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25/07/2014

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pp 00391-00460

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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 FRIDAY, 25 JULY, 2014

AT 10.08AM

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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, good morning, Commissioner. Before I call Mr Cassidy can I deal with the tender of three documents - - -

THE COMMISSIONER: Yes.

MS MITCHELMORE: - - - two of which I should have tendered but didn't yesterday and omitted to do so. The first is the document prepared by
10 Professor Pollard titled "The Tatts sale, log of events file" which was commenced on 20 February, 2006.

THE COMMISSIONER: Yes. That will be Exhibit V82.

**#EXHIBIT V82 – TATTS SALE LOG OF EVENTS FILE;
COMMENCED 20 FEBRUARY 2006**

20 MS MITCHELMORE: And the letter of Jennifer Crew, it's an undated letter to the Board of Services UNE Limited.

THE COMMISSIONER: Yes, that letter will be Exhibit V83.

**#EXHIBIT V83 – LETTER FROM JENNIFER CREW, FORMER
DIRECTOR OF UNE UNION TO THE BOARD OF SERVICES UNE
LTD DATED 23 JANUARY 2006**

30 MS MITCHELMORE: And I tender also, Commissioner, the record of interview between Investigator, two investigators of the Commission and Mr Braham Gusheh held on 18 July, 2014.

THE COMMISSIONER: Yes, that will be Exhibit V84.

40 **#EXHIBIT V84 - RECORD OF INTERVIEW BETWEEN
INVESTIGATOR CHRIS WIGHTMAN AND INVESTIGATOR ANN-
MAREE ROBINSON AND MR BAHRAM GUSHEH ON 18TH JULY
2014**

THE COMMISSIONER: Yes.

MS MITCHELMORE: Yes, Commissioner, I call Mr John Cassidy.

MR THANGARAJ: Commissioner, just one matter if I could?

THE COMMISSIONER: Yes.

MR THANGARAJ: I notice we haven't been having morning tea, if at some – given that it's three hours if at some appropriate time that's suitable to my friend and your Honour if we could have a short break just to give the witness a break.

10 THE COMMISSIONER: Yes, certainly, all right, we'll see how we go.

MR THANGARAJ: Thank you.

THE COMMISSIONER: Yes. I take it Mr Cassidy's been explained the effect of a section 38 order and he wishes to take advantage of that?

MR THANGARAJ: Yes.

20 THE COMMISSIONER: Mr Cassidy, just to ensure that you appreciate that the order under section 38 protects you against the use of your answers against you in civil or criminal proceedings but does not protect you if it should be found that you've given false or misleading evidence, you understand that?

MR CASSIDY: Yes, Commissioner.

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 given or document or thing produced.

40 **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.**

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

MR CASSIDY: Sworn.

THE COMMISSIONER: Can he be sworn, please.

THE COMMISSIONER: Yes.

MS MITCHELMORE: Yes. Can you state your full name for the Commission, please?---John Marcus Cassidy.

And what is your occupation, Mr Cassidy?---Ah, retired grazier.

10

And is it the case that you were a grazier on a property that you own called Merilba?---Ah, that's one property.

I see. You have other properties, are they all located in the area of Armidale?---Yes.

And you have held the property Merilba since 1982, is that right?---The first part, yes, 1982.

20

And you've added to it over time, is that right?---Correct.

And for how long has the property been your principal place of residence? ---It's pretty difficult to say because I came from Malaysia at the end of 1985 having spent nearly 11 years overseas um, lived in Sydney until 2004 and currently live at, a resident, reside at Blueys Beach.

I see. Is there a period of time when you were commuting from Sydney to the property at Armidale?---Yes.

30

Because at that time your wife was living at the property fulltime?---Ah, she was living there from '96 if I recall.

I see. So between 1996 and 2004 were you commuting between the property and - - -?---Approximately, yes, I think so.

And Sydney, yes. In addition to grazing land is there a vineyard and winery located on Merilba?---There is.

40

And that was established in about 1998, would that be about right? ---Possibly.

Previous positions you've held, Mr Cassidy, include being the Chancellor of the University of New England, is that right?---Yes.

And that's a position to which you were elected at a meeting of the UNE Council on 11 December, 2005?---I believe so.

