態嚴重，我
5 啲會將會採取我啲個行動。

6 Q. Sorry, I have to go to perhaps some niceties of the
7 report to Mr Pun.

8 A. 係。

9 Q. How did you tell Mr Pun about this incident?

10 CHAIRMAN: I'm sorry, I don't want to hold you back here,
11 and I'm giving as much leeway as I think is necessary.
12 At the moment, I'm just a little puzzled as to where
13 we're going on this.

14 MR SO: I believe it would be essential to know the critical
15 time and critical content that Mr Pun was being informed
16 as -- regarding this NCR, Mr Pun gave some evidence
17 regarding when and how he actually knew about it, so it
18 would be highly relevant as to --

19 CHAIRMAN: But do we need to know going back over several
20 years, when everybody's memory is fallible? Hasn't the
21 point already been made manifestly clear: Mr Pun has one
22 version of events and this gentleman has another, as to
23 who told what to whom?

24 I'm just wondering if it takes it any further by
25 tying it down. It's not a criminal trial.

1 MR SO: I understand that, sir. I will try to be brief,
2 then I will move on.

3 CHAIRMAN: Thank you.

4 MR SO: So did you actually tell Mr Pun that threaded rebars
5 were cut?

6 A. 有。

7 Q. Did you and Mr Pun then go together to reprimand the
8 workers?

9 A. 我就唔清楚潘生有冇訓示，我就會即時訓示員工，但係呢件事我亦都有同潘
10 生提及過，因為我哋事隔咁耐，我哋都係用口語去敘述嘅啫，所以實際記得
11 要好清楚嘅，就答唔到你呢個問題。因為呢件事我都覺得係好事態嚴重，所
12 以我都係即時去好嚴厲去訓示我哋嘅工人，去矯正佢哋嘅錯處；同埋我都有
13 嘗試搵出個問題個主要嘅原因，但係有一個工人可以回答到我嘅問題，我只
14 有為咗呢件事，日後加強咗我嘅觀察同埋我嘅檢查；仲有，我配合搵啲唔同
15 嘅工人去睇住我哋每個唔同嘅工人嘅做嘢嘅方式，叫佢匯報畀我聽。所以自
16 此呢一次之後嘅話，幸好都已經有第二次嘅NCR。

17 Q. I understand that it is your evidence that you cannot
18 find out who actually cut the threaded rebars?

19 A. 係。

20 Q. Did you seek assistance from site foremen or
21 superintendents from Leighton who were on site, whether
22 they saw anybody of Fang Sheung cutting the threaded
23 rebars?

24 A. 冇。

1 Q. Why not?

2 A. 因為NCR由地鐵同埋禮頓，佢哋已經為咗呢一次嘅話，已經加強咗個巡查
3 同埋監管我哋，我做一個監管，我有問過呢樣嘢。

4 Q. Can I just bring you to your witness statement,
5 bundle E5, page E878, paragraph 9(c)(ii). There you
6 said:

7 "Staff of Leighton:

8 Engineering team: Andy Ip, Simon Lo, Wood Ho,
9 Mini Lo, and Patrick Chan.

10 Foremen: Mr Ip, Ming, Keung, and Wah.

11 9(e) The staff of MTR and Leighton monitor works
12 on site every day and pointed out mistakes."

13 They were there every day and you told us you were
14 eager to find out who actually cut the rebars. Why
15 didn't you go and ask them and see if there is any clue?

16 A. 佢哋嘅engineer同埋地盤監工，佢哋每一次去嘅位置有陣時都唔同，我可
17 以問得邊個？

18 Q. Then I have to ask you then, Mr Cheung, because you were
19 there. So who did you see would be regularly there in
20 the working area of Fang Sheung?

21 A. 如果佢哋見到嘅話，佢哋都會通知我喇。

22 Q. So your evidence is that you do not know who actually
23 cut it, and there was also no one from Leighton and MTR
24 reporting to you that they saw someone cutting it;
25 correct?

1 A. 啱。

2 Q. I understand that the NCR was eventually rectified;
3 correct?

4 A. 係。

5 Q. Can I bring you to your police witness statement,
6 bundle E6, page E1583, and the English version is on
7 page 1584.9.

8 I want to focus on question and answer 8. The
9 question was:

10 "Have MTRC and Leighton ever suggested to
11 Fang Sheung that they found bar fixing works which did
12 not conform to the required standards?"

13 And the answer you gave was:

14 "My impression is that in around 2016 (cannot recall
15 the exact date), Leighton suggested to us that there
16 were rebars at the D-wall (exact position forgotten)
17 which were not screwed tightly into 5 couplers, such
18 that threads were exposed."

19 Then this is the part I want you to focus on:

20 "Leighton's foreman (I forgot who) told our
21 (Fang Sheung) workers, who rectified it immediately and
22 told me afterwards. After some time which I forgot how
23 long, Mr Pun Wai Shan told me that he received a warning
24 letter from Leighton ..."

25 So that's it. Mr Cheung, you were not there when
26 the works were actually rectified, were you?

1 A. 我唔在場。

2 Q. You were on the working site. Why were you not there?

3 A. 個工地好大，仲有其他工作，我係會每一個地方我都去巡查個位置。

4 Q. So, as far as you understand, the work was actually
5 rectified by Fang Sheung's worker?

6 A. 係莫先生叫番我哋嘅紮鐵嘅工人即時去更正做番好。

7 CHAIRMAN: Sorry, if I could interrupt briefly. This
8 question 8 and your answer 8 that's just been considered
9 by you, I'd like to look at that for a second, if I may.

10 The question was, essentially, has it ever been
11 suggested to Fang Sheung, of which you were the foreman,
12 that they found bar fixing works which did not conform
13 to the required standards; right?

14 Now, cutting of rebars, it appears, quite clearly
15 did not conform to standards. Would you agree?

16 A. 同意。

17 CHAIRMAN: And not screwing them in properly would also not
18 conform to standards?

19 A. 係。

20 CHAIRMAN: But you make no mention in your answer here about
21 any threads of a coupler being cut. You must have
22 known, when you went into this interview, what the issue
23 was that was under consideration. Would you agree,
24 looking back on this statement and in particular this
25 answer, that you could have been a lot more frank and

1 honest?

2 A. 主席，因為我覺得嗰個有唔合乎標準係將嗰個coupler嘅扭紋未完全裝
3 上，嗰陣時我意思係咁。

4 CHAIRMAN: All right. Let me see where we are here. When
5 you went to the police, didn't you realise that they
6 were investigating -- at the core, they were
7 investigating issues of couplers that had been cut?
8 That's what all the fuss was about.

