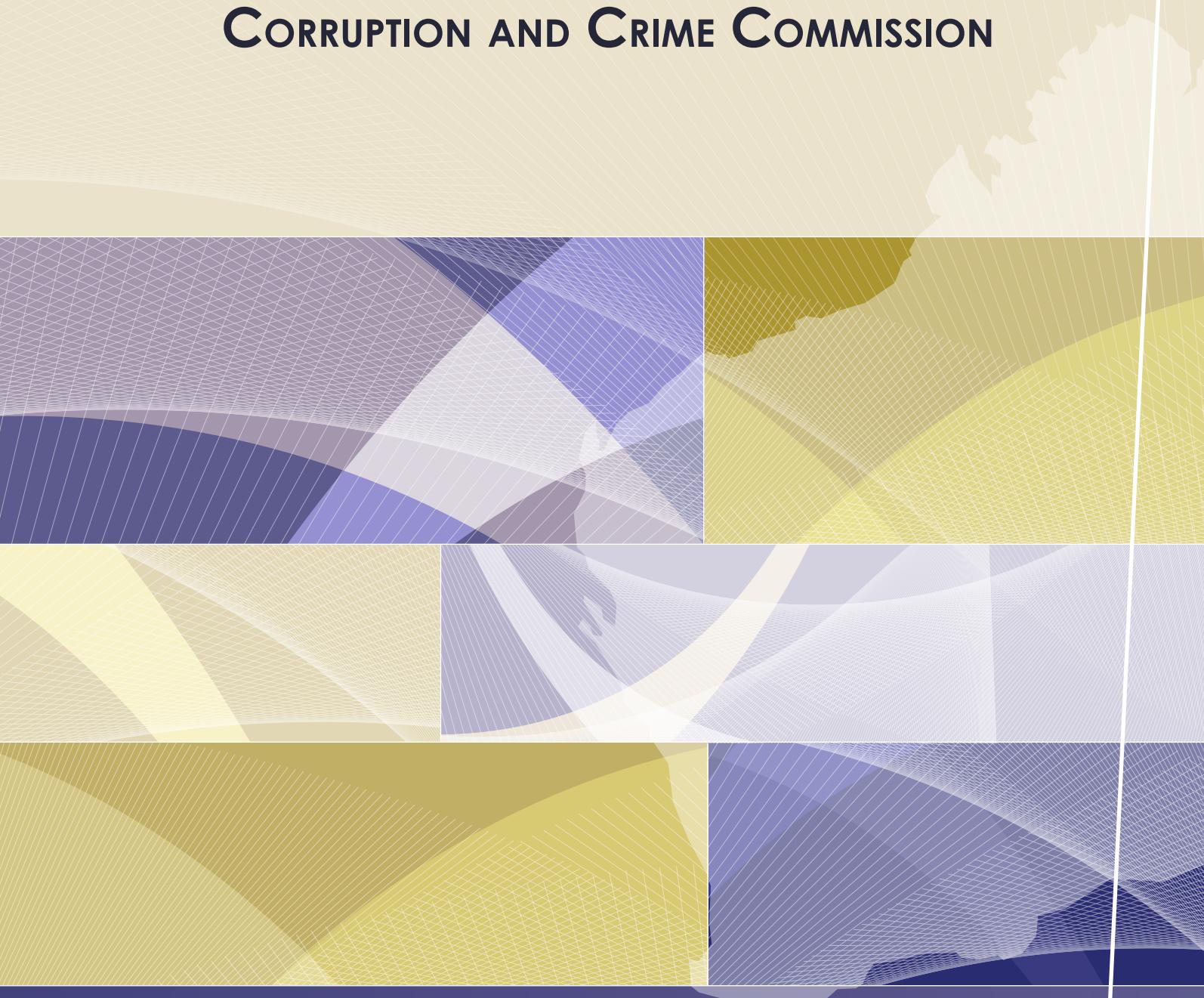




CORRUPTION AND CRIME COMMISSION



**REPORT ON THE ACTIVITIES OF CERTAIN VEHICLE EXAMINERS
CONTRACTED BY THE DEPARTMENT OF TRANSPORT**

24 JANUARY 2017

ISBN: 978-0-9943035-0-9

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CORRUPTION AND CRIME COMMISSION

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Dear Mr Pratt
Dear Ms Robinson

As neither House of Parliament is presently sitting, in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 93, the Commission hereby transmits to you a copy of its *Report on the Activities of Certain Vehicle Examiners Contracted by the Department of Transport*.

The Commission notes that under the CCM Act s 93 a copy of a report transmitted to a Clerk of a House is to be regarded as having been laid before that House.

Yours sincerely

John McKechnie, QC
COMMISSIONER

24 January 2017

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CHAPTER ONE

HOW AND WHY THIS INVESTIGATION CAME ABOUT

Vehicle examinations are outsourced

- [1] Outsourcing government services to the private sector without strong oversight and governance facilitates an environment in which bribery, fraud and corrupt business relationships can flourish.
- [2] Government authorities are increasingly contracting private individuals to perform essential public services on their behalf. Often, the purpose is to reduce reliance on government departmental facilities and to provide choice for the consumer. In rural areas it can be cost effective to contract private individuals to provide government services.
- [3] However, public authorities are vulnerable when government services are contracted to private individuals without the allocation of adequate resources or capacity allowed for governance and audit functions.
- [4] The Department of Transport (DoT) is responsible for setting motor vehicle standards in accordance with national and State Government requirements, assessing driver competency, issuing and renewing driver licences and securing and maintaining a database of registered vehicles and drivers.¹ At the close of 2015, DoT had contracted 36 authorised inspection stations in the Perth metropolitan area to provide vehicle inspection services on the Department's behalf. By the first half of 2016, it was expected to exceed 70 contracted authorised inspection stations.²
- [5] The DoT is a major contributor to the WA economy. It delivered services at a cost of \$195 million in the 2015/16 financial year.³ It is also a significant generator of revenue on behalf of government. In the 2015/16 financial year, the Department generated \$201 million in revenue.
- [6] There are substantial savings to the State Government from utilising a model that outsources assessment of the roadworthiness of vehicles to a private contractor. The average cost to DoT in the 2014/15 financial year to inspect a vehicle in a government run vehicle examination centre was \$139 per vehicle. In contrast, the average cost to DoT to inspect a vehicle through an authorised inspection station was \$84 per vehicle. Aside from the financial efficiencies from an outsourcing model, there are efficiencies for the Western Australian public in accessing vehicle inspection services quickly through privately run inspection stations.

¹ Western Australia State Budget Papers 2016-2017 vol 2, Transport, p718.

² Transcript of examination of Mr Alistair Butcher (Director Business Reform, Department of Transport), 27 November 2015 p7.

³ \$195,309,000 actual cost of provision of services - Western Australia State Budget Papers 2016-2017 vol 2, Transport, p718.

[7] In 2011, DoT moved towards contracting private operators to perform functions it formerly provided. Auditing processes were put in place to provide structure and governance, but in hindsight, the oversight of contractors was insufficient to prevent exploitation. Private contractors performing the vehicle assessment function and the driving assessment function were vulnerable to those in the motor vehicle industry and in organised crime who sought a shortcut through the licensing process.

Allegations brought to the Commission's notice

[8] On 26 February 2014, an authorised vehicle examiner, Mr Alfonso Berardis, who was a proprietor of Favazzos Engine Reconditioning and Service Centre (Favazzos), Spearwood, entered the details of a Toyota Landcruiser owned by an 18 year old male into the DoT licensing system. The entry indicated that the vehicle had been inspected and all problems identified in the defect notice issued by WA Police had been rectified. In fact, the vehicle was still fitted with non-compliant tyres, elevated suspension, dark window tinting, turbo and intercooler system.⁴ These modifications were illegal.