Would you accept that if a media release is issued by the University on 12 December, 2005 referring to your election on 11 December that it occurred on the 11th?---I believe, yes.

Yes. And that appointment was for a term of five years?---Yes.

And at the time of your election as the Chancellor were you a member of the University Council?---I was.

10 And you were appointed to the Council in 2001?---I believe so, yes.

And at that time, 2001, you were the Chairman and Chief Executive Officer of Abigroup Limited?---Yes.

The primary business of that company is construction?---Ah, yes, the majority.

20 Can you recall when you commenced with Abigroup Limited?---Um, I commenced with Abignano Limited which eventually became Abigroup Limited probably in about 1988 but I think I commenced with Abignano probably as a consultant at the end of '85 or '86.

I see. And when did you resign from Abigroup Limited?---Some time in 2004.

And at the time of your resignation from Abigroup Limited had that company recently been taken over by Bilfinger Berger Australia?---It had.

30 Now, Mr Cassidy, it's the case that you are a director and shareholder of a company called Vercot Pty Limited?---Correct.

And you've been a director since its incorporation?---Yes.

And a shareholder since its incorporation?---Yes.

And your wife is also a director and shareholder of Vercot?---She is now but always been a shareholder.

40 I see. And she hasn't always been a director either, is that the case?---No.

You and your wife are currently the only directors and shareholders of Vercot, is that right?---Yes.

You're also a director, Mr Cassidy, of a company called Armpub No. 1 Pty Limited?---Yes.

And you've been a director of that company since the 30 January 2006? ---30 of January, 2006, yes, I think so.

Mr Darrell Hendry is also a director of that company?---Yes.

And the shareholding of that company comprises of three issued shares, two of those shares are held by Vercot Pty Limited, is that right?---I believe so.

And one of them is held by Mr Hendry?---I believe so.

10 And Armpub No. 1 is the corporate trustee of two unit trusts, is that right?
---This is where I get very confused, I'm not sure but I believe that's correct.

Well Tattersalls Unit Trust No. 1 and Tattersalls Unit Trust No. 2 are those names are familiar to you?---Yes.

And all of the units in Tattersalls Trust No. 2 are held by Vercot Pty Limited, is that right?---I believe so.

20 And the units in Tattersalls Unit Trust No. 1 are held by Darrelan Pty Limited?---Um, I've never seen the trust deed so I'm taking what you say is correct.

And you recognise Darrelan Pty Limited as a company associated with Mr Darrell Hendry?---Yes.

Mr Cassidy, you are also a director of Armpub No. 2 Pty Limited?---Yes.

30 And again you've been a director of that company since the 30 January 2006?---I believe so.

Mr Hendry is also a director of that company?---Ah hmm.

And again three ordinary shares issued in that company, two of them are held by Vercot Pty Limited?---I believe so.

And one is held by Mr Hendry, is that right?---I think so.

40 And Armpub No. 2 is the corporate trustee of the unit trust called the Tattersalls Operating Trust, is that right?---I believe so.

And Vercot holds units in the Tattersalls Operating Trust?---I believe so.

As does Darrelan Pty Limited, is that right?---I believe so.

Mr Cassidy, you're also a Director and shareholder of a company called Merilba Estates Pty Limited?---Yes.

And your nephew Mr Shaun Cassidy is the only other Director and shareholder of that company?---Yes.

And is it through that company that Merilba Estate Wines is operated? ---Yes.

And that business includes a vineyard and a winery?---It includes a vineyard, a winery and a, a restaurant.

10 And Cellar Door, is that right?---Well Cellar Door Restaurant.

I see. And that business also produces wines under the Merilba Estates label, is that right?---It does.

Mr Cassidy, if I could return to your time at Abigroup it's the case as you've indicated that when you commenced at the company it was still called Abignano?---Yes.

20 And around the time that you started at Abignano Mr Hendry was at the company, is that right?---Yes.

And he was the Chief Financial Officer of a number of Abignano companies at that time?---I'm not sure that he was the Chief Financial Officer of those companies but he became Chief Financial Officer.

I see. He was subsequently appointed the Chief Financial Officer of Abigroup Limited?---Yes.

30 And he remained in that position until the take-over in 2004?---Yes.

And his background was chartered accountancy, is that right?--- Yes.

And did you have cause to work closely with him during your time at Abigroup?---I did.