9 A. 係。

10 CHAIRMAN: And you go to the interview, you know that that's
11 the central issue, and you're asked if there's been --
12 "Has it ever been suggested to you that your company has
13 not put in works to the required standards?", and you
14 don't make any mention of the fact that on a number of
15 occasions it was shown to you clearly that your company
16 had in fact been guilty of cutting threads.

17 Now, my question is, do you agree that your answer
18 there was not as honest and as frank as it should have
19 been?

20 A. 有。

21 CHAIRMAN: Thank you.

22 MR SO: Thank you very much, sir, and thank you very much,
23 Mr Cheung.

24 Can I bring you to a transcript. It is a transcript
25 of -- I don't really know the page number; it was

1 a newly added transcript -- I think bundle B. It's
2 a homemade transcript that was provided by those
3 instructing me to the Commission.

4 This was a transcript of your interview with the
5 MTRC. It is B3082.36. I'm most grateful to my learned
6 friend Mr Lam. Mr Cheung, you can trust me for the time
7 being, this is a transcript being lifted out from
8 an interview you had with MTRC on 13 June 2018. It is
9 in Cantonese, so I would be grateful if I can read it
10 out and it can be interpreted. I will do it slowly.

11 The question was being asked to you by the MTR
12 staff, and the answer was your answer. This was at
13 4 minutes 38 seconds onwards:

14 "問題： 個警告信係幾時㗎？

15 Answer: 要睇番嗰呢個。

16 Question: 嗰封警告信有冇特別？你知道佢出嘅原因係咩嘢事？
17 有冇話？

18 Answer: er啲coupler做得唔完美囉，要重新再--再做過囉。

19 Question: 個coupler做得唔完美嘅意思係？

20 Answer: 即係話可能係扭到扭緊呀，嗰幾粒扭緊嘅coupler做得
21 唔好呀咁樣。

22 Question: 即係你上過先至...

23 Answer: 係喇，咁啲工人做得唔好呀，咁樣，跟住er禮頓嘅管工呀、
24 監察人員睇過，真係er可以接受呀，咁呀，叫佢哋再重新做番妥善佢囉。

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Question: Okay, 可唔可以講得即係準確少少, 「做得唔好」係?

Answer: 譬如er... er...可能係未鑲得全部晒, 未鑲得透呀。

Question: 即係未扭晒入去?

Answer: 係喇, 未扭晒咁樣。

Question: 有冇發覺係有啲牙係被剪過咁樣呢?

Answer: 發覺被剪過嘅牙? 如果er被剪啲啲, 我哋都唔會--都會問番有關--有關部門呀, 譬如禮頓呀、監察人員呀咁, 我哋唔會亂咁做呢樣嘢嘅。

Question: 唔係, 我哋講番啲次事件, 因為出--出咗--因為禮頓出咗個warn, 即係警告信畀泛迅呀, 咁就記唔記得提及到佢哋大約有幾多支有問題嘅coupler?

Answer: 五支。 (Question: (噴氣聲)).

Question: 五支嘅--五支, 咁呢五支呢分別係個情況係咩嘢呀? 點樣? 有咩嘢唔妥呢, 呢五支? 記唔記得呢?

Answer: 應該係裝得唔夠妥善嘅, 通常。

Question: 事後知唔知佢點樣做番, 用咩嘢方法去?

Answer: 事後就係重新做--再換過啲coupler, 由er--由禮頓嘅監察人員看管住, 咁做番妥善, 令到er地鐵收咗貨, 咁我哋先至okay囉, 封警告信係。

Question: 你所講嘅coupler係鑲咗落石屎個個呀? 定係話係扭--支扭落去真係喺石屎入面個個coupler啲支鐵呀?

Answer: 係扭落去, 鑲入去石屎。

1 Question: 嗰支鐵?

2 Answer: 係喇。

3 Question: Okay."

4 CHAIRMAN: Sorry, is this -- again I'm belabouring it,

5 I apologise. Is the quote going to go on much longer?

6 MR SO: No. That is the quote.

7 Mr Cheung, you recall that exchange you had with the
8 MTRC staff; correct?

9 A. 有啲印象。

10 Q. You were asked no less than four times as to what
11 happened about the reason of the NCR. And on all
12 occasions you were just telling them that it was not
13 screwed in properly; correct?

14 A. 係，呢度我交代得唔清楚。

15 CHAIRMAN: Sorry, you did not make yourself clear. Let me
16 go back to the question I put earlier, and again it's
17 quite simple. You've had this read to you. Would you
18 agree that you were not as frank and honest in this
19 interview as you should have been?

20 A. 係呀，主席，因為個NCR個問題，我覺得有啲內疚，所以我有咁坦誠去講。

21 CHAIRMAN: Okay, you felt guilty; you were trying to avoid
22 the issues. Would that be a fair summary?

23 A. 係。

24 MR SO: Mr Cheung, you would fairly accept, as I have asked
25 you earlier this afternoon, not screwing completely

1 a threaded rebar into the coupler is a much more small
2 incident compared to cutting of the threaded section of
3 a rebar; correct?

4 A. 你講多次。

5 Q. Compared to not completely screwing in the threaded
6 section of the rebar with cutting of the threaded
7 section of the rebar, not screwing in completely is
8 definitely a smaller issue; correct?

9 A. 唔係。

10 Q. You just mentioned that at the beginning of my
11 cross-examination this afternoon. I can take you back
12 to today's transcript.

13 CHAIRMAN: I suppose, in fairness, if one examines it, the
14 culpability or the consequence could be almost the same.
15 I mean, if you fail to screw in a coupler properly and
16 only do two threads, is that any different to cutting
17 off all the threads so that you only have two to go in?

18 MR SO: With respect, sir, the position that we had is that
19 cutting is definitely more serious than not completely
20 screwing in, in terms of the culpability.

21 CHAIRMAN: I've heard words to that effect. I'm just
22 querying whether in fact, in practical engineering
23 terms, it makes a difference. I'm not talking about
24 morality here. I'm talking about practical engineering
25 terms.

26 MR SO: That I accept.

1 Mr Cheung, I have to suggest to you, in the MTRC
2 interview, the reason why you said the reason for NCR
3 being issued to you is because -- not the threaded
4 rebars not completely screwed into the couplers -- the
5 whole point is not because you feel guilty. You are
6 trying to dilute the problem. Is that so?

