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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION VERDI

Reference: Operation E13/0955

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY, 23 JULY, 2014

AT 2.04PM

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This transcript has been prepared in accordance with conventions used in the Supreme Court

THE COMMISSIONER: Yes, Ms Mitchelmore.

MS MITCHELMORE: Yes. Commissioner, the next witness is Mr Stein.

THE COMMISSIONER: Yes, take a seat, Mr Stein. Has Mr Stein been told about the effect of a section 38 order?

MR JORDAN: Yes, Commissioner. If it please the Commission my name is Jordan. I seek leave to appear for Mr Stein.

10

THE COMMISSIONER: Yes, Mr Jordan. Yes, that leave is granted.

MR JORDAN: He does understand the effect of a section 38 declaration and he does seek one.

THE COMMISSIONER: Thank you. Just to be sure, Mr Stein, do you appreciate that the order protects you from the use of your answers against you in civil or criminal proceedings but it doesn't protect you if it should be found that you've given false or misleading evidence to the Commission?

20

MR STEIN: I understand.

THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission against Corruption Act I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

40

THE COMMISSIONER: Yes. Can we have the witness sworn, Mr Stein?

MR STEIN: Yes, please, Commissioner.

THE COMMISSIONER: Yes.

THE COMMISSIONER: Yes.

MS MITCHELMORE: Yes. Can you state your full name for the Commission, please?---Geoffrey, G-e-o-f-f-r-e-y, David, D-a-v-i-d, Stein, S-t-e-i-n.

10 And you're a solicitor, is that right, Mr Stein?---Yes.

And where do you work?---I practise at Brown Wright Stein at Level 6, 179 Elizabeth Street, Sydney.

And what's your position there?---I am a partner in the firm.

And how long have you worked at the firm?---I have worked at the firm and its predecessor firms since the summer of 1990 to 1991.

20 I see. And it's the case that in late 2005 and early 2006 your firm acted in relation to the purchase of a hotel in Armidale called the Tattersalls Hotel. Is that right?---It is.

And do you recall that you were retained by Mr Darrell Hendry?---Yes.

And did you know of Mr Hendry before assisting him in this matter?---It is possible that I did but I have no recollection of, of ever meeting him beforehand.

30 I see. Is it the case that your firm assisted Mr Hendry on the purchase in two respects, first the firm did the conveyancing aspects of the transaction, is that right?---May I rephrase that, that I think first we were retained to prepare some trust structures- - -

Yes?--- - - -to facilitate the purchase.

Yes?---And as a consequence we were at the same time engaged to assist with the conveyance.

40 I see. And also issues dealing with the liquor licence, is that, was that part of the conveyancing aspects of the transaction that you assisted with? ---Yes.

And the conveyancing side of the transaction, was that done primarily by a senior associate by the name of Mr Simon Griesz?---Yes.

And were you supervising, were you the supervising partner on that work? ---Yes.

And in relation to the structures that the trust deeds that you have referred to, was it you who were primarily responsible for drafting the trust deeds?  
---Yes.

Were you assisted in that work by any other solicitors in the firm?---Again I don't have any direct recollection of the circumstances. It's possible that I was assisted but I don't recall.

10 I see. Do you recall Mr Hendry contacting you in December of 2005?  
---I have no independent recollection of that. I am um, aware from having refreshed my memory prior to giving evidence that there are notes on the file to that effect.

I see. Perhaps I can show you, Mr Stein, Exhibit V41 which is page 361 of the brief. You'll see this is a letter from Mr Hendry to Mr Griesz. Is that one of the documents that you've looked at for the purposes of your review of the file to assist your recollection?---Yes, I have seen this on the, on the file.

20 On the file?---Yes.

Yes. Do you recall seeing it – you'll see it's dated 13 October, take it from me that that's an error, it's 13, it should be 13 December, but do you recall seeing that document at or around the time, around that time?---No.

There's a reference to looking – at the second sentence of the, the letter, that – there's a reference to, Looking forward to discussing the transaction with you tomorrow. Do you see that?---Yes.

30 Do you recall attending a meeting around 14 December with Mr Hendry?  
---I, I don't have any recollection of that meeting.

I see. Can I show you this document? It's - - -?---Thank you.

Is that a copy of – is that your handwriting, Mr Stein?---Yes, it is.

And - - -?---With one exception.