And it's the case in fact that when you took on the role of CEO that the group was in a perilous financial position. Would that be accurate?---That would be um, true.

40 And you had to work very intensely for a number of years to keep the company from failing, is that right?---Yes.

And you had to work closely with Mr Hendry in that endeavour?---And others.

And you continued to work closely with Mr Hendry and others as the company came out of debt and grew in size, is that right?---Correct.

And started to turn a profit?---Correct.

And following the take-over of Abigroup in late 2003 Mr Hendry to your knowledge remained as part of the senior executive team of Abigroup and the bidder, is that right?---I believe so.

And by that time you had worked together for some 17 years?---If that's the maths that's probably about right.

10 And would you say that you had a mutual respect for each other's professional abilities?---I think so.

You drove the direction of the company, is that right?---Um, together with the board.

And he ran the numbers and provided you with advice as to appropriate financial structures to take the company in the direction that you and the board wanted to take it?---Together with a number of others below him.

20 Yes. Without requiring a lot of close oversight by you?---Correct.

And in your opinion he was very experienced in financial management?---I believe so, yes.

And you trusted his commercial judgement?---Most of the time.

In your experience he wasn't prone to taking risks?---No, he's very conservative.

30 And he was commercially astute?---Generally.

And after you took a decision you trusted his ability to execute any associated financial aspects in a manner that was both financially efficient and financially prudent?---Possibly, yes.

It's the case, Mr Cassidy, that you and Mr Hendry were part of the management buyout of the major shareholder of Abigroup, Enacon Limited, in about 1988?---Mr Hendry was invited to become part of that management buyout.

40 I see. You were the first person approached to undertake that buyout. Is that right?---Correct.

And you invited others to come on board. Is that right?---I did.

So you issued an invitation to Mr Hendry?---Yes.

Along with other directors and persons involved in the management of Abigroup at that time?---Correct. And one outsider.

One outsider. I see?---Two outsiders.

So Vercot was incorporated as a special purpose vehicle. Is that right?
---It was at that stage.

And it purchased Enacon's shares in Abigroup?---It did.

10

And it started with a number of shareholders at that time?---Yes.

You held 59 per cent of the issued share capital, is that about right?
---Ah, probably 61 I think at that stage.

I see. And other shareholders were Mr Hendry?---It was.

Holding about six per cent?---I believe so.

20 Mr Brian Allen?---Yes.

Holding about 21 per cent?---Yes.

Mr Norman Reich holding about 12 per cent?---Yes.

And Mr Clive Austin holding about two per cent?---I think that's roughly right.

30 And shareholders have changed over time to some degree but it's the case isn't it that you have always held the controlling interest in Vercot?---Yes.

And you've always been a director?---Yes.

And it's the case over time isn't it that the company has engaged in a selective buyback of the shares?---Yes.

To the point where it's now just you and your wife holding the shares in Vercot?---Finally.

40 And when Vercot's interest in Abigroup was sold in the context of the takeover by Bilfinger Berger, that resulted in a significant profit for the company?---It did.

Would I be right in saying it's about \$92.8 million before tax?---I can't tell you the exact figure.

Is it something in that vicinity?---Could be, mmm. Might even be more.

And after the takeover, so since the time of the takeover, so from 2004, one of the former directors, Mr Allen, had his shares purchased by selective buyback in about late 2004?---Yes, I think so.

And that at that time left you, Mr Hendry and Mr Austin as directors. Is that right?---Not sure what happened to Mr Reich, but that's probably right.

He may have exited the company before that. Is that- - -?---Well, he's the late Mr Reich so- - -

10

Yes?--- - - -he's exited somewhere.

Yes. And Mr Austin's interests were the subject of a selective buyback towards the end of 2005?---Yes.

And he resigned as a director when his shares were purchased, a director of Vercot?---Yes.

20

And there were further, there was a further selective buyback on 3 February, 2006 of shares held at that time by ANZ Nominees?---Correct.

And after that buyback that left you and your wife and Mr Hendry and his interests as shareholders?---Yes.

And as a result of the selective buybacks over time did you and your wife's controlling stake in the company increase as a result of, as a percentage of the overall shareholding?---It would have had to.

30

Yes. And Mr Hendry's interests probably also increased as a percentage of overall shareholding?---Um, I think Mr Hendry always had um, in, in two different tranches, 10 per cent of Vercot.