7 A. 有需要，有需要淡化呢件事件，係咪？我由琴日同今日講嘅嘢，喺呢個會
8 度，我冇可能講大話，之前嘅報告嘅話，可能有啲錯漏，我講錯咗嘢，律
9 師，我亦都好希望你幫一幫我，因為我聽得好辛苦，你可唔可以簡清楚啲
10 叫我回覆你嘅問題？

11 Q. I'm sorry for being long-winded.

12 A. 係呀，麻煩晒你，因為我嘅理解能力有啲問題。

13 Q. Of course.

14 Mr Cheung, you were not being frank both in the MTRC
15 interview and when you were giving the statement to the
16 police; was that so?

17 CHAIRMAN: He's already said that.

18 MR SO: All right.

19 A. 我真係有啲混淆嘅會，你--麻煩晒你。

20 Q. Mr Cheung, whilst couplers not being screwed tightly is
21 a workmanship problem --

22 A. 冇錯。

23 Q. -- would you accept that cutting threads is an integrity
24 problem? "Integrity" meaning "道德" not "結構".

25 A. 係個人行為嘅問題，工人係靠雙手去做，每個工人佢都未必可以達乎到

1 100%，甚至乎工程可能--可以做到95%，都係合格嘅。

2 Q. Mr Cheung, we are not talking about completely screwing
3 into couplers. We are talking about someone going
4 forward and taking steps to cut the threaded section of
5 the rebar. That is an integrity problem, is it not?

6 A. 我分別唔到，應該係話個工人嘅操守問題，一個工人有職責聽管理就係佢嘅
7 操守，佢嘅守職、佢嘅魯莽、佢嘅個人行為、佢自私嘅行為、佢魯莽，呢啲
8 就係佢嘅操守。

9 Q. To put it more plainly, Mr Cheung, it is not just
10 reckless, it is fraud, pretending to be screwed in, is
11 it not?

12 A. 我嘅睇法就係話佢貪方便，為但求快啱而又幫到公司，但係佢行嘅步驟同埋
13 採取行動，佢自己錯誤，因為佢唔理解公司仲有其他嘅問題，嘅問題係乜嘢
14 呢？就係話如果當佢做唔到，唔需要冒呢個險為公司去完成佢嘅工程，佢應
15 該佢要搵佢嘅管理搞清楚有乜咁嘅必要去將個鋼筋螺絲頭剪咗佢，而貪方便，
16 為咗公司嘅進度。

17 Q. Yes. Please continue.

18 A. 你可以喇。

19 CHAIRMAN: I think he's finished, in fact.

20 MR SO: Thank you.

21 As a matter of fact, you would accept that those
22 incidents being reported to you by Mr Mok are actually
23 fraudulent acts done by your workers?

24 CHAIRMAN: I'm not going to quibble -- fraud is
25 conceptually, I think in many ways, quite different to

1 this.

2 MR SO: Sure.

3 CHAIRMAN: I think he's explained the position very well, in
4 fact, as he has considered that it might be on the part
5 of his workers.

6 MR SO: So at least it would be malpractice of the workers;
7 would you accept that?

8 CHAIRMAN: I think that the professor and I can draw our
9 conclusions from the factual evidence that's given, as
10 opposed to a debate concerning jurisprudential concepts.

11 MR SO: Very well, sir. I do apologise.

12 CHAIRMAN: No, no, you don't have to apologise -- because
13 obviously each counsel is going to press the point they
14 think is best, and when we have been assisted, we will
15 say so, and when we are no longer assisted, we will say
16 so.

17 MR SO: I do apologise. Thank you very much.

18 Can I just move to another topic, Mr Cheung.

19 A. 係。

20 Q. You were shown by Mr Pennicott, my learned friend, in
21 bundle E5, E969 to 1257. So these are documents that
22 you have appended with your witness statement to this
23 Commission. These are "Rebars processing records". Do
24 you have them in front of you?

25 A. 有。

26 Q. These rebar fixing records were prepared by yourself and

1 sent to BOSA; correct?

2 A. 係。

3 Q. So far as we understand from evidence, the process is
4 like this, is it not: Leighton will pass the drawings to
5 your boss, Mr Pun --

6 A. 冇錯。

7 Q. -- and Mr Pun would do some simplified drawings, and
8 those simplified drawings will indicate what type of
9 threads you would need at a particular area -- is it
10 not?

11 A. 係。

12 Q. Then you would, in accordance with these simplified
13 diagrams, make orders as to what threaded rebars you
14 would need?

15 A. 係。

16 Q. Can I take you to your police statement: E5/1582.
17 That's question 4 and answer 4 of the police witness
18 statement. We have visited this a couple of times
19 already, I understand.

20 In the second sentence, you said this:

21 "But in reality, sometimes there were not enough
22 rebars of type A threads. Workers might then use rebars
23 with type B threads as substitute. Perhaps workers were
24 afraid that MTRC's and Leighton's engineers would
25 misunderstand that the rebars were not fully screwed

1 into the couplers, and hence they would first cut short
2 the rebars with type B threads before screwing those
3 rebars. But I have never seen this happen before."

4 I just wish to clarify one point, Mr Cheung.
5 Regarding this answer, are you guessing the
6 possibilities that workers would do like that, or you
7 have actually seen it or heard it?

8 A. 我有見過有工人咁做。

9 Q. Have you heard of it?

10 A. 我有印象有人工人提及過。

11 Q. And in the context of SCL1112, did you hear that the
12 workers actually did that?

13 A. 我有聽見工人提及過，我亦都有親眼見到有工人去咁樣做。

14 Q. Sorry to labour this point, but I just want to be
15 absolutely clear. When you heard the workers say they
16 would do like that, is it as a matter of general
17 practice or is it in this SCL1112 they had done that
18 before?

19 A. 尋日Pennicott律師經已同我講過呢個問題喇，喺嗰度全部大部分多數
20 都係用A嘅扭紋螺絲鐵，我只有認為--唔係，唔係認為，喺EW track嗰度
21 係會有B嘅扭紋螺絲鐵出現係5至10%嘅。

22 Q. But still the question remains: did it actually happen?

23 A. 我見唔到發生過。

24 Q. All right. So if you actually -- if there was not
25 enough type A threads, why did you not tell the workers,

1 "Hey, come on, just wait, wait for BOSA to deliver us
2 with some thread A"?