[9] The vehicle was not adequately inspected. The entries into the DoT licensing system were false. When the Landcruiser was subsequently sold privately, the new owner was forced to undertake major repairs to render the vehicle compliant for licensing⁵ as the vehicle failed inspection by another examiner. It had 27 defects.⁶

[10] DoT noticed that Mr Berardis rarely failed vehicles that he inspected. His extraordinarily high pass rate was initially thought to be the result of an unapproved practice whereby vehicles were pre-inspected and the owner informed of deficiencies which were allowed to be rectified before the inspection was recorded. In fact, the situation was worse. Vehicles were passed for licensing purposes without rectifications being made to the vehicle, or without the vehicle ever being seen by Mr Berardis.

[11] In mid-2015, the Commission's investigation established a similar corrupt practice was occurring independently 40 kilometres away. The proprietor of Crypton Autos in Walliston, Mr Troy Pintabona, passed as roadworthy vehicles that he had not inspected, or passed vehicles that he had inspected but found had significant defects.

[12] The Commission undertook a cooperative investigation with DoT, and was assisted by the Department of Commerce who has statutory authority for the regulation and licensing of automotive trading industry practitioners.

⁴ DoT General Form 27 February 2014. Photographs taken by DoT Compliance Officers.

⁵ AIS (Authorised Inspection Station) Inquiry Form. Interview Transcript of the new owner dated 17 December 2014 established that repairs cost \$16,000. Due to subsequent mechanical failure, the vehicle became uneconomical to maintain. The new owner was forced to dismantle it and sell the parts to recover money. He recovered only \$16,000 and lost the entire \$20,000 originally paid to purchase the vehicle.

⁶ Vehicle Defect Compliance Notice MR1341092 further to EA700400.

- [13] A person under contract to DoT and authorised to conduct vehicle examinations is a public officer whose activities fall within the jurisdiction of the Commission. They are a person exercising authority under a written law.⁷
- [14] A public examination was held over two weeks in late 2015 as the Commission considered there was sufficient evidence to expose the alleged misconduct, demonstrate integral and system deficiencies and increase awareness by questioning the public officers and other parties to the alleged activity.
- [15] The Commission appointed Mr Alan Troy and Ms Kirsten Nelson as Counsel Assisting during the examinations.
- [16] Serious misconduct detected by the Commission compromised the State wide regulatory system which links to the National Vehicle Examination and Licensing Database (NEVDIS). This opened the potential for risk to road safety and consumers who purchased vehicles that had been licensed without examination.
- [17] Because of the past identification of corruption in vehicle examinations, and the risks involved in outsourcing the function, the Commission decided to conduct an investigation using all its resources, including extensive covert surveillance, electronic interception and examinations.

Why the Commission investigated

- [18] The Commission investigated because it is necessary to:
 - maintain integrity in national and State databases which is necessary to support national identity, security and privacy policies;
 - mitigate against organised crime and support the enforcement of road traffic and other relevant laws;
 - maintain driver competency standards for the benefit of all road users; and
 - maintain the ability to collect revenue on behalf of the State Government.
- [19] The Commission reported on corrupt behaviour by vehicle examiners in 2008.⁸ That investigation focussed on the vehicle inspection practices within DoT operated Vehicle Licensing Examination Centres and resulted in the prosecution of a vehicle examiner (Mr Barry Tanner) employed at the Kelmscott Vehicle Examination Centre, and a motor vehicle repairer (Mr George Raphael), who operated a business in O'Connor.

⁷ *Corruption, Crime and Misconduct Act 2003* s 3, *Criminal Code* s 1.

⁸ Western Australia, Corruption and Crime Commission, *Report on the Investigation of Alleged Public Sector Misconduct by Employees of the Department for Planning and Infrastructure in Relation to the Inspection, Licensing and Registration of Motor Vehicles*, 16 September 2010.

- [20] Mr George Raphael acted as a conduit for anyone with an unlicensed used vehicle that required examination. He collected relevant documents and charged the owner a fee which included the cost of inspection. Mr Tanner collected the documents from Mr George Raphael, and without inspecting the vehicle, certified that each vehicle had passed examination. He entered that result into the State wide Transport Executive and Licensing Information System (TRELIS), then returned the certified documents to Mr George Raphael and received a bribe from Mr George Raphael for each certification.
- [21] The Commission's recommendations identified the need for a systemic review of DoT policies, procedures and practices as they applied to the inspection, licensing and registration of motor vehicles in Western Australia. DoT subsequently changed the regulatory model for the inspection of motor vehicles, and developed the Vehicle Inspection System (VIS), to electronically record all inspections.
- [22] The DoT moved from a system whereby they provided all services for metropolitan vehicle licensing and safety inspections, engaging authorised vehicle examiners.
- [23] In April 2011, DoT invited applications from suitably qualified organisations with established premises to perform vehicle inspection services. For providing this service, the examiner is paid a major percentage of the inspection fee. Under the terms of the agreement, each examiner and their approved premises is monitored by DoT and must undergo regular inspection and audit of records, equipment and vehicle inspection procedures.
- [24] The Commission's focus in this investigation was on contracted examiners and not DoT employees who performed the same service at DoT Vehicle Assessment Centres.
- [25] Privately contracted authorised vehicle examiners often have strong bonds with those employed in the motor vehicle industry, such as dealers and repairers. However, because of the nature of their work, an examiner inspects vehicles autonomously without peer review. The fees they receive are relatively modest. The potential for misconduct is high.
- [26] Copies of the draft report were provided to parties who might be adversely affected⁹. Where the Commission accepts the response given, the report has been amended accordingly.

The vehicle inspection process

- [27] The requirements for the inspection of vehicles arises under the *Road Traffic (Vehicles) Act 2012* and the *Road Traffic (Vehicles) Regulations 2014*. These requirements include where:

⁹ *Corruption, Crime and Misconduct Act 2003*, s 86.

- the vehicle licence is being granted and not merely renewed (although most standard new vehicles are exempt);
- the vehicle licence has been expired for more than three months;
- the vehicle is subject to an annual inspection (such as taxis);
- a defect notice has been served on the vehicle;
- the vehicle has been recently modified;
- the vehicle is on the Written Off Register; or
- the vehicle has been required to undergo another inspection to resolve issues detected in a prior inspection.

[28] In some circumstances, DoT policy requires a less comprehensive vehicle inspection if the vehicle is a light vehicle, is less than three years old, has travelled less than 60,000 kilometres and does not appear on the Written Off Vehicle Register.

[29] The inspection process prescribed by DoT is that:

- the vehicle must be pre-booked for inspection;
- the vehicle must be presented for inspection;
- the inspection of the vehicle must be conducted using a suitable vehicle hoist or inspection pit at approved premises;
- the details required to complete the examination are obtained from the vehicle by examiners and written contemporaneously on the MR1 form;
- on completion of the examination, examiners must enter relevant details onto VIS and generate a printed copy of the MR1 form; and
- the computer generated MR1 form is provided to the presenter of the vehicle together with a tax invoice showing that the fee has been paid.

[30] The process of examining is straightforward for major inspections: a 30-45 minute physical inspection of the mechanical aspects and body of the vehicle and a test drive. DoT requires an MR1 form to be completed with the necessary vehicle specifications by the vehicle examiner. These details are later entered into VIS using the MR1 form as the reference. The VIS system is passcode protected and can identify entries from individual examiners. It is expected that inspection data be entered while the vehicle is still at the inspection shed. VIS then generates a tax receipt and Certificate of Inspection for the customer. This is evidence of the fact that the vehicle has passed a physical examination, is roadworthy and can be licensed by the owner.