40 And what's the exception?---The matter code at the top right is not my handwriting.

I see. So, that's next to matter. Is that right?---Yes.

2-1-0-6-6?---Yes.

But apart from that it's your handwriting. Is that right?---Yes. It is.

And it's dated 14 December 2005?---Yes.

And does that record notes of a meeting with Mr Hendry?---Yes.

Is it possible that Mr Griesz was also at this meeting?---Yes.

Do you have a recollection of Mr Griesz being at the meeting?---Not directly.

10 Can I ask, just looking at your handwriting, what the first, what the first entry is?---The first entry is a note to say that Darrell Hendry was referred by Geoff Walker.

Yes. And then the text of the note?---The text of the note says, The location is in the Armidale retail mall.

I see. Yes?---There is a licence being attached which has a 3.00am and there are 15 – the 15 PL's, I think, is 15 poker machine permits.

20 I see. Yes. So, 3.00am, is that the alcohol licence?---3.00am alcohol, yes, sorry.

Yes?---The ALCH is alcohol.

Yes. There's a reference there to possible redevelopment?---Yes.

And is it then sell licences - - -?---Yes.

Is it boarding house?---Yes.

30 Slash backpackers?---Yes.

At hotel at rear?---Yes.

Retail at front?---Yes.

And is it the case that these are issues or recording issues that Mr Hendry raised with you?---Yes.

40 And are you able to say what the next – what the next line says?---It says, it says, I suggest asset holding slash trading meaning that the separate trusts for asset holding and separate trust for trading.

I see. And when you say, I suggest, there's no I there but that's a, that's a recollection that you have that you made that suggestion. Is that right?---It is the way in which I would prepare notes of this type.

I see. I see. Okay. And underneath that it says, Trusts?---Yes.

And what does it say on the right hand side?---The right hand side after the two vertical lines says, Hasn't done any searches.

I see. And do the two double lines just mean that's a separate topic to the trusts?---Yes.

And then under the – or next to the square bracket – what does that say? Is it finance?---Finance organised privately.

10

I see. Yes. I tender that document.

THE COMMISSIONER: Yes. That'll be Exhibit V65.

**#EXHIBIT V65 - GILLIS DELANEY BROWN LAWYERS  
ATTENDANCE NOTE**

20 MS MITCHELMORE: So, Mr Stein, it's the case that it may be that Mr Griesz attended the meeting with you but you have no independent recollection. Is that right?---I'm confident Mr Griesz did attend the meeting based on my review of the file.

Yes?---But I have no independent recollection of the meeting itself.

I see. Can I show you page 382 of the brief? You'll see that that's a reference to – do you recognise - - -?---Thank you.

30 - - - the – that handwriting?---Yes. I do.

Whose handwriting is that?---It's Simon Griesz.

Yes. And that also is a note of a meeting on 14 December. Is that right?---Yes.

And is it on the basis of your review of that document that you say Mr Griesz was with you at that meeting?---Yes.

40 Yes. You'll see at halfway down the, down the page, that first page, Mr Stein, there's a reference to two, two people involved at present?---Yes.

Do you recall that being said at the meeting?---No.

On page 3 of the note, so, on page 384 of the brief - - -?---Yes.

- - - there's a reference to structuring done immediately. Do you see that?---Is it – sorry, yes.

Do you recall what that was a reference to?---Not directly, no.

And you'll see that there's then a reference GDS?---Yes.

They're, they're your initials?---Yes.

Do you have a recollection of, of making the comments that follow?---I have no independent recollection of making the comments that are noted.

10

I see. Do you recall subsequently having a conversation with Mr Geoffrey Walker about the structures that might be used in this transaction?---No.

Is it possible that you may have had a discussion with him following this meeting?---Yes.

And you understand that Mr Walker was also retained in relation to this transaction?---Yes.

20

And in fact he has referred you to Mr Hendry to perform the, the legal services?---Yes.

Can I show you Exhibit V61 which is page 385 of the brief? This is an email, Mr Stein, from Mr Walker to Mr Hendry and you were copied in on this email. Do you see that?---Yes.

Is this an email that you recall seeing at or around 19 December?---I have no recollection of seeing it independently but I do know that it is – I have seen it when reviewing my, the file.

30

So, so it is on your file. Is that right? A copy of it is on your file, sorry, did you say?---It should be.

Yes?---Yes.