3 A. 啱。

4 Q. Then why do they need to cut type B threads and use that
5 as type A?

6 A. 我都係聽工人講解，我有親眼見到有工人同我做呢個動作，去將B去改咗A嘅
7 扭紋螺絲鐵去裝上coupler杯。

8 Q. So you are saying that this didn't happen in SCL1112?

9 MR PENNICOTT: He didn't see it.

10 CHAIRMAN: I think what he's saying, and he's not prepared
11 to go further, and he's been clear on this, is that he's
12 heard people, his workers, talking about this happening.
13 He's never seen it happen himself, and he can't really
14 take the matter any further than that. Whether they
15 were talking about events that they had participated in,
16 he's not able to say.

17 MR SO: Right.

18 CHAIRMAN: I hope I haven't distorted what he has said, but
19 that seems to be the gist of what he has said.

20 MR SO: You did it, sir.

21 A. 係呀，冇錯，主席，呢個係我嘅意思，你講得啱。

22 Q. Can I just take you to the Chinese transcript of the
23 MTRC interview. It is in page B3082.27. I understand
24 that the English is just a summary. I'm not quite sure
25 whether this part was actually transcribed word by word,

1 for English.

2 I'm going at the middle. Do you have the Chinese
3 version in front of you?

4 A. 有。

5 Q. Starting from the middle, in the question part, the
6 question was this:

7 "ok, 長短牙其實...其實都有...都有必要做架下麻, 都有必要cut
8 過下麻"

9 CHAIRMAN: Sorry, the interpreter has to stay up with you.
10 Could we start again, because perhaps I have it wrongly
11 but it's a little muddled.

12 MR SO: Of course.

13 "Question: ok, 長短牙其實...其實都有...都有必要做架下麻,
14 都有必要cut過下麻

15 Answer: 視乎係做啲乜野囉, 長短牙

16 Question: 例如如果短牙唔夠, 得返長牙係附近, 咁就cut左長牙
17 個啲, 要黎用安落去個啲杯度, 姐係有無咁嘅必要.

18 Answer: 有, 當唔夠鐵用嘅時候咪會囉, 不過...

19 Question: 係啦咁所以呢, 個啲係都有做過架嘛

20 Answer: 有, 會...會通知聲"

21 Pausing there. Mr Cheung --

22 COMMISSIONER HANSFORD: Sorry, have I got something missing?

23 It says, "Yes, yes, would inform us." Is there a word
24 missing?

1 MR SO: That is the Chinese transcript too. It ends like
2 that.

3 COMMISSIONER HANSFORD: Thank you.

4 MR SO: Mr Cheung, here you don't seem to just have heard
5 it, you've not heard it from the workers. You actually
6 know about it; right?

7 A. 唔係，個意思唔係。

8 Q. In your police witness statement, you also said, "In
9 reality this would happen".

10 A. 呢個係我喺地鐵，地鐵同我哋傾偈咁傾「如果真係有咁嘅情形，會有啲咩嘢
11 情況會出現？」我就話「如果當A杯嘅螺絲頭冇咗，有B杯嘅螺絲鐵同埋喺度
12 嘅話，會有咁嘅情形出現，但係有咁嘅情形出現嘅話，一定要問准禮頓，先
13 至可以去做。」

14 Q. Can I bring you to the next page of the Chinese
15 transcript. There are only four exchanges. The
16 question is this:

17 "一個bay頂籠十零條

18 Answer: 係，我印象中係十零條

19 Question: 姐係要咁樣改，先至完成到個鐵籠...

20 Answer: 係，十零條"

21 Mr Cheung, had you no knowledge about this and you
22 just heard it being muttered by the workers, you would
23 not have been able to tell there were at most a dozen or
24 so threaded rebars in each bay?

25 MR BOULDING: Sir, I hesitate to interrupt, but I'm told by

1 my learned junior, who understands Chinese, that
2 immediately before the passage that my learned friend
3 has read out, there's 15 seconds or so of the transcript
4 missing, as a result of which he says, and I tend to
5 agree, we don't understand the context of the questions.

6 Sorry to interrupt but I hope that's of assistance.

7 CHAIRMAN: No, that is. Thank you.

8 MR SO: Mr Chairman, I have myself heard the audio in
9 itself, but of course that is not transcribed out, so
10 I really can't assist, if I can in any way do.

11 CHAIRMAN: I think it's very important for a witness, when
12 that witness is being questioned as to a verbal exchange
13 that is part of a flowing conversation, that the
14 particular identified exchange be put into context.

15 MR SO: I agree.

16 CHAIRMAN: Because it's so easy for the answers then to be
17 taken out of context and misinterpreted.

18 MR SO: In that case, sir, would it be appropriate for us to
19 have a short adjournment so that the part can be given
20 in context to -- as I know --

21 CHAIRMAN: It's 3.30 now, so we normally have ten minutes.

22 Is that going to be of any assistance to you?

23 MR SO: I can arrange for those instructing me to get the
24 electronic transcribed version to be given to the
25 solicitors for the Commission immediately.

26 CHAIRMAN: All right. Then we will see. I'm really not

1 CHAIRMAN: Yes.

2 MR SO: -- that this is the part of the transcript.

3 Immediately after that page that was already
4 transcribed, the question was:

5 "Question: 大約印象中，一個slab會有幾多量係需要咁樣呢？

6 Answer: 好少，點解會好少？因為你當工作嘅時候，搞唔切A杯，
7 又要趕工程嘅話，咁咪要用B杯囉，但呢樣嘢唔常用，唔常見。

8 Question: 你印象中，最多一個例子會--會幾多條呀？又用番頭先
9 講咩，譬如一百條，有幾多條呀？

10 Answer: 個數真係好少㗎喎。

11 Question: 幾條？十幾條？

12 Answer: 我印象中，我印象中都有十零條。

13 Question ..."

14 And that is exactly the question and answer that
15 I have already read out.

16 CHAIRMAN: Okay. In English, I confess it obviously helps,
17 but I don't know -- there seems to be some ambiguity:

18 "Answer: Very minimal. How come it's so minimal?"

19 And then I think the answer is -- sorry, I have to
20 go back up again; I do apologise.

21 COMMISSIONER HANSFORD: I think the answer is just over
22 10 per cent.

23 MR SO: Yes, exactly.

24 COMMISSIONER HANSFORD: And presumably the 10 per cent is
25 just over -- well, what is it? Just over 10 per cent of

1 what?