The corrupt process

Favazzos

- [31] The Commission's investigation obtained evidence that vehicles in each of the categories were passed as suitable to be licensed, without an examiner having inspected the vehicle.
- [32] The examiners did not operate in a vacuum. Their corrupt activity was assisted by and involved:
 - licensed motor vehicle dealers;
 - licensed motor vehicle repairers;
 - unlicensed persons who appear to be operating as motor vehicle dealers;
 - private owners of unlicensed vehicles; and
 - private owners of vehicles issued with defect notices.
- [33] The Commission's investigation highlighted the activities of Mr Alfonso Berardis and Mr Tiziano Dionisio who were private automotive mechanics and operators of Favazzos located at Spearwood. Mr Berardis and Mr Dionisio were approved to act as examiners¹⁰ and operate an authorised inspection station. In the Commission's opinion, Mr Berardis and Mr Dionisio acted corruptly by knowingly:
 - failing to conduct vehicle examinations;
 - failing to conduct vehicle examinations to the required standards; and
 - falsifying DoT vehicle inspection records.
- [34] At Favazzos, rather than inspect a vehicle, the examiner completed an MR1 form either without ever sighting the vehicle, or after sighting the vehicle but not performing a physical inspection. Often the MR1 form had been completed in advance by the individual presenting the vehicle for inspection.
- [35] The examiner then made false entries in VIS showing that the vehicles had passed inspection. The vehicle examiner collected and remitted the inspection fee to DoT and received a portion of the inspection fees collected back in payment.¹¹
- [36] Contrary to the approved process, at Favazzos, vehicle inspection bookings were not mandatory:

¹⁰ Agreement made between Mr Berardis and Mr Dionisio and DoT dated 1 August 2011 (the Agreement).

¹¹ About 75% of the prescribed fee went to the authorised vehicle examiner according to p27 of the Agreement and the transcript of examination of Mr Berardis on 11 November 2011, p5.

- Details that should have been obtained by the examiner when physically examining vehicles were instead provided to the examiner by email, telephone or in person.
- Vehicles appearing on the inspection records were not presented.
- The person presenting the vehicle for inspection regularly attended at the premises without the vehicle that was recorded as inspected.
- Those same persons regularly attended at the inspection facility only to deliver or collect documents.

[37] Analysis of the daily inspection records obtained from VIS indicated which vehicles had allegedly been examined by Favazzos. Together with covert surveillance of the inspection facility at the premises, the Commission obtained reliable evidence of which vehicles were actually presented for inspection.

[38] Between 23 May 2014 and 18 August 2014, Mr Berardis recorded 556 vehicle examinations on VIS.¹² During this period, the activities of Mr Berardis were monitored by telecommunication interception and covert electronic surveillance. The Commission established that 314 of the 556 vehicles were not presented for inspection by Mr Berardis.

[39] Covert surveillance continually monitored a large steel shed and small internal office that were the contracted inspection facility at Favazzos. The daily inspection records regularly recorded multiple daily vehicle inspections from certain motor vehicle dealers and repairers. Covert surveillance corroborated by the telecommunication interceptions provided evidence that those dealers and repairers attended to collect documentation only, rather than to present vehicles for inspection.

[40] Some dealerships or repair workshops were located up to 30 kilometres from Favazzos, and in the vicinity of closer authorised inspection stations. Delivery of vehicles from these businesses to Favazzos would have required considerable effort and personnel or vehicle carriers. Surveillance of the premises demonstrated that often this effort was not made.

Crypton Autos

[41] Mr Troy Pintabona operating from Crypton Autos in Walliston became an authorised vehicle examiner in April 2013. Within a year, Mr Pintabona operated outside the terms of his contract by:

- examining vehicles other than at the premises of Crypton Autos; or
- examining vehicles for a cash fee that was higher than the DoT prescribed amount.

¹² MR23 Records - Evidence Spreadsheet.

[42] The Commission has formed an opinion that Mr Pintabona has engaged in serious misconduct,¹³ corruptly using his position to benefit himself by taking bribes and by passing vehicles that should not have been assessed as roadworthy.

¹³ *Corruption, Crime and Misconduct Act 2003* s 4.

CHAPTER TWO

THE CORRUPT ACTIVITIES OF VEHICLE EXAMINER, MR ALFONSO BERARDIS

[43] Mr Berardis predominately performed the vehicle examinations at Favazzos¹⁴ and he did so for regular clients of dealers and repairers as well as private individuals. In total, Mr Berardis examined over 7,000 vehicles for DoT from August 2011 until September 2014 when DoT terminated the contract. The contract, in the three and a half year period, netted Favazzos approximately \$460,000 in fees.

[44] Mr Berardis had an exceptionally high industry pass rate for vehicles passed on first inspection, namely 94%. During examination, an attempt was made by Mr Berardis to explain this figure on the basis that he allowed customers with defective vehicles up to four weeks to return with the defects fixed, without incurring extra charge. This explanation was not convincing and did not concur with covert surveillance.

[45] The evidence gathered during three months of surveillance of the Favazzo premises illustrates a different modus operandi. Mr Berardis dealt regularly with established motor vehicle dealers and repairers:

- Cannington Auto House (Mr Tony Raphael);
- Perth Motor Sports/Betta Wholesale (Mr Michael DiPlacido);
- Cannington KIA/Total Nissan (Mr Daniel Vassett);
- Xplorer Floats (Mr Glen Jordan);
- PTE Group Pty Ltd (Mr Vince Pollard);
- Basilio Autos (Mr Orlando Basilio);
- Croc Power Motorcycle Repairs (Mr Peter Horn); and
- Bucciarelli Automotive (Mr Frank Bucciarelli).

[46] These did not present vehicles for inspection during the surveillance period. Instead, the details required for Mr Berardis to enter a vehicle on VIS were emailed, telephoned or delivered to him to enter into VIS on the computer in Favazzos' shed. Mr Berardis then printed out the Certificate of Inspection that his client took to a DoT Licensing Centre to prove that the vehicle was roadworthy and should be licenced. The vehicle was not seen or examined by Mr Berardis.

[47] There is reason to believe that Mr Berardis' regular clients had benefitted from this practice well before May 2014. A box of partially completed MR1 forms dating back to 2012 was located in the inspection shed office at

¹⁴ Transcript of examination of Mr Berardis, 11 November 2015 p3. Mr Berardis stated that he had never seen Mr Dionisio perform an examination, p15.

Favazzos. Facsimile date stamps and details located on some of these documents indicated pre-written MR1 forms had been received by fax from three regular dealer clients - PTE Group Pty Ltd (PTE), Cannington Auto House and Betta Wholesale.