And there's no reason why you wouldn't have received it at or around 19 December?---Correct.

40

And the covering email says to let Mr Walker know if Mr Hendry or John Cassidy have any questions. Do you see that?---Yes, I do.

Do you recall whether you were aware by this stage, which is 19 December, that Mr Cassidy was assisting Mr Hendry with this purchase?---Again, I have no direct recollection of what happened with this transaction.

Do you recall reviewing the attached structures? So, if you can scroll through - - -?---Again, only in the context of preparing for - - -

This examination---? - - - this and the, the, this process.

I see. Now, you'll see on page 388 there was some things that, information that Mr Walker needed to proceed with the structures?---Yes.

And you have a – there was a note for you to confirm the property structure will provide stamp duty concession advised by you to Mr Hendry?---Yes.

10 So, giving Mr Hendry advice about stamp duty was part of your, your role in looking at the trust side of the transaction. Is that right?---Again, I, I qualify my answer by saying I don't have a direct recollection. From the notes that I have reviewed that are on the file, the concession – the, the concession referred to in this statement is about the number of structures, so they're – in the earlier document that you've referred me to you will see there's a reference to the land rich stamp duty provisions.

20 Yes?---Um, when I reviewed the file to prepare for this process, um, I believe that the concession referred to there was relating to the, the structuring of the, the trusts rather than the, the stamp duty on the conveyance which would ordinarily be part of the retainer for acting for someone on the conveyance.

I see. And are you able to explain what, what a land rich entity is?---Yes. Would you like me to?

30 Yes?---A land rich entity has a specific meaning in the Duties Act. Um, it refers to either a company, a private company or a private unit trust that has land values of a certain threshold. Over the years that has either been \$1 million, \$2 million and it is now a registered land value of \$2 million. The Duties Act operates so that if there is a dealing with underlying interests, either shares or units, depending on whether the entity is a company or a trust, then that transaction may be subject to ad valorem duty if there's a change beyond the relevant threshold of interests.

I see?---It has been 20 per cent at various times, it is now 50 per cent.

40 I see. So this was something that you were having to consider because of the nature of the structures that you were setting up?---From my review of the notes - - -

Yes?--- - - - Yes.

Do you recall as the supervising partner looking at or reviewing, sorry, I'll withdraw that. Is it the case that as your, as the supervising partner of, of Mr Griesz that you would review correspondence that he sent on the conveyancing side of the transaction?---It's the case that I was responsible and that if there was a letter of advice as opposed to a perfunctory letter in



connection with the conveyance our firm policy was, and is, that that matter would be referred to me as the partner responsible.

Yes. So if I can show you page 419 of the brief?---Yes.

This is a letter of 26 December, 2005?---Yes.

And it's from your firm to Mr Hendry?---Yes.

10 And is it the case, you'll see there's a hard copy in front of you - - -?---Yes.

- - - it's a substantial letter?---Yes.

And you would have reviewed that before it was sent?---Having looked at that letter now and the date it is unlikely that I reviewed it before it was sent.

Is that because you were on leave at the time?---Yes.

20 I see. You'll see on page 419, the first page, there is a reference in the third last paragraph to a Colin Cassidy?---Yes.

Do you see that? Do you understand that to be a typographical error for John Cassidy?---I would presume it would be, yes.

Yes. So it's the case that by at least 26 December your firm was aware that Mr John Cassidy was involved in this purchase?---I agree.

30 And you'll see that there's a reference on that page to the details of the unit trusts still needing to be provided?---Yes.

And did Mr Hendry subsequently provide your firm with instructions about the trustees?---I don't remember if it was Mr Hendry that provided the instructions or Mr Walker.

Or Mr Walker - - -?---Yes.

- - - did you say?---Yes.

40 And do you recall whether you prepared the drafts of the trust deeds?  
---Um, I don't recall directly but I do know from reviewing the file that I prepared the first draft.

I see. How many drafts were there?---I don't know.

Is it likely that you would have prepared the trust deeds upon receipt of instructions?---Yes.

And is it the case, perhaps if I can show you the, the trust deeds. So Exhibit V48 perhaps is the, the first of the, the trust deeds, page 461. Do you see that on the screen? So this is the first of, there were three trust deeds, do you have that recollection, Mr Stein?---From the review of the file I have that recollection.

Yes. And there was two, two trusts in relation to the property, is that right?  
---Yes.