2 MR PENNICOTT: Of what, that's the problem.

3 COMMISSIONER HANSFORD: I'm not clear but I'd have to read
4 the whole thing.

5 MR SO: If we read the whole thing, the context that it is
6 discussing is about turning B threads to A threads.
7 That's the thing.

8 COMMISSIONER HANSFORD: So that answer is that just over
9 10 per cent of threaded bars --

10 MR SO: Of B type being turned into A type, with those
11 sections being cut off.

12 CHAIRMAN: Well, is it? That's the thing.

13 COMMISSIONER HANSFORD: I don't know.

14 CHAIRMAN: Sorry, please forgive me. Perhaps we could try
15 to clarify it, because I didn't necessarily read it that
16 way.

17 MR SO: I understand. I will clarify with the witness.

18 COMMISSIONER HANSFORD: Yes, I'd like to know: just over
19 10 per cent of what?

20 MR SO: Mr Cheung, maybe you can assist the Commission. You
21 are here -- it's apparently saying there were
22 10 per cent of the threaded rebars being involved.

23 The question that the Commissioners are apparently
24 concerned with is 10 per cent of what? Can you explain
25 to us what this 10 per cent represents?

26 A. 首先，你應該有一個問題問我十條係乜嘢嚟先，然後再提及百分之十，

1 呢度喺獨立委員會嗰一日，我哋係一個討論性質，呢一點我好清楚，佢問
2 到我：

3 「如果喺個地盤度，唔夠A杯嘅coupler，會唔會用B杯嘅coupler？」

4 「當A嘅coupler螺絲冇咗嘅時候，可能會用B嘅螺絲牙代替裝上落去
5 個杯--coupler杯裏面。」

6 「咁呢件事會唔會好常見呀？」

7 「好少。」

8 「咁大概你估會有幾多呀？」

9 「一個bay可能會有十支。」

10 一個bay有16 metre，spacing係150mm，如果個coupler個比例係
11 一個bay裏面有六百四十支coupler，所以我就同佢講，「我印象中，如果係
12 咁，都會有十支嘅。」就係呢一句說話當時嘅意思。

13 Q. And those ten threaded rebars, I put it to you, were
14 that B threads were being cut to become thread A.

15 A. 錯，如果嗰個coupler杯佢已經係一邊有coupler嘅話，呢一面嘅coupler
16 得番一半，望落去個牙絲紋--螺絲紋係正常嘅A，但係容許可以用B嘅螺絲紋
17 鋼筋裝上係合格嘅。教授，明唔明？

18 COMMISSIONER HANSFORD: I'm afraid I do not follow, no.

19 CHAIRMAN: Nor do I.

20 MR PENNICOTT: That's three of us.

21 A. 如果一個coupler，我哋唔夠嘅A型嘅螺絲紋鐵，可唔可以用B紋嘅螺絲鐵
22 裝上？我嘅意思係咁樣。

23 COMMISSIONER HANSFORD: Is your answer that for around

1 10 per cent of connections you used type B bars instead
2 of type A bars? I don't think that's what you're
3 telling us, is it? That's not what you're telling us,
4 is it?

5 A. (Shook head).

6 COMMISSIONER HANSFORD: In that case, I still don't
7 understand, I'm sorry.

8 A. 有可能得十支鐵嘍。

9 COMMISSIONER HANSFORD: Only ten bars in your 640 or
10 something, whatever it was, only ten bars may have been
11 type Bs instead of type A; is that what you're telling
12 me?

13 A. 係，冇錯。

14 CHAIRMAN: So that's a different issue to cutting of type B
15 threads?

16 A. 冇錯。

17 MR SO: But you were referring exactly to cutting of
18 thread B immediately before this.

19 Can I bring you to the transcript. B3082.27 is the
20 Chinese version.

21 A. Okay, 我再講多次, 我哋係聽見有工人如果真係唔夠呢個螺絲鐵A型上,
22 或者會用B型去cut短個鋼筋, 類似A型嘅款裝上, 但係我哋冇親眼看見,
23 只係工人去討論。

24 Q. So is it also the staff who told you that it involves
25 around ten threaded rebars in a bay?

1 MR WILKEN: Sir, that is an unfair question, because it
2 doesn't actually match the answer that was given. He's
3 now trying to fuse the insertion of type B into type A
4 with the cutting of type B, and that's not fair.

5 CHAIRMAN: Yes.

6 MR SO: Mr Cheung, can you just read 3082.27. The question
7 that you were asked -- I have already read it, but for
8 the benefit of you I will read it again, that question.
9 The question was this:

10 "ok, 長短牙其實...其實都有...都有必要做架下麻, 都有必要cut
11 過下麻"

12 Your answer:

13 "視乎係做啲乜野囉, 長短牙"

14 Was this what you heard from the workers?

15 A. 係。

16 Q. And this was the discussion ongoing until the end of
17 this box in page 3082.28, in this same box, where you
18 talk about that ten threaded rebars. Can you tell me:
19 how do you come about this number of approximately ten
20 threaded rebars in a bay?

21 A. 呢個地鐵係問我如果有呢啲事情發生嘅話, 大概幾多...

22 Q. Just pause there. When you say "this situation", what
23 situation are you referring to?

24 MR BOULDING: He said "question".

25 A. 如果真係唔夠A牙嘅螺絲鐵, 而又有B牙螺絲鐵喺度。

1 MR SO: So you are not referring to thread B being cut?

2 A. 呢一段說話冇講剪緊鐵，呢一句段說話一路係討論緊A同B嘅存在。

3 Q. I will put it to you that you meant exactly cutting.

4 You can disagree if you want to.

5 A. 好。

6 Q. Can I bring you to page E874. This is the list of

7 working team of Fang Sheung; correct?

8 A. 係。

9 Q. You told us you heard that from the workers sometimes
10 there would be -- although you did not see, of course --
11 some thread B would be cut to become thread A; right?