- [48] One dealer estimated this arrangement had been in place between Mr Berardis and his dealership since they started using Favazzos for vehicle inspections in late 2012.
- [49] PTE specialised in after sales vehicle modifications. Mr Pollard had an arrangement whereby he faxed or emailed vehicle details to Favazzos office, and vehicles were passed by Mr Berardis without inspection and without the vehicles being seen by Mr Berardis. Mr Pollard attended at Favazzos only to collect the Certificates of Inspection, pay the inspection fee and invoice customers for the cost of inspection. The benefit for him and his customers was the quick turnaround of vehicles.
- [50] Mr Berardis admitted in evidence that on only one occasion did he pass three vehicles for PTE without sighting the vehicles.¹⁵ However, the preponderance of evidence suggests this was a course of conduct, a repeated pattern of behaviour.¹⁶ There is also evidence to suggest that the same arrangement was repeated amongst Favazzos established client base.
- [51] Mr Berardis was unable to operate as he did without the assistance of clients who failed to present the vehicles for inspection at Favazzos. Each claimed to have physically presented vehicles for inspection and received instruction from Mr Berardis to collect the documentation at a later stage. These claims are false. Temporary movement permits had not been obtained in order to drive an unlicensed vehicle. Covert surveillance did not observe the vehicles at Favazzos.
- [52] Mr Berardis repeatedly denied that he had any such arrangement in place with the exception of the once only event for PTE. In answer to the proposition that in the period of surveillance vehicles were not sighted arriving at the authorised inspection premises, he replied that he had done offsite inspections or that he had seen the relevant vehicle previously.
- [53] When pressed by the Commission to explain why vehicles were passed by him on VIS on a certain date, without any evidence that the vehicle had presented to Favazzos for inspection on that date, Mr Berardis made the following claims:
 - He had conducted the inspection offsite at the dealership premises.

¹⁵ Transcript of examination of Mr Berardis, 11 November 2015 AM p55.

¹⁶ Mr Berardis initially agreed he may not have inspected 'some' vehicles that were passed for Mr Pollard (Transcript 11 November 2015 AM p51). However, over the period between May and June 2014, DoT records indicate that 12 vehicles were passed by Mr Berardis for PTE. Mr Berardis agreed it was a possibility that he did not inspect any of the 12 vehicles (p52).

- He had allowed customers to take defective vehicles away to be fixed before passing them rather than failing the vehicle on the initial presentation.
- He had inspected the vehicle days or weeks prior to passing the vehicle on VIS.

[54] The Commission rejects these claims.

[55] The Commission received admissions from two dealers¹⁷ that for at least three years, the dealer had hand delivered only the partially filled out MR1 form to Mr Berardis. The vehicle was not seen by Mr Berardis and the dealer returned at a later date to pay the inspection fee, collect the certified documents and receipt, to present to DoT for vehicle licensing.

The offsite inspection claim

[56] Mr Berardis claimed that he inspected vehicles on occasion at dealers' premises - particularly Car Sales WA/Cannington Auto House (Cannington Auto House) in Welshpool, Perth Motor Sports in Kenwick and Total Nissan in Cannington. The practice is contrary to the contractual arrangements between DoT and Favazzos that required inspections to be conducted at the approved premises.¹⁸ The Commission found Mr Berardis' evidence of offsite inspections unconvincing.

[57] In relation to Cannington Auto House:

- Mr Berardis stated he was only informed that there were vehicles to be inspected at the dealership by receiving an unannounced visit from the dealer¹⁹ at Favazzos premises and/or an emailed MR1 form;
- Mr Berardis then turned up at the dealership after close of business and unannounced;²⁰
- he located the vehicles parked on the dealership lot or in the street without assistance;²¹
- he would do the inspection either in the workshop or on the side of the carpark;²² and
- the keys were left in the car for his use even if it was parked on the side of the road.²³

¹⁷ Glen Richard Jordan and Vince Pollard.

¹⁸ Agreement for the Provisions of Services s 6B *Road Traffic Act 1974* clause 8.1.h.

¹⁹ Transcript of examination of Mr Berardis, 11 November 2015 AM p19.

²⁰ Transcript of examination of Mr Berardis, 11 November 2015 AM pp20-22.

²¹ Transcript of examination of Mr Berardis, 11 November 2015 AM p22.

²² Transcript of examination of Mr Berardis, 11 November 2015 AM p22.

²³ Transcript of examination of Mr Berardis, 11 November 2015 AM p22.

[58] Compelling evidence that Mr Berardis did not conduct offsite inspections at Cannington Auto House was an intercepted telephone conversation with the director of Cannington Auto House, Mr Tony Raphael. This conversation occurred on 20 June 2014, three years after Mr Berardis started doing vehicle examinations for DoT and three months before he stopped. During the call, he had to ask Mr Tony Raphael for detailed directions to the Cannington Auto House dealership.

[59] In relation to Cannington KIA/Total Nissan, Mr Berardis stated that he visited Mr Daniel Vassett at Cannington KIA on Albany Highway to conduct offsite inspections. His evidence as to the conditions under which he conducted the inspections was strikingly similar to his evidence in respect of Cannington Auto House:

- Mr Berardis received an MR1 form delivered by Mr Vassett that would indicate which vehicles were to be examined.²⁴
- Mr Berardis did not charge Mr Vassett for the hour long round trip from Spearwood to Cannington KIA.²⁵
- Mr Berardis turned up at the dealership after-hours and unannounced.²⁶
- The workshop was left open for Mr Berardis to use but there was no one about as it was after 5.30 pm.²⁷

[60] Again, the most compelling evidence that offsite inspections did not occur was the evidence from Mr Berardis himself in an intercepted telephone conversation. On 22 August 2014, he spoke with Mr Vassett and asked for detailed directions as to how to get to the dealership. While en-route to Canning Vale, Mr Berardis asked Mr Vassett: "Where, whereabouts are you guys in Cannington?" Mr Vassett then gave detailed instructions to Mr Berardis as to how to drive to the car lot from Favazzos in Spearwood: "Albany Highway mate just past the Leach Highway overpass.....Uhm well put it this way Albany Highway takes you to Canning Vale".²⁸

[61] Mr Berardis told the Commission that he conducted vehicle inspections for Mr Michael DiPlacido at Perth Motor Sports and Betta Wholesale on the Albany Highway at Kenwick. Mr Berardis claimed that:

- Mr DiPlacido told him that he had a vehicle that needed inspection offsite when he dropped off MR1 forms at Favazzos,²⁹

²⁴ Transcript of examination of Mr Berardis, 11 November 2015 PM pp35, 37.

²⁵ Transcript of examination of Mr Berardis, 11 November 2015 PM p36.

²⁶ Transcript of examination of Mr Berardis, 11 November 2015 PM p36.

²⁷ Transcript of examination of Mr Berardis, 11 November 2015 PM p36.

²⁸ Transcript of examination of Mr Berardis, 11 November 2015 PM pp47-48.

²⁹ Transcript of examination of Mr Berardis, 11 November 2015 PM p5.

- he did not charge Mr DiPlacido for the 50 kilometre round trip from Spearwood;³⁰
- Mr Berardis did not ring Mr DiPlacido beforehand to tell him he was coming to the dealership premises;³¹
- he would arrive unannounced;³²
- Mr Berardis did not recall speaking to anyone at the dealership once he arrived;³³
- the vehicles would be 'at the back' with the keys in them;³⁴
- Mr Berardis would know which vehicles to inspect by checking the VIN (vehicle identification number) on the MR1 form previously delivered to him;³⁵ and
- on occasion, Mr DiPlacido would not be aware that Mr Berardis had even been at the premises until Mr Berardis later contacted him to come and pick up the completed paperwork for licensing.³⁶

[62] The Commission rejects his evidence; it is inherently not credible.

Calls to dealers to ascertain vehicle facts minutes before being passed

[63] Mr Berardis was in frequent telephone contact with his regular clients. The Commission has many examples of vehicles passed on VIS by Mr Berardis, minutes after calling the dealer/repairer to establish a basic fact about the vehicle that ordinarily would be known by physically inspecting the vehicle, and for which specific detail must be written on the inspection certificate.

[64] Mr Berardis denied that the content of his telephone calls indicated that he had never sighted the vehicle he was passing on VIS. His evidence was that he had viewed the vehicles some days previously and was completing the online details. The Commission rejects this explanation and does not accept Mr Berardis' evidence, given the premises were under constant surveillance and the vehicles were never seen.