10 And there was one for the operations of the, of the Hotel, is that right?  
---Yes.

And beyond reviewing them on the file do you have any independent recollection of preparing these deeds?---No, I do not.

On the – you’ll see that they’re dated 6 January, 2006?---Yes, I do.

Do you have any recollection independently of that date as to when they were executed?---No, I do not.

20

Is it often the case that there are deeds which have a date earlier than they are in fact executed?---No.

Can I show you Exhibit V45, page 667. You’ll see that this is an email from, at the bottom from Mr Malanos to Mr Hendry and that’s copied to you, it’s 10 January, do you see that?---At the bottom half of the page.

The bottom half, yes?---Yes.

30 And it’s attaching the first draft of the above trust in a soft copy, now that’s - obviously the subject is “Tattersalls No. 2 Unit Trust”?---Yes.

Do you see that? And Mr Malanos has passed on the, a fax from Mr Hendry of the 10<sup>th</sup> regarding proposed amendments to the trust structure, do you see that?---Yeah. Oh, I don’t see the attachment but I see the words that you’ve just read.

40 Yes. And you’ll see that the top email on that page, Mr Stein, is from Mr Hendry back to Mr Malanos indicating that he was, that he and John, Mr Cassidy, were happy with the terms of the trust deed?---Yes.

And this is dated 11 January, 2006, do you see that?---Yes.

Are you able to explain how the trust deeds are executed on 6 January in circumstances where it would appear from this document that instructions were still being received in relation to them?---Um, no, I’m not able to explain what you’ve just put.

Yes?---I, again on reflection - - -

Yes?---- - - - having had the chance to look at this - - -

Yes?--- - - - there is a likely explanation as to why the trust deed continued to bear the date of 6 January which is that the original first draft was prepared on the assumption that it would be executed on 6 January or settled on 6 January - - -

- 10 Yes?--- - - - and that it is likely that either I or someone else in my office when making the changes to the deed that had been requested focussed only on the changes that had been requested and didn't amend the date to reflect the later anticipated execution date.

I see. And it's the case isn't it from your review of the file, Mr Stein, that there were changes that were made and perhaps if I can show you Exhibit V44 and this is the fax of 10 January to which the email that, that I've just shown you refers?---Thank you.

- 20 It's from Mr Hendry to Mr, Mr Malanos, the fax was, and you'll see that there is a one-tenth interest and a nine-tenths interest on the unit trust side? ---At the top of the - - -

At the top of the, top of the diagram?---The diagram, yes.

Yes. And it's the case isn't it that prior to this date the interests were one-third Tattersalls No. 1 and two-third, do you have a recollection of that? ---Only from the review of the file, yes.

- 30 Yes. And similarly on the next page there was a, a difference in the number of units that both sides would respectively hold in the unit trust that was dealing with the operations?---I see that.

And do you have a recollection of that from - no independent recollection but that's from your review of the file, is that right?---I agree.

- 40 Yes, can I show, can you show you page 669 of the brief. It's a facsimile from your firm to Mr Atkinson of Watson McNamara and Watt, you're indicated as the partner. Is this a document that you recall seeing, perhaps if we can scroll through to see the attachment, it's a letter of 11 January and it attaches material which includes details of the licensing?---Yeah, no, other than from the review of the file.

And, and that's not a document that you recall seeing - consistent with your practice is it a document that you would have seen before it was sent out? ---Just scroll up for a moment back to the signature page on the letter. Normally when a - the policy of our firm when a letter is submitted to me for approval is that I would sign the letter.

Yes?---That's not my signature.

I see?---But also the content of this letter is not advice oriented and I would not have expected to have seen it.

I see. Commissioner, that's all the questions that I have for Mr Stein.

THE COMMISSIONER: Thank you. Any questions of Mr Stein? No.  
10 Thank you, Mr Stein, you may step down, you are excused.

THE WITNESS: Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[2.30pm]**

MS MITCHELMORE: Commissioner, the next witness is Mr Griesz.

20 THE COMMISSIONER: Yes.

MS MITCHELMORE: He doesn't appear to be here. We gave him a not before 2.30.

THE COMMISSIONER: Oh, all right.

MS MITCHELMORE: So it may be that he's, he's not far away I would anticipate.

30 THE COMMISSIONER: No.

MS MITCHELMORE: My solicitor's just checking whether or not she's received a response.