12 A. 如果有可能嘅。

13 Q. I don't quite understand what you mean, "If that was
14 a possibility"?

15 A. 我講多次，因為呢啲地盤係用口語去討論嘅，啲員工佢哋會討論就係「如果
16 有啲A型嘅話，用B型cut咗佢，變番A型都係正常㗎。」係員工聽--我係聽
17 員工咁講過嘅。

18 Q. In your view, is this acceptable?

19 A. 我聽完咪--我聽咗咪笑一笑囉，梗係唔可以接受喇，因為我點解要嗰時間去
20 cut一個螺絲頭，係咪？去做呢個動作。唔得，我哋可以等coupler嚟，甚
21 至乎通知禮頓科文運送coupler畀我哋去裝上，點會咁愚蠢去嗰時間去做一
22 個動作去cut coupler？我亦都講過我個立場，係唔容許嘅。

23 Q. So did you immediately scold that worker and say, "This
24 is not acceptable"?

1 A. 人--地盤人講嘢咪由得佢哋講囉，但係我哋做嘅過程裏面，施工時候有提
2 及咁嘛。

3 Q. Help us, can you, Mr Cheung: do you recall who on this
4 list actually told you this?

5 A. 記唔到，我都記唔到我琴日所講嘅嘢。

6 Q. I will move to another topic, Mr Cheung. Do you recall
7 yesterday that my learned friend Mr Pennicott asked you
8 about a situation where sometimes there would be
9 deformed couplers where threaded rebars could not be
10 installed? Do you recall that?

11 A. 好似一路都係呢啲問題嚟㗎。

12 Q. You told us that Leighton people would then tell you
13 that they would put in dowels inside the diaphragm wall,
14 and then this process was commonly said to be 鑽窿插鐵;
15 correct?

16 A. 我再講多一次，係如果禮頓有一個補救設施嘅話，佢有鑽窿插鐵嘅，咁我哋
17 啲工人--因為出工人，佢可以叫我哋做嘅嘢，就係話可能係將個螺絲頭cut
18 咗佢，裝番一個落壞嘅coupler杯度。

19 Q. I recall you also told us that is for cosmetic reasons;
20 correct?

21 A. 我而家講漏咗美觀啫，係美觀好睇啲呀。

22 Q. I'm not criticising you, Mr Cheung. Don't be worried.

23 A. 唔係，唔係，唔係，我都係一路演繹啫，我覺得係辛苦啲，冇辦法嘅，我
24 係幫助緊大家。

1 Q. Mr Cheung, why would one spend, as you told us -- it
2 would be quite troublesome to cut the threaded end of
3 a rebar, so why would you cause all the troubles to cut
4 the threaded ends for cosmetic reasons?

5 A. 我從來冇講過我話要美觀啲，去剪咗個螺絲頭去。

6 Q. You said that it would be unsightly if there were
7 a vacant coupler left there, although it is a deformed
8 coupler; correct?

9 A. 係。

10 Q. And you would like to put something in it, just to make
11 it more sightly?

12 A. 呢個唔係我嘅動作，亦都唔係我嘅意見，我亦都講咗我嘅工人係會聽禮頓嘅
13 吩咐，去做啲補救嘅唔合格嘅coupler鐵，如果有需要嘅話，佢會叫我哋工
14 人咁做。

15 Q. So it was not our opinion?

16 A. 呢個絕對唔係我嘅意見。

17 Q. Can I bring you --

18 COMMISSIONER HANSFORD: Sorry, you are going too fast. We
19 are not getting the answers.

20 MR SO: I really do apologise.

21 CHAIRMAN: We covered this reasonably extensively yesterday
22 and I don't intend to stop you, but sometimes it's a bit
23 like 100 people walking down the same pathway. It turns
24 from a firm surface into mud.

25 MR SO: I'm sorry.

1 CHAIRMAN: I really don't mean -- that's not a criticism,
2 it's just that sometimes it obfuscates matters, you
3 know.

4 MR SO: I see.

5 CHAIRMAN: Obviously if there's a particular point you're
6 going to, then you must go there.

7 MR SO: Yes.

8 I just want to clarify your answer yesterday,
9 because, pardon me if I'm not being smart enough,
10 I don't quite understand.

11 Can I bring you to the transcript of Day 14,
12 page 106, line 11. You were asked by my learned friend
13 Mr Pennicott:

14 "Why, in those circumstances, would there be any
15 need to cut the thread, or to cut the bar at all?"

16 And your answer:

17 "Because I feel that if the hole is vacant or is
18 empty, then a bar should be inserted into it ..."

19 I just skip to line 21, this is also your reply:

20 "Because -- this is my personal view -- that the
21 hole, Leighton might not be able to drill another hole
22 and they might have to do it above and then insert
23 another dowel. So it's possible that if they approve it
24 and if they allow that remedial procedure, and if it was
25 feasible, then Leighton could instruct our workers to
26 cut the bar ..."

1 I don't quite understand, because the answer you
2 just gave us now, it was not your personal view; it was
3 Leighton's people instructing you to do that. So is it
4 now your personal view, or whether Leighton people
5 actually instructed you to do that?

6 A. 第一，如果禮頓嘅人佢有一個補救措施去做一條鐵，core窿種鐵，佢係可以
7 叫我哋嘅工人去cut咗個coupler，去裝番一個壞嘅coupler上嗰條鐵，但
8 係我有見過。

9 Q. Have you heard of them?

10 A. 冇聽過，剛剛琴日討論咗--頭先謄錄都係話係我認為咁嘛，因為點解？如果
11 個壞嘅coupler個窿空置咗，如果禮頓嘅人認為做咗補救措施，然後--
12 即係我個人認為，就係將個coupler橫掂都扭唔到嘅話，儘量有幾多，就裝
13 番上幾多，呢個係我個睇法。

14 Q. So you have not seen, have not heard, and it did not
15 happen?

16 A. 我有見過將個coupler cut咗，鑽窿插鐵實實在在係有發生嘅。

17 Q. Can I bring you to page --

18 CHAIRMAN: Sorry, can we just have a couple of minutes? Can

19 I just see Mr Pennicott a second? Thank you very much.

20 (4.23 pm)

21 (A short adjournment)

22 (4.31 pm)

23 CHAIRMAN: Thank you very much.

24 The reason why I asked Mr Pennicott, who is counsel
25 for the Commission, to just step back is that both

1 Prof Hansford and I are a little troubled at this moment
2 in time. We seem to have covered this issue extensively
3 yesterday. It was, I think, dealt with in reasonably
4 plain language at one stage in the day, and we had
5 an understanding with Mr Cheung as to his position.

6 Mr Cheung, like a number of other witnesses, has
7 been questioned a good deal, and I think he said
8 a little earlier that he couldn't remember what he said
9 yesterday let alone today. We are concerned that what
10 had attained a degree of clarity yesterday, for the sake
11 of the Commission of Inquiry, in the public interest,
12 was becoming obfuscated and confused.