[65] Some examples of telephone calls between Mr Berardis and his clients:

³⁰ Transcript of examination of Mr Berardis, 11 November 2015 PM p5.

³¹ Transcript of examination of Mr Berardis, 11 November 2015 PM p7.

³² Transcript of examination of Mr Berardis, 11 November 2015 PM p7.

³³ Transcript of examination of Mr Berardis, 11 November 2015 PM p7.

³⁴ Transcript of examination of Mr Berardis, 11 November 2015 PM p7.

³⁵ Transcript of examination of Mr Berardis, 11 November 2015 PM p7.

³⁶ Transcript of examination of Mr Berardis, 11 November 2015 PM p8.

Cannington Auto House

- Call at 11.17 am on 20 June 2014 with Mr Tony Raphael. Mr Berardis asks Mr Tony Raphael if a Hilux is automatic or manual. The Hilux is passed on VIS by Mr Berardis two minutes later at 11.19 am.
- Call at 12.46 pm on 22 July 2014 with Mr Tony Raphael, in which Mr Berardis asks if the body of a Hilux vehicle has been changed from a ute. Five minutes later, two Hilux are passed on the VIS.
- Call at 11.59 am on 2 July 2014 with Mr Tony Raphael in which Mr Tony Raphael tells Mr Berardis that he wants a Jeep 'passed'. Mr Berardis passes a Jeep at 2.31 pm on 3 July 2014 whilst Mr Tony Raphael's employee is present at Favazzos. The employee leaves the premises soon after, driving a different vehicle.

PTE Group Pty Ltd

- Call at 8.49 am on 25 July 2014 between Mr Berardis and Mr Pollard of PTE in which Mr Berardis asks Mr Pollard to confirm the number of seats in each of three VW Caddy vehicles. The three vehicles were passed that day. Mr Berardis admitted that he had passed those vehicles without examining them.
- On 28 May 2014, Favazzos receives an email from PTE attaching an MR1 form containing details of a Landcruiser. Two and a half hours later Mr Berardis calls Mr Pollard and obtains information about the odometer reading and the internal roll bar modification. The vehicle was passed by Mr Berardis the same day.

Xplorer Floats

- Call at 11.21 am on 29 August 2014 between Mr Berardis and Mr Glen Jordan of Xplorer Floats, in which Mr Berardis discusses the fact that Mr Jordan has measured the floats incorrectly.

Cannington KIA

- In a call on 15 July 2014, Mr Vassett rang Mr Berardis about a Range Rover. Two days later, Mr Vassett rings Mr Berardis and asks if he could 'just do' the Range Rover, but that he was not bringing the vehicle down to Favazzos because it was getting buffed and polished. Mr Vassett then arrived at Favazzos driving another vehicle. While Mr Vassett waited on the premises, the Range Rover was passed on VIS at 1.10 pm that day without having been presented at Favazzos. At this time, Mr Berardis did not know where Cannington KIA was located and could not have inspected the vehicle there.

Bucciarelli Automotive

- In a call on 22 July 2014 at 2.58 pm, Mr Berardis asks Mr Frank Bucciarelli if the vehicle is a manual or an automatic. The vehicle is passed on VIS later that day.

[66] The fact that Mr Berardis had to ring to ask basic questions, coupled with the failure of those vehicles to be observed at Favazzos premises, leads to the irresistible conclusion that Mr Berardis never inspected these vehicles.

Receipt of vehicle details by email

[67] Mr Berardis was able to obtain vehicle details without inspecting them. As earlier reported, the Commission found from 2012 in the inspection shed, copies of MR1 forms which had been received by fax. Partially completed MR1 forms were also received through the business email address. Dealers telephoned in relevant details such as the VIN and tyre size. Some dealers hand delivered MR1 forms with the details filled in.

[68] Favazzos received a series of emails from Cannington Auto House with attached MR1 forms for specific vehicles. Mr Berardis acknowledged receiving these forms. When the time of those emails is correlated to the date and time the vehicles were passed on VIS, the strong inference is that the emails provided the details necessary for Mr Berardis to pass the vehicles on VIS without seeing the vehicle:

- On 26 May 2014 at 3.24 pm, details of two vehicles were emailed by Cannington Auto House. Mr Berardis passed both vehicles the following day at 9.27 am and 12.51 pm.
- On 27 May 2014 at 11.37 am, details of one vehicle was emailed by Cannington Auto House. The vehicle was passed three days later.
- On 29 May 2014 at 11.19 am, details of two vehicles were emailed by Cannington Auto House. One of these vehicles was passed the following day and the other, two days after that.

[69] Covert surveillance did not show these vehicles at Favazzos premises. In the Commission's assessment of the evidence, Mr Berardis did not know the whereabouts of Cannington Autos and did not visit these premises for inspections as he claimed. He entered details on VIS that he had received by email without physically inspecting the vehicles.

Odometer readings do not match Mr Berardis' evidence

[70] Many vehicles supposedly inspected by Mr Berardis at Favazzos and then passed on VIS, had odometer readings recorded by Mr Berardis that failed to take into account the mileage travelled by the vehicle to the inspection site in Spearwood:

- In a call on 6 May 2015 at 4.49 pm between Mr Berardis and Mr DiPlacido of the Betta Wholesale dealership, Mr Berardis promises that he will "get that Transit done tomorrow morning" so that he can "pretend it's here". The Transit van was passed the following day and Mr Berardis entered on VIS an odometer reading at the time that was 145 kilometres less than the actual reading of the van as sighted on the Betta Wholesale car lot on 7 May 2014. The odometer reading recorded by Mr Berardis does not reflect a drive to Favazzos for inspection.
- A vehicle acquired by Perth Motor Sport from an auction house on 17 June 2014 had the same odometer reading recorded 10 days later when Mr Berardis passed the vehicle on VIS. This vehicle could not have been driven to Favazzos.

[71] Mr Berardis passed vehicles for dealerships after they purchased them from interstate, or WA auction houses, and before they were placed on the dealership lot ready for sale. A comparative analysis of odometer readings between the date vehicles were purchased by the dealership, and the date of sale demonstrated:

- certain vehicles did not show any difference in kilometres travelled;
- the distance travelled by some vehicles was not sufficient to complete a return journey from Favazzos after inspection; and
- some vehicles displayed an odometer reading that was less than was recorded at the time of the alleged inspection.

[72] Odometer readings that did not account for the vehicle having been driven to Favazzos were also found in relation to vehicles passed by Mr Berardis for Cannington Autohouse and Cannington KIA. Betta Wholesale also claimed to have used a truck to deliver some vehicles for inspection. Covert observations at Favazzos do not support this claim.

Passing vehicles without inspection for people he has not met

[73] Mr Berardis appeared to have no concerns about passing vehicles without inspection for people he had not met:

- In an intercepted telephone call on 5 June 2014 at 2.44 pm,³⁷ Mr Peter Horn tells Mr Berardis that he wants him to pass a Statesman vehicle for his mate Shane. Shane has just purchased the vehicle at an auction. In a series of calls and visits from Mr Horn to Mr Berardis, the details of the vehicle are communicated. Mr Berardis passes the vehicle on VIS, nine minutes after the last telephone call between himself and Mr Horn. The Statesman never went to Favazzos.

³⁷ Transcript of examination of Mr Berardis, 11 November 2015 p20.