THE COMMISSIONER: Just while we're waiting the notes of 14 December that were marked V65, are they joined with the other notes or is that already a separate exhibit? Page 382/383.

40 MS MITCHELMORE: No. Given it's Mr Griesz's note I thought I would just tender it through him.

THE COMMISSIONER: You're going to put it through him. Thank you.

MS MITCHELMORE: Yes. Commissioner, it may be convenient if you adjourn.

THE COMMISSIONER: It might be. All right. I'll take a short adjournment. Thank you. Let me know.

**SHORT ADJOURNMENT**

[2.32pm]

MS MITCHELMORE: Yes. Commissioner, Mr Stein is here, and he's in  
- - -

MR NEWLINDS: Mr Griesz.

THE COMMISSIONER: Mr Griesz.

10

MS MITCHELMORE: Oh, sorry, Mr Griesz. I apologise.

THE COMMISSIONER: Yes. Yes, Mr Newlinds. Has Mr Griesz been  
told about the section 38 order?

MR NEWLINDS: He has, and he would ask for one, please.

20 THE COMMISSIONER: Yes, thank you. Mr Griesz, can I just make sure  
that you understand that the order protects you from the use of your answers  
against you in civil and criminal proceedings but does not protect you if it  
should be found that you've given false or misleading evidence before the  
Commission. Do you understand that?

MR GRIESZ: I understand.

30 THE COMMISSIONER: Pursuant to Section 38 of the Independent  
Commission against Corruption Act I declare that all answers given by this  
witness and all documents and things produced by this witness during the  
course of the witness's evidence at this public inquiry are to be regarded as  
having been given or produced on objection and accordingly there is no  
need for the witness to make objection in respect of any particular answer  
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IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR  
DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Griesz?

MR GRIESZ: Sworn is fine, Commissioner.

THE COMMISSIONER: Thank you.

MR NEWLINDS: I'm assuming implicitly that leave has been granted to me to appear.

THE COMMISSIONER: Yes. It was granted - - -

MR NEWLINDS: I haven't made the application.

10

THE COMMISSIONER: I thought you did.

MR NEWLINDS: It must've been made on behalf of me, but that's all right.

THE COMMISSIONER: Yes. No, no.

MR NEWLINDS: Thank you.

20 THE COMMISSIONER: I thought you had made the application, anyway, the leave is granted. Thank you. Yes. Ms Mitchelmore.

MS MITCHELMORE: Yes. Can you state your full name for the Commission, please?---Simon William Griesz.

And you're a solicitor, Mr Griesz?---Yes.

And you work at the firm Brown Wright and Stein?---Yes.

30 And what's your position there?---Partner.

And in about 2005, 2006 were you still a senior associate at that time?  
---Yes.

And how long have you worked at Brown Wright and Stein?---Almost 10 years.

And do you specialise in any particular area of practice?---Predominantly commercial law.

40

Taking you back to 2005 and specifically to December of 2005, do you recall being involved in a matter involving the purchase of a hotel in Armidale called the Tattersalls Hotel?---Yes.

And do you recall being engaged to act on that purpose by Mr Darrell Hendry?---Yes.

And before receiving instructions in this matter, did you know Mr Hendry?  
---Not that I can recall.

And is it the case that you were involved in the conveyancing or the purchase, acting on the purchase by Mr Hendry of the Hotel?---Yes.

So, dealing with the conveyancing and liquor licencing?---Yes.

10 Can I show you Exhibit V41 which is page 361 of the brief? That's a letter addressed to you from Mr Hendry. Do you see that?---Yes.

Do you recall receiving this letter?---Having reviewed the file it's, it's refreshed my, my recollection - - -

Yes---? - - - about receiving that specific letter.

20 And you'll see that that attached a Contract of Sale and Conditions of Tender. Is that right? Is that consistent with your recollection?---I can only say - if, if that's what's attached to the document then that's what's attached to the document.

I see. And you'll see that the covering letter referred to discussing the transaction with you tomorrow? Just go back to the first page?---Yes.

Do you recall meeting, a meeting with Mr Hendry on 14 December 2005?  
---I do not remember actually having the meeting.

Yes. Perhaps if I can show you at page 382 of the brief?---Yeah.

30 Do you recognise that as your handwriting?---Yes.

And the date of that is 14 December. Is that right?---Yes. That, that's what my handwritten note shows.