13 So unless you feel that you're wishing to make some
14 new or novel point on this issue, I don't know that we
15 can be assisted by further going over this particular
16 issue.

17 MR SO: Sure, sir. Regarding the dowel points, I am just
18 putting to the witness something we heard this morning.
19 That's the only matter I would like to deal with.

20 That's all.

21 CHAIRMAN: And that is?

22 MR SO: That there were no dowel being planted in SCL1112.

23 CHAIRMAN: I think that's a pertinent and a discrete point
24 and I have no difficulty with you putting that to him.
25 All right.

26 I do wish to emphasise, I'm not here to stop you.

1 I like to think I've given all counsel reasonable
2 leeway. It's just that if we've already covered
3 a particular point at some length and a number of
4 counsel have been involved in that and we seem to have
5 reached a consensus with the witness as to what the gist
6 of his evidence really is, then to revisit it later may
7 often be counter-productive --

8 MR SO: I entirely understand.

9 CHAIRMAN: -- to coming to clear and understandable
10 positions, in the public interest.

11 MR SO: I entirely understand, sir. I do apologise if I --

12 CHAIRMAN: You don't have to apologise at all.

13 MR SO: -- have been troubling or muddying up the water.

14 CHAIRMAN: Not necessarily, and you have your job to do and
15 I'm not for one moment trying to stop you from doing it,
16 but this is not, for example, a criminal trial where
17 I may say we've got different issues at stake. This is
18 a commission of inquiry where we're looking to the
19 public interests, not the interests of any one
20 particular person at any one particular time, although,
21 that said, one is always seeking to protect the
22 interests of everybody.

23 MR SO: I am most grateful, sir.

24 CHAIRMAN: Good. So the one question is fine.

25 MR SO: I think I will be -- 10 to 15 minutes I will end my
26 cross-examination.

1 CHAIRMAN: Thank you.

2 MR SO: Mr Cheung, if I were to put to you that there was
3 never planting of dowels in this SCL1112 project, would
4 you agree or disagree?

5 A. 唔同意。

6 Q. So your evidence is it did occur? It did occur?

7 A. 種鐵係有發生嘅。

8 Q. Can I just bring you to the bit of my cross-examination.
9 It's in bundle B1/B36.

10 Did you have an opportunity of reading this
11 paragraph of the MTR report?

12 A. 冇。

13 Q. All right. Do you want to have a read of it or do you
14 prefer it to be interpreted to you?

15 MR PENNICOTT: He said he couldn't read English, so it's
16 pretty obvious.

17 MR SO: All right, I'll read it.

18 A. 我需要透過翻譯。

19 Q. Thank you.

20 "Interviews were held on 13 June with two
21 representatives from Fang Sheung. They confirmed their
22 steel fixing works were carried out in accordance with
23 Leighton's and MTRCL's procedures. During their course
24 of work, they might encounter difficulties in fixing the
25 threaded steel bars into the couplers. In such

1 circumstances, they would raise the difficulties with
2 Leighton and request Leighton to resolve the issue."

3 This is the part I wish you to focus on:

4 "On some occasions and as requested by Leighton,
5 they would carry out cutting of threaded steel bars to
6 meet the required threaded length. On other occasions
7 and as requested by Leighton, the threaded steel bars
8 could be cut and screwed into the couplers with the
9 understanding that rectification measures would be
10 carried out by Leighton."

11 Would you agree that this is the fact that you
12 actually encountered on the site?

13 A. 呢個唔係工地遇到嘅事實，我係--亦都係形容緊頭先嘅佢做咗修補嘅工作，
14 然之後禮頓可以叫我哋嘅員工cut咗個coupler，塞番個窿。

15 Q. You would fairly accept, wouldn't you, that this
16 statement that you have just mentioned was never
17 mentioned to the police in the police statement;
18 correct?

19 MR WILKEN: Sir, I'm slightly confused, because I think this
20 is an MTR precis of the transcripts of the interview
21 that we've just spent a day trawling over. I think it
22 is.

23 MR SO: Mr Cheung, did you tell the police that Leighton
24 sometimes would ask you to cut the threaded ends and put
25 there with the understanding that Leighton would make
26 remedial works?

1 A. 如果我有記錯，我哋喺警察嗰個報告都係，如果禮頓經已做好晒補救措施
2 嘅話，佢可以叫我哋工人cut咗個coupler頭，質番個窿，呢一點，我
3 印象，有講過。

4 Q. I would suggest to you that you didn't, Mr Cheung.
5 Would you agree or disagree? Or do you want your police
6 witness statement? It's in E1575.

7 CHAIRMAN: Sorry, again, I'm not sure where we're going here
8 with this. Are you saying that Mr Cheung has never said
9 that there were occasions when --

10 MR SO: His workers would cut the threads on the
11 understanding that Leighton would have remedial works
12 done. My question was this was not given in the police
13 witness statement.

14 CHAIRMAN: No, it may not have been given in the police
15 statement, but he seems to have said it before this
16 Commission.

17 MR SO: Yes, I understand that. That's what I'm trying to
18 tell him, that he did not tell the police, and whether
19 he accepts. He says he did tell the police. That's the
20 point that I'm trying to clarify.

21 CHAIRMAN: I'm just wondering, are you trying to get to
22 a position where you will address this Commission on the
23 basis that this never happened, or that it did happen?

24 MR SO: Of course I will reserve it to the submission stage
25 but of course I would say there was a change of evidence
26 and change of position from time to time of this

1 witness.

2 CHAIRMAN: I see. Thank you very much.

3 MR SO: This was not mentioned in the police statement?

4 A. 我可唔可以睇番我警察口供先?

5 CHAIRMAN: Isn't this a matter, with respect, that you can

6 bring to our attention, if you wish to do so, and at

7 that time, in the address --

8 MR SO: I'm just trying to get him to agree that he did not

9 put it in the police statement, because he insists that

10 he did, that's the problem.

11 CHAIRMAN: No, in fairness, he seems to be saying, "I may

12 have done and I'd like the ability to be able to check."

13 MR SO: All right. Perhaps I will just put to him and leave

14 it to re-examination if he did not.

15 CHAIRMAN: Okay.

16 MR SO: Mr Cheung, I suggest to you -- you can disagree --

17 you did not give this --

18 MR SHIEH: Mr Chairman, we have actually sat for some time

19 observing different lines of cross-examination and we

20 have actually held back for some time before making any

21 intervention.