- In an intercepted telephone call on 22 August 2014, Mr Vassett calls Mr Berardis about passing a Maloo vehicle for "Benno, one of the Cheaters". Later that day at 4.25 pm, Mr Berardis speaks to DoT on the telephone. The DoT officer queries the brand of the coil covers in the vehicle. Mr Berardis tells the officer that he can't answer the query until Monday as he has sent the vehicle away from his inspection premises. In fact, the vehicle had not been at his premises. It was still in Cannington. Mr Berardis immediately rings Mr Vassett and asks him to check the brand of the coil covers. The vehicle is then passed on VIS by Mr Berardis.

Payment of possible bribes

[74] The Commission gathered little evidence of payments received by Mr Berardis in addition to the prescribed fee for passing vehicles without inspection. The exception is three vehicles passed for friends of a Mr Dave D'Amico in July 2014 for \$1,000 each - in an intercepted telephone conversation with Mr D'Amico on 24 July 2014, Mr Berardis states: "...I mean without seeing the cars it's gonna be, they're all gonna be about a grand each."

[75] The evidence includes calls between Mr D'Amico and Mr Berardis discussing vehicle details such as compliance and chassis numbers and sending photos of the vehicles to Mr Berardis.

[76] Mr Berardis called Mr D'Amico on 24 July 2014 to tell him that the three cars are all done. Mr Berardis then negotiates a price on the basis that "the cars I haven't really seen properly". And the fact that he does not know the people who own the vehicles - "Your ones are different but when you start getting friends and stuff it gets a bit ya know what I mean."

[77] In the Commission's assessment, Mr Berardis engaged in corruption by receiving bribes and the Commission has formed an opinion of serious misconduct.

CHAPTER THREE

THE CORRUPT ACTIVITIES OF VEHICLE EXAMINER, MR TIZIANO DIONISIO

[78] Mr Berardis and Mr Dionisio were partners in Favazzos and were both authorised vehicle examiners contracted to DoT. The examiner role was augmented by a mechanical workshop which was supervised by Mr Dionisio, leaving Mr Berardis free to perform the vehicle inspections on behalf of DoT.³⁸ The Commission has formed an opinion that Mr Dionisio was aware of Mr Berardis' corrupt arrangements with regular clients, and assisted him with the administration of the corrupt vehicle licensing process already described.

[79] Mr Dionisio denied any knowledge that Mr Berardis failed to inspect the vehicles which he passed on VIS for regular clients.³⁹ His evidence was that, following inquiries by the Commission, Mr Berardis informed him that he inspected the vehicles offsite at the dealership.⁴⁰ The Commission does not accept this explanation because of Mr Dionisio's own contemporaneous statements.

[80] From intercepted telephone calls, Mr Dionisio was aware that:

- an employee of Cannington Auto House would regularly turn up unannounced to deliver and collect documentation without presenting a vehicle for examination;⁴¹
- completed MR1 forms were kept at the Favazzos reception desk to be picked up and paid for by a dealership employee;⁴² and
- Cannington Auto House would send to Favazzos by courier, the paperwork necessary for a vehicle to be passed on VIS, then have a courier pick up the completed paperwork once the vehicle was passed on VIS.⁴³

[81] Mr Dionisio also purported to inspect vehicles and enter onto VIS details of vehicles which he had not seen.

[82] He arranged to pass vehicles for private individuals who owned modified, non-compliant vehicles that were the subject of a compliance notice issued by WA Police. On one occasion, Mr Dionisio accepted a bribe of \$500 to remove a compliance notice from a vehicle so it could be sold privately. The vehicle was not inspected, and the owner was told to 'park the vehicle up' for a period of time to give the impression the modified

³⁸ Transcript of examination of Mr Dionisio, 12 November 2015 p30.

³⁹ Transcript of examination of Mr Dionisio, 12 November 2015 p32.

⁴⁰ Transcript of examination of Mr Dionisio, 12 November 2015 p43.

⁴¹ Transcript of examination of Mr Dionisio, 12 November 2015 p42.

⁴² Transcript of examination of Mr Dionisio, 12 November 2015 pp39,42.

⁴³ Telecommunications intercepted call T3322 - played in public hearing 12 November 2015 p39.

parts had been replaced over time.⁴⁴ Mr Dionisio arranged for the compliance notice to be removed from VIS immediately.

- [83] On another occasion, Mr Dionisio offered to pass a vehicle on the system without inspection for a bribe of \$1,000.
- [84] The Commission has formed an opinion of serious misconduct in respect of Mr Dionisio's corrupt activities and participation in bribes.

⁴⁴ Transcript of examination of the owner, 27 August 2015 pp13-15.

CHAPTER FOUR

PARTNERS IN CORRUPTION

Licensed motor vehicle dealers and repairers

Perth Motor Sport and Betta Wholesale

- [85] Mr Berardis and Mr Dionisio enlisted the continued support and custom of regular clients as part of the corrupt enterprise.
- [86] Mr Michael DiPlacido is an employee of combined dealerships, Perth Motor Sport and Betta Wholesale located on Albany Highway, Kenwick and Maddington respectively. Inspection records show that Mr DiPlacido arranged the certification of 10 vehicles during the period the Favazzo premises were under surveillance. Some of these were subject to compliance notices or expired licences, while others belonged to personal acquaintances of Mr DiPlacido. Mr DiPlacido informed the Commission that it was a 'possibility' that none of those 10 vehicles were presented physically to Mr Berardis for him to inspect,⁴⁵ and that there were occasions when he never took the vehicle to Favazzos for an inspection before it was passed.

Cannington Auto House and Car Sales WA

- [87] These two car dealerships are located in Welshpool and are operated by Mr Tony Raphael and Mr John Raphael. A young employee was given the task by Mr Tony Raphael of regularly delivering MR1 forms to Favazzos for vehicles that required inspection. Alternatively, MR1 forms were emailed to Favazzos office where they were printed out by Suzanne Dionisio for Mr Berardis. Telecommunication interceptions captured the young employee discussing with Mr Berardis the particulars of several vehicles and asking whether the documentation was ready for collection.
- [88] The completed forms were physically picked up some days later. Covert surveillance captured the employee attending Favazzos inspection shed to collect documentation without delivering relevant vehicles for inspection. Mr Tony Raphael denied the allegation that his dealerships were involved in this conduct, and claimed that all vehicles were driven to Favazzos, or inspected at his business premises by Mr Berardis. Mr Tony Raphael could not provide evidence to substantiate his claim, and stated that he had never seen Mr Berardis do any vehicle inspections at his dealership.
- [89] In the Commission's assessment, the evidence overwhelmingly establishes that Cannington Auto House and Car Sales WA did not deliver vehicles to Favazzos for inspection on many occasions.

⁴⁵ Transcript of examination of Mr DiPlacido, 2 September 2015 p15.