Yes. And it records an attendance with Mr Hendry. Is that right?---Yes.

40 And looking at this document which is three pages, do you recall making these notes in the course of a meeting with Mr Hendry?---No, I don't recall making the notes but, but clearly that's my handwriting and I made the notes.

Yes. Do you recall if Mr Stein was present at this meeting?---I, I don't have a recollection of the meeting.

I see. Is it possible that Mr Stein was present at the meeting?---It's possible.

He was also involved in this transaction, wasn't he?---Um, yes.



He was the supervising partner. Is that right?---Yes.

And there was also a trust aspect of this transaction. Do you recall that?---  
Yes. There was.

And Mr Stein was dealing with that aspect of the transaction. Do you recall  
that?---That's my recollection.

Yes. Commissioner, I tender that document.

10

THE COMMISSIONER: Yes. That'll be Exhibit V66.

**#EXHIBIT V66 - GILLIS DELANEY BROWN LAWYERS  
ATTENDANCE NOTE – DATED 14 DECEMBER**

MS MITCHELMORE: Mr Griesz, can I show you a document at page 395?  
Is that also your handwriting, Mr Griesz?---Yes.

20

And you've dated that document 19 December 2005?---That's what I've  
written, yes.

Yes. And does that also – consistently with your file noting – indicate a  
discussion with Mr Hendry?---Yes, and I, I believe that that would've been  
a phone call.

30

Okay. You'll see that on the – at the top underneath the heading Attendance  
Note, there was a reference to a proposed guy who will hold licensees back  
next week. Do you recall if Mr Hendry told you who that was?---I, I can't  
recall.

And there was also a reference in the third, looking at the third dash point,  
that Mr Hendry met with Geoff Walker and that Mr Walker was preparing a  
proposal for Mr Hendry and partner to agree. Do you see that?---Yes.

Do you have a recollection of whether Mr Hendry told you who his partner  
was?---No, I don't recall.

40

The fact that you have written, Partner, does that indicate that that is what  
Mr Hendry has said to you?---Look, I, I can't remember specifically what  
was said during that discussion. If, if you want me to speculate about it I, I  
can.

No, that's okay.

THE COMMISSIONER: Mr Griesz, in the context of the purchase of  
commercial property, if you referred to a partner, normally that would refer

to someone who was a partner in the purchase, would it not, as opposed to a life partner or someone of that description?---In this context I, I, I would, I would agree with that.

MS MITCHELMORE: Mr Griesz, at the bottom of the page, is that a different, is that a note of a different conversation?---Yes.

And that's a conversation with a Bruce Atkinson. Is that right?---That's what it records. Yes.

10

And do you recall that Mr Atkinson was the solicitor acting for the vendor?--Having reviewed the file it's refreshed my recollection that he was the solicitor.

That he was? Yes?---On, on the file for the vendor.

And there's a request – the file note records a request for an extension. Do you see that?---Yes.

20

Can you recall why there was a need for an extension at this time? So, this is 19 December?---At the moment I can't recall what the reason for that was.

Finally on this document, Mr Griesz, there's a reference going back to the top of the page to a – it looks like you've crossed out Rob and then it says Braham Gusheh. Do you see that?---Yes.

Do you have any recollection of what Mr Hendry told you about Mr Gusheh?---Unfortunately I can't recall.

30

Yes. Commissioner, I tender that document.

THE COMMISSIONER: Yes. The notes in 19 December will be Exhibit V67.

**#EXHIBIT V67 - GILLIS DELANEY BROWN LAWYERS  
ATTENDANCE NOTE – DATED 19 DECEMBER 2005 (PAGE 395)**

40

MS MITCHELMORE: Can I show you page 405 of the brief? And Mr Griesz again that's your handwriting?---Yes.

And that is – you've recorded a note on 23 December 2005?---Yes.

And is that – looking at the note – a conversation you've had with Mr – recording a note of a conversation with Mr Atkinson?---That's what it looks like, yes.

Yes. And it indicates that the – an extension to 31 January was okay. Do you see that?---Yes.

And do you see the second cross there's a reference, is that management problems?---Yes, that would be my abbreviation for management.

If go later than 31 January?---Yes.

10 Do you recall what that is a reference to?---Um, on reviewing the file my recollection is that that related to the management of the Hotel itself- - -

I see?--- - - -after 31 January.