22 But it seems that we have reached a time when --

23 obviously Mr Chairman may have actually taken a similar

24 view and that is why the brief pause just now -- in our

25 respectful submission, there is a distinction between

26 what can legitimately be probed and tested by counsel

1 for the Commission conducting the Inquiry by posing
2 questions on behalf of the Chairman and the
3 Commissioner -- he can test it and probe it -- but in
4 relation to the concerned parties who are here, because
5 potentially they are under criticism, their role would
6 be rather different, and if a party has a certain
7 factual position to put which is contrary to what
8 a witness had said, then that party can by all means put
9 it or suggest it.

10 But, in our respectful submission, it is really not
11 for a concerned party to suddenly become second counsel
12 to the Commission and start having a roving inquiry as
13 to what has been called a changing position on the part
14 of a witness. There's got to be a delimitation, because
15 otherwise we are going to have six or seven lines of
16 questioning from six or seven purported substitute
17 counsel for the Commission, and at the end of the day we
18 will actually issue a fee note to Lo & Lo by doing that,
19 or the government will ring us up and say, "Thank you
20 very much for multiplying the kind of questions that can
21 legitimately be put."

22 Therefore I entirely echo what Mr Chairman mentioned
23 earlier. If there is a particular proposition that one
24 wants to put, one can either prompt Mr Pennicott as
25 counsel for the Commission to test it or to probe it, or
26 when one actually seeks leave to cross-examine, he or

1 she can actually say, "I want to test this witness on
2 the following areas". But what we can't have, in our
3 submission, is for a party to really say just now -- and
4 the transcript speaks for itself -- "I will reserve my
5 position until the closing, but what I want now to show
6 is the changing position" -- that is, in our submission,
7 not quite acceptable.

8 I can very well see that the Commission, as
9 Mr Chairman pointed out, giving some kind of leeway at
10 the initial stages, but if we now see that lines of
11 questioning are being conducted on this basis, resulting
12 in the vice that Mr Chairman wisely pointed out just
13 now, then I believe it is time for us as a concerned
14 party to raise such a concern.

15 CHAIRMAN: All right. Thank you.

16 MR SO: Sir, in that case, I have no further questions.

17 Thank you.

18 CHAIRMAN: Just before you sit down, I don't want there to
19 be any form of misinformed criticism of proceedings in
20 the public interest. One of the reasons why I have been
21 somewhat more -- I don't want to say "charitable" --

22 COMMISSIONER HANSFORD: Flexible?

23 CHAIRMAN: -- somewhat more easy going about it is that
24 I fully appreciate, without any flippancy at all, that
25 the person who instructs you has himself a very rooted
26 position in this matter and has himself been subject to

1 fairly extensive cross-examination.

2 But that doesn't, as Mr Paul Shieh has said, enable
3 him to become, so to speak, a prosecutor of everybody
4 else. It is still a public inquiry, and insofar as you
5 are able to assist that public inquiry by bringing
6 pertinent matters to the fore, that is welcome. Do you
7 understand me?

8 MR SO: I entirely understand.

9 CHAIRMAN: So I don't want you to now say, "All right,
10 because there's been an objection I'm going to stop."

11 MR SO: I entirely understand.

12 CHAIRMAN: Lawyers are objected to all the time in our
13 jurisdictions, in the common law. That's part of the
14 system. And if you feel you have other matters that you
15 wish to pursue and that they are new, and that they are
16 going to assist us, then you must obviously proceed.

17 MR SO: Of course, sir. I am entirely grateful for granting
18 me those leeways in cross-examination. I have no
19 further questions.

20 CHAIRMAN: Good. Thank you very much.

21 We are now at quarter to five. I think, in fairness
22 to this witness -- he has been examined for some time --
23 we are now Friday afternoon and I really wonder if we
24 may not be better served by adjourning the matter now
25 until Monday morning.

26 Mr Khaw, your view?

1 MR KHAW: Mr Chairman, I initially wished that I could take
2 some credit for giving everyone an early start to
3 a happy weekend, and now certainly I do not want to be
4 held liable for detaining everyone on a Friday
5 afternoon. So I will abide by the Chairman's direction.
6 I am happy to start on Monday.

7 CHAIRMAN: Thank you very much.

8 MR PENNICOTT: Sir, can I just mention, since we have just
9 mentioned Monday, there is, just to let everybody know,
10 a further provisional timetable which has been approved,
11 I understand, by yourself.

12 CHAIRMAN: Yes.

13 MR PENNICOTT: It has not yet gone onto the website but that
14 will happen either this evening or tomorrow. Probably
15 tomorrow. But just to let everybody know that that is
16 the case and they should take a careful look at the
17 revised provisional timetable.

18 When we have completed Mr Cheung's
19 cross-examination, we will then switch back, as it were,
20 to further Leighton witnesses, and at Leighton's request
21 Mr Karl Speed will be the next Leighton witness. Then
22 there will be Mr Law, Mr Ho, Ms Emily Cho.

23 Then, sir, just so that everybody is not taken by
24 surprise, we have had a further witness from China
25 Technology, a Mr Ngai Chun Kit, and he will follow
26 Mr Emily Cho. There are good reasons for that, because

1 they deal with similar subject matters regarding the
2 Leighton sign-in/sign-out records. Just to let
3 everybody know that that is the case and they should pay
4 close attention to the new provisional timetable, when
5 it is published.

6 CHAIRMAN: Thank you.

7 Mr Cheung, we are going to finish now until Monday
8 morning. I'm sorry we have to bring you back on Monday
9 morning. I'm sure there won't be any more questions for
10 you after Monday; all right? But it does mean that over
11 the weekend you are not entitled to speak to anybody
12 about your evidence. All right?

13 WITNESS: 完全明白。

14 CHAIRMAN: All right. There is, quite naturally on the part
15 of friends -- I know you said you don't have any, but
16 I'm quite sure you do; you're a very personable
17 character -- but there are people who genuinely want to
18 discuss your evidence and give advice and give a bit of
19 wisdom, and that distorts your evidence. Do you
20 understand me? So you should not discuss matters. Just
21 say to them, "Sorry, until I'm finished, I'm unable to
22 talk about this." Do you understand?

23 WITNESS: 我明白。

24 CHAIRMAN: Thank you very much.

25 (4.51 pm)

26 (The hearing adjourned until 10.00 am

1

on Monday, 12 November 2018)

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