Cannington KIA and Cannington Nissan

- [90] Mr Daniel Vassett was employed by Total Autos Pty Ltd which trades as and operates the dealerships known as Cannington KIA and Total Nissan located at Albany Highway, Cannington. Total Autos is a wholly owned subsidiary of the Automotive Holdings Group (AHG).
- [91] Inspection records show that during the surveillance period, Mr Vassett arranged for Favazzos to certify 26 vehicles.
- [92] There is no evidence, and the Commission does not suggest that AHG knew of, acquiesced in, or approved Mr Vassett's conduct.
- [93] Telecommunication interceptions captured Mr Vassett discussing the particulars of vehicles appearing on inspection records with Mr Berardis and asking whether documentation was ready for collection.
- [94] Covert surveillance captured Mr Vassett attending the Favazzos inspection shed to collect documentation without delivering relevant vehicles for inspection. Mr Vassett claimed that he personally drove vehicles to Favazzos, or that Mr Berardis attended at the dealership to conduct inspections.
- [95] Mr Vassett could not substantiate these claims. Vehicle sales documentation seized from the business shows odometer reading anomalies for a number of vehicles. Vehicles were passed by Mr Berardis without being seen at Favazzos, and Mr Berardis did not attend at the dealership. When pressed during examination, Mr Vassett stated that it was 'a possibility' that Mr Berardis did not inspect his vehicles before passing them.⁴⁶

Xplorer Floats

- [96] Mr Glen Jordan was an employee of Xplorer Floats, a horse trailer importer located at Bibra Lake. Inspection records show that Mr Jordan arranged the certification of 17 new imported horse floats during the period that Favazzos was under surveillance.
- [97] Telecommunication interceptions captured Mr Jordan discussing the particulars of trailers appearing on inspection of records with Mr Berardis and asking whether documentation was ready for collection. Covert surveillance captured Mr Jordan attending the Favazzos inspection shed without delivering the relevant vehicles for inspection.
- [98] Mr Jordan confirmed that he had an arrangement with Mr Berardis for almost three years whereby he hand delivered only the MR1 form, then returned at a later date to pay the fee and collect the certified MR1 form and a receipt.

⁴⁶ Transcript of examination of Mr Vassett, 12 November 2015 p28.

Croc Power Motorcycle Repairs

- [99] Mr Peter Horn is the operator of Croc Power, a motorcycle repair business located in Hamilton Hill. Inspection of records show that Mr Horn arranged the certification of nine vehicles in the surveillance period, seven of which were motorcycles.
- [100] Telecommunication interceptions captured Mr Horn discussing the particulars of certain vehicles with Mr Berardis, asking whether documentation was ready for collection. Covert electronic surveillance captured Mr Horn attending Favazzos to collect documentation without delivering the relevant vehicles for inspection.
- [101] Mr Horn claimed to have presented all vehicles for inspection and that he would arrive unannounced. Most inspections were arranged on behalf of his customers to whom he usually charged a \$50 fee on top of the inspection fee charged by Mr Berardis. Mr Horn was unable to produce invoices, job cards or any documentary records to substantiate the payment by his customers, and stated that most customers paid in cash and were not issued invoices.⁴⁷ His evidence is contrary to the surveillance evidence.

PTE Group Pty Ltd

- [102] Mr Vince Pollard is the operator of PTE, a motor vehicle repairer located at 36 Railway Parade, Welshpool. Inspection of records show that Mr Pollard arranged the certification of 10 motor vehicles and two trailers with Favazzos.
- [103] Telecommunication interceptions captured Mr Pollard discussing the particulars of certain vehicles with Mr Berardis asking whether documentation was ready for collection. These vehicles then appeared on inspection records at DoT.
- [104] Mr Pollard sent completed MR1 forms to Mr Berardis by email which were intercepted in communication and received on a business computer used by Suzanne Dionisio.
- [105] During examination, Mr Pollard admitted Mr Berardis passed vehicles on his behalf without inspecting those vehicles.⁴⁸ The benefit to Mr Pollard was the time saved not having to move vehicles, although PTE charged their clients a set fee for arranging a vehicle examination.

⁴⁷ Transcript of examination of Mr Horn, 31 August 2015 pp5,25,26.

⁴⁸ Transcript of examination of Mr Pollard, 2 September 2015 pp6-9.

CHAPTER FIVE **CLOSE BUSINESS RELATIONSHIPS,** **MR TROY PINTABONA**

[106] Mr Pintabona developed close business relationships with motor vehicle repairers, taxi and hire vehicle owners and owners of Harley Davidson bikes. The temptation to cut corners and to charge above the prescribed fee was too much. In May 2015, the DoT fee provided to examine a motorcycle on an initial examination was \$60.80, of which the agent, such as Mr Pintabona, would retain about 75%.⁴⁹

Relationship with Leethal Performance

[107] Mr Leigh Martin was the owner of a mechanical workshop called Leethal Performance in Morley. If a vehicle needed to be formally inspected, he would ordinarily contact Crypton Autos.

[108] Mr Pintabona would come to Mr Martin's premises to carry out pre-examination inspections to identify any faults to be rectified before the formal vehicle examination. There were instances where Mr Pintabona had looked at a vehicle the first time and pointed out some difficulties which would require him to look at it again a second time. Before, however, he looked at it a second time, Mr Pintabona had given Mr Martin paperwork stating that the vehicle had passed the inspection.

[109] This practice was not limited to his relationship with Mr Martin. Mr Pintabona stated that by July 2015, he accepted payments of \$150-\$200 a vehicle to attend and pass a vehicle at premises other than his own. Under examination, Mr Pintabona acknowledged that he had accepted fees greater than the prescribed fee⁵⁰ and had violated the terms of his agreement with DoT by conducting inspections away from the contracted premises.

Relationship with taxi operators

[110] Mr Pintabona had close ties to taxi operators that compromised his ability to perform his vehicle examination role with any rigour. On 8 May 2015, Mr Pintabona advised a friend called Kim that he had passed a taxi despite characterising the transcooler line as, "fitted like shit, it's bad and it's dangerous." Mr Pintabona claimed to know for a fact, if he sent it back to Kim, he would definitely look at it and fix it. He could not, however, remember if he ever saw this vehicle again after he passed it.⁵¹

[111] On 15 May 2015, Mr Pintabona agreed to pass a Ford Falcon that had been presented to him by someone called Sandy, despite the fact that it

⁴⁹ Transcript of examination of Mr Pintabona, 13 November 2015 p27.

⁵⁰ Transcript of examination of Mr Pintabona, 13 November 2015 p28.

⁵¹ Transcript of examination of Mr Pintabona, 13 November 2015 pp59-60.

had a lot wrong with it. Taxis must be inspected every 12 months and this vehicle inspection period had expired that day. Mr Pintabona informed Sandy that the mechanic who had looked at it must be "expletive blind". He identified defects with both front upper control arms, a leaking power steering hose, oil pressure switch and coolant leaks.⁵²

[112] Mr Pintabona, nonetheless, agreed to pass the vehicle in the hope that Sandy would come back and get the rectifications done in a few days. Under examination, Mr Pintabona could not recall if this vehicle was ever re-presented to him.⁵³

Removal of defect notices

[113] Mr Pintabona had clients who owned Harley Davidson motorcycles and required his assistance to get defect notices removed. Defect notices are usually given by WA Police because the exhaust system registered above the accepted decibel level. Under examination, Mr Pintabona stated that he charged some Harley Davidson owners \$300-\$400 to have defect notices removed.⁵⁴ The fee covered the removal and refitting of the exhaust pipes that were the subject of the defect notice.

Assessing vehicles which he had not seen

[114] In June 2015, Mr Pintabona passed a Landcruiser, used as a family car, after having only seen a photograph of the side profile of the vehicle and a photograph of the speedometer. Mr Pintabona completed a Certificate of Inspection of this vehicle despite never having seen it. The Landcruiser had failed a vehicle inspection three months earlier and there is no reliable evidence that any of the faults identified on that occasion had been rectified by June 2015 when Mr Pintabona entered it onto VIS.⁵⁵

[115] On 20 July 2015, Mr Pintabona spoke by phone with a person requiring his Chrysler 300C stretch limousine to be passed, a charter vehicle that required an annual inspection by law. The person described the vehicle in this call. Mr Pintabona had seen the vehicle previously, but was not too sure if he saw it at this particular time. He passed the vehicle on the system on 22 July 2015 but could not say whether he actually saw it.⁵⁶

[116] Mr Pintabona's activities occurring as they seemingly did over a lengthy period of time, from early 2014 through to August 2015, had significant implications. Vehicles were permitted on the road when they had not been sighted by the vehicle examiner to be properly certified as roadworthy. Data entered on the DoT database was tainted or fraudulent.