I see. Going a couple of bullet, bullet points down there's, there's – you then change from crosses to dashes?---Yes.

And there's a reference, licence application, biggest concern is identity of purchaser. Do you see that?---Yes.

20

Is that something that you've recorded as something that Mr Atkinson said or is that something that you've said, do you have any recollection?---Ah, I cannot recall what was actually said in that conversation, again I can speculate for you if you wish.

Do you recall having a recollection of the identity of the purchaser being a concern to you?---(No Audible Reply)

30 At around this time I should say, 23 December?---I, I, I, I don't recall it being a concern.

Commissioner, I tender that document.

THE COMMISSIONER: Notes of the conversation on 23 December is Exhibit V68.

**#EXHIBIT V68 - GILLIS DELANEY BROWN LAWYERS  
ATTENDANCE NOTE – DATED 23 DECEMBER 2005 (PAGE 405)**

40

MS MITCHELMORE: And, Mr Griesz, can I next show you a document at brief 418. And this is an email from you to Mr Hendry. Is that right?---Yes.

And do you recall sending that email?---No, I don't.

But it's the case, do you have any reason to believe that you wouldn't have sent it?---Oh, no, I, I, I don't remember sending it but I accept, I accept that

- - -

That you've sent it?--- - - piece of paper is a, is a record that, that I, that I sent that email.

Yes. And that's just making a number of requests from Mr Hendry in relation to the purchase. Is that right?---If I could just read it for a moment, please.

10 Of course?---Yes, so what was the question?

You're making a number of inquiries of Mr Hendry in relation to details that you needed for the purchase. Is that right?---Yes.

One of the things that you've asked for is identity of the licensee and the entity that will own the licence and in what capacity so that you can prepare the documents for the Licensing Court?---Yes.

20 Is it the case that the Licensing Court is required to approve the transfer of liquor licences. Is that right?---That's my understanding.

Yes. Commissioner, I tender that document.

THE COMMISSIONER: Yes. The email of 24 December, 2005, Exhibit V69.

30 **#EXHIBIT V69 - EMAIL TO SIMON GRIESZ TO DARRELL HENDRY RE PURCHASE OF TATTERSALLS HOTEL ARMIDALE DATED 24 DECEMBER 2005**

MS MITCHELMORE: Can I show you, Mr Griesz, next the document at page 419 of the brief. Perhaps if I can give you a copy so you can have a look at it. It's a lengthy- - -?---Yeah, thank you.

40 Well, not lengthy but it's lengthier. Do you recognise that as a letter that you've sent to Mr Hendry on 26 December, 2005?---Yeah, I, I, I recognise that.

Is it your signature at the end of the letter, Mr Griesz?---That's an electronic signature.

Oh, I see. And so you had authority to put that on on behalf of the firm. Is that right?---Yes. It's the practice that you can- - -

That the firm has?---Yeah, a practice that you can press a button and it puts that electronic signature onto the letter.

And do you have any recollection of preparing this letter?---No.

You'll see, Mr Griesz, on the first page there's a reference to confirming the instructions for the purchaser of the Hotel and there's a reference to two unit trusts but one represented Mr Hendry's interests and one representing the interests of Colin Cassidy, do you see that?---Yes.

10 Is it the case that the reference to Colin Cassidy is in error?---I, I, I believe that the reference to, to Colin is an error, yes.

Yes. Should that have been a reference to John Cassidy?---That's probably the case?

Yes?---That's probably the case.

20 And it's the case by this time that your firm was aware that insofar as the purchase of the Hotel was concerned there would be contributions by Mr Hendry and Mr John Cassidy?---When you say the firm was aware - - -

Sorry, you were aware?---So, okay. I, I think having reviewed the file and it's a bit difficult without having the documents in front of me now but I, I believe or recall that by 26 December we, I did, I did know that Mr Cassidy was going to be one of those people having an interest in one of the trusts, directly or indirectly.

Yes. Commissioner, I tender that document.

30 THE COMMISSIONER: The letter of 26 December, 2005 to Mr Hendry is Exhibit V70.

**#EXHIBIT V70 – LETTER FROM SIMON GRIESZ TO DARRELL HENDRY RE PURCHASE FROM SERVICES UNE LTD DATED 26 DECEMBER 2005**

40 MS MITCHELMORE: Now it's the case, Mr Griesz that you were away for a period after Christmas through to 16 January, is that right? It's something that you referred to in the email on page 418 if that assists, if we can go back to 418?---Oh, sorry.