⁵² Transcript of examination of Mr Pintabona, 13 November 2015 pp55-56.

⁵³ Transcript of examination of Mr Pintabona, 13 November 2015 p59.

⁵⁴ Transcript of examination of Mr Pintabona, 13 November 2015 pp33-35.

⁵⁵ Transcript of examination of Mr Pintabona, 13 November 2015 pp36-52.

⁵⁶ Transcript of examination of Mr Pintabona, 13 November 2015 p64-65.

CHAPTER SIX

LACK OF OVERSIGHT

[117] The Commission was first notified by DoT about the irregularities and has worked diligently with the Commission on the investigation. The Commission records its thanks and appreciation to the DoT officers who assisted in the investigation.

[118] The behaviour of the corrupt examiners raises questions about the oversight by DoT of the service providers contracted to perform functions as public officers.

[119] Once the activities of Mr Berardis came to the notice of DoT, measures were put in place to protect the public from the possibility that other vehicles passed by him were roadworthy. By late 2014, a total of 840 vehicles were recalled by DoT for reinspection at government licensing centres. Only 403 (47%) of those vehicles passed that inspection. Vehicles that failed were given an opportunity for a further inspection or had their licences cancelled by the Director General.⁵⁷

[120] To monitor examiner performance, DoT placed reliance on:

- interrogation of VIS and statistical analysis of pass rates;
- training provided to contracted staff in accountability and ethical decision-making;⁵⁸ and
- site visits.

[121] Previously the site visits would be announced in advance. The DoT has stated they are now exploring the possibility for greater focus in unannounced audits and compliance monitoring.⁵⁹

[122] DoT has contracted with large automotive service organisations to provide authorised inspection services on their behalf in the metropolitan area. The expectation is that these organisations will have existing, internal governance arrangements that will improve the level of service delivery.⁶⁰ The department is considering enhancing VIS so that an examination date and time must be pre-recorded, and the feasibility of photographic evidence of inspection.

[123] The historical flaws in DoT governance system which allowed corruption to flourish were predominately related to the expected standards and processes of inspection not being enforced by DoT:

⁵⁷ Transcript of examination of Mr Butcher, 27 November 2015 pp18,35.

⁵⁸ Transcript of examination of Mr Butcher, 27 November 2015 p6.

⁵⁹ Transcript of examination of Mr Butcher, 27 November 2015 p21.

⁶⁰ Transcript of examination of Mr Butcher, 27 November 2015 p9.

- Whilst the vehicle must be pre-booked for inspection, DoT did not perform an audit against the inspection records; it told contractors that the purpose for a bookings register was to control the number of inspections in conjunction with the mechanical workshop business workload.
- DoT stated that examiners must enter relevant details onto VIS immediately after inspection. However, this was not strictly enforced and allowed examiners to claim that inspections had been carried out on a date prior to the inspection date that appeared in VIS. Site inspections were announced in advance thereby providing opportunity for the examiners to cease any unauthorised activity at the relevant time.

[124] DoT has indicated an intention to increase governance of examiners by:

- the formalisation and centralisation of an inspection bookings register;
- unannounced site visits to confirm vehicle presentation and adherence to recommended process; and
- requirement that inspection results be entered onto VIS and the Certificate of Inspection issued immediately after an examination has been conducted.

[125] While the Commission accepts that DoT has worked to provide stronger governance over examiners, the fact that this is the second occasion the Commission has reported on corruption in vehicle examinations, is disturbing. There is a real and direct risk to public safety if unroadworthy vehicles are allowed on Western Australian roads by corrupt examiners.

RECOMMENDATIONS

[126] Public officers contracted to perform services relied on established relationships to recruit business.

[127] The vehicle examiners mentioned in this report are no longer performing these services for DoT. The Commission acknowledges that DoT is cognisant of the issues which affect system integrity, and that it has commenced to attempt to identify and develop improved mechanisms to monitor its service providers and maintain compliance. In addition to those previously outlined, DoT has advised that it is also considering:

- developing of a system of predictive analytics;
- obtaining photographic evidence of vehicle examinations;
- broadening compliance activities;
- rigorous audit of invoices against TRELIS;
- increasing physical and technical resources;
- enhancing training and integrity awareness provided to contractual partners; and
- creating a 'dob-in line'.

[128] The Commission recommends adoption of all these measures.

[129] The Commission proposes to report in a year as to the progress by DoT of these recommendations.

[130] In its response to the draft report, DoT advises:

... that it is examining the feasibility and practicalities of enhancing the VIS software to provide for the electronic registration of vehicle examination bookings once they have been made by an AIS/AVE.

4. *Any online booking system for vehicle examinations will require the Department to carefully manage the need for enhanced oversight to avoid creating a situation that discourages potential service providers from participating. In regional and remote areas, the Department is reliant on the willingness of private operators to provide services.*
5. *In creating an online booking system for vehicle examinations, it must be recognised that different considerations apply to those associated with the system that exists for booking practical driving assessments. For example, PDA's are often done on specific days when an assessor will be in an area whereas vehicle examinations will often be scheduled during breaks in the ordinary day-to-day mechanical work of a motor vehicle workshop.*
6. *Notwithstanding this, the Department is committed to exploring the modification of VIS to determine the possibility of providing greater oversight for vehicle examinations. Amongst the features to be*

explored, subject to technological or financial constraints are the following:

- a. *Facility to record electronically, the fact of a vehicle examination together with details of the vehicle to be examined, where it is to be examined and when;*
- b. *An automatic system requirement that any alteration to the recorded date, vehicle or venue be brought to the Department's attention for follow up queries; and*
- c. *An automatic system requirement that the inspection result be entered within a specified time of the recorded inspection (exact period to be determined), with failure to do so resulting in an alert being sent to the Department for follow up.*

Using the above information, the Department will have the opportunity to schedule unannounced inspections and be able to audit, in real time, compliance by AIS/AVEs with their contractual obligations.

These enhancements will also permit the Department to provide a holistic level of oversight through integration with the other recommended measures that will be required to authenticate vehicle examinations. Failure of the other recommended measures to match the recorded information of the vehicle examination will give rise to an alert to the Department which can be further investigated.

The Department will also explore the creation of formal MOU's with other government departments and agencies to respond to situations where a provider's breach of contractual obligations gives rise to safety concerns or concerns generally regarding the suitability of that entity to hold specified licences.

As part of any enhancement to or modification of VIS, the Department will conduct an education campaign to notify contractual partners (and potentially members of the public) of the new requirements and of the consequences of non-compliance.⁶¹

[131] The Commission's primary function is to report to Parliament. A copy of the report will be made available to the Director of Public Prosecutions. Offences under the vocational regulatory statutory scheme may be prosecuted by the Commissioner for Consumer Protection. Alternatively, licences issued for dealers and repairers in the motor vehicle industry may be reviewed by the Commissioner for Consumer Protection.

[132] Decisions on whether any person should be charged with any offence are solely a matter for the Director of Public Prosecutions or in some circumstances the Commissioner for Consumer Protection. The Commission's opinions on serious misconduct are not findings, and are not to be taken as findings that a person has committed or is guilty of a criminal offence.⁶²

⁶¹ Letter from Director General, Department of Transport to Commissioner, 5 January 2017.

⁶² *Corruption, Crime and Misconduct Act 2003* s 43(6).