I'll just bring that up for you, Mr Griesz, there's a reference in your email to Mr Hendry that you'll be away until the 16<sup>th</sup> but you'd be in Sydney the whole, do you see that?---Yes, yeah, I see that, yes.

Does that assist your recollection - - -?---Yeah.

- - - as to what your holiday or staying in Sydney plans were?---I, I can't remember the holiday but if, if, if – unfortunately but if that's what I wrote then, then that's what would have happened, I would have been, I would have been on holidays for that period.

Yes. And is it the case as you've said in the email it was Mr Malanos, he was, he was a solicitor at the firm, is that right?---Yes.

10 And so he assisted in your absence with the transaction, is that your recollection?---Yes, it is.

And can I show you 445 of the brief. And that's a memorandum that you've prepared, is that right?---Yes.

And is that in the nature of a handover memo to, to Mr Malanos for while you were away?---Yes.

20 Just indicating what needed to be done and where the matter was at, is that right?---Yes.

Yes. I tender that document.

THE COMMISSIONER: The email of – is it an email or a note, sorry?

MS MITCHELMORE: No, it's a, it's a memorandum, Commissioner.

THE COMMISSIONER: A memorandum - - -

30 MS MITCHELMORE: Yes.

THE COMMISSIONER: - - - of 27 December, Exhibit V71.

**#EXHIBIT V71 – MEMORANDUM FROM MICHAEL MALANOS  
TO SIMON GRIESZ DATED 27 DECEMBER 2005**

40 MS MITCHELMORE: Can I next show you, Mr Griesz, a document at page 447. This is dated 27 December?---Yes.

So the same date that you're preparing the, the memorandum for Mr Malanos. Do you recall preparing this document?---No, I don't.

It attaches a Deed of Mutual Rescission, if we can scroll down?---Yes.

Do you recall that a, a deed was required because the original contract had been signed by Mr Hendry individually and there was going to be a

substitution of Mr Hendry as the purchaser with a corporate entity, do you recall that?---On reviewing the file I do.

Yes. Did you prepare the Deed of Rescission?---Do you mind – my recollection is I did, my recollection is I did.

10 Yes. Commissioner, that document is already tendered. Do you have a recollection, Mr Griesz, as to whether the Deed of Rescission and the new contract were ultimately executed?---On, on reviewing the file, um, my review of the file indicates that they were executed.

Yes. On or about 19 January?---I, I can't remember the, I can't remember the specific date.

Yes. If I can show you a document at page 748, you'll see that this is a, a fax from your firm to Mr Atkinson who was acting for the vendor. Is that, again, the electronic signature on, on that letter?---Yes.

20 But do you recall preparing this letter?---No. I, I don't recall preparing it.  
It's 19 January?---Yes.

It's the case that you were back from leave by that time. Is that right?---  
Again, having reviewed the file, that's, that's what the file indicates.

Yes. So, it's likely that you prepared - - -?---Yes.

- - - this letter?---Yes, it is.

30 Yes. I tender that letter, Commissioner.

THE COMMISSIONER: Yes. It's the letter of 19 January 2006 to Mr Atkinson is Exhibit V72.

**#EXHIBIT V72 - LETTER FROM SIMON GRIESZ TO BRUCE ATKINSON RE SERVICES UNE LIMITED**

40 MS MITCHELMORE: Thank you. Just pardon me a moment. Yes. Thank you, Commissioner. I have no further questions for Mr Griesz.

THE COMMISSIONER: Any questions of Mr Griesz from anyone else? No. Thank you, Mr Griesz. You may stepped down. You're excused? ---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[3.22pm]**

MR NEWLINDS: Thank you, Commissioner.

THE COMMISSIONER: Yes. So, that leaves the balance of the witnesses tomorrow.

10 MS MITCHELMORE: That's, that's right, Commissioner, yes. I should indicate I don't anticipate taking a very long time with, with those witnesses that we have on for tomorrow.

THE COMMISSIONER: All right, thank you.

MS MITCHELMORE: Yes.

THE COMMISSIONER: All right. I'll adjourn to 10.00am. Thank you.

20 **AT 3.23PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[3.23PM]**