I see. So perhaps held by- - -?---10 shares I should say.

10 shares?---Mmm.

So six shares and four shares, does that sound- - -?---I, I think that's about right.

40

I see. And by reason of the selective buyback that amount of the overall, as a percentage of the overall shareholding his interest increased. Would that be right?---Yes, the hundred shares reduced.

I'm sorry, Mr Cassidy, I missed that?---The original hundred shares reduced with the buybacks to whatever that percentage was.

I see. So the shares were just cancelled as they were bought back. Is that right?---Correct.

Before Mr Hendry's exit did your wife take an active role in the company?
---No.

So it was you and Mr Hendry who were managing the company?---Yes.

And when I say managing, this is a special purpose vehicle. Is that right?
---Ah, it changed, it did change over time.

10 As at 2004/2005 its only business was investing?---Yes.

And holding funds for investment, future investment?---Correct.

So it didn't require a lot of ongoing management at that time. Is that right?
---Ah, no, it did require some ongoing management.

When you say that you mean in relation to approving accounts and things like that?---Approving accounts, the management buybacks, the Annual General Meetings.

20

Yes?---Special meetings.

Is it the case that you had regular discussions at that time, 2004/2005, with Mr Hendry in relation to the business of Vercot?---Not regular but we certainly had discussions.

30 Aside from meetings in relation to approve share buybacks and approve accounts and Annual General Meetings, to your recollection there wasn't otherwise a need for formal meetings in 2004 and 2005?---No, there's always a need for formal meetings.

For what purpose?---To comply with the corporations legislation.

Is it the case that in 2005, Mr Cassidy, you weren't in regular conduct, sorry, contact with Mr Hendry in relation to the Vercot business?
---Ah, not necessarily in relation to the Vercot business but certainly with the Bilfinger Berger business.

40 You were in regular contact with him at that time, were you?---Not regular but quite often.

How often is quite often?---Oh, I can't recall, it's a long time ago but- - -

Turning to matters involving the University, Mr Cassidy, do you recall the circumstances surrounding your election as the Chancellor?---Um, not really but I certainly was lobbied by the ah, by the then Vice-Chancellor, Professor Ingrid Moses, to stand for election as Chancellor.

Is it the case that you were approached for your business acumen to try and change the outlook of the business side of the University?---Yeah, that's true.

And that was a task you were well-equipped to deal with, given your experience at Abigroup?---Um, it's not for me to say that but ah, probably had a lot of experience.

10 Did you consider that you would be in a position to fulfil what Professor Moses was asking you to do?---I believed so at that time.

And when you agreed to accept a nomination for the position you did so intending to fulfil that remit?---Very much so.

And did you bring the same level of commitment to your role as Chancellor that you brought to your previous role as the CEO of Abigroup?---Ah, no.

20 Did you take an active interest in the administration of the University?
---I certainly did.

And its management?---Yes.

And financial performance?---Yes.

As the Chancellor you were one of three official members of the UNE Council?---I believe so.

30 And the Council was supported by a Secretariat which was headed up by Ms Helen Arthurson?---Yes.

She was the secretary to the Council?---Secretary to the Council and the Council Committees.

And as the Chancellor you were ex officio member of a number of committees. Is that right?---Yes.

Including the Standing Committee?---Yes.

40 And the Audit and Finance Committee, sorry, Audit and Compliance Committee?---Ah, yes.

And the Finance Committee?---Yes.

Now, Ms Arthurson took the minutes of Council meetings?---Generally.

And the meetings of a number of the other Council Committees?
---Generally.

And she was very efficient at her job?---I believe she was excellent.

And in your view did the minutes that she took of various Council and other meetings generally constitute a reliable summary of what occurred at those meetings?---I believe so.

And they captured relevant decisions?---In general terms I think so.

10 Now, Mr Cassidy, it's the case that on 10 May, 2005, the Standing Committee of the Council resolved to appoint Mr Stephen Hall of Forsyths as the receiver and manager of the UNE Union. Is that right?---I believe that's correct.

And that was done by way of a flying minute?---I don't recall that but it could have been.

Can I show you this document. Is that your handwriting on the document, Mr Cassidy?---It is.

20 And your signature?---Yes.

And that's the flying minute of 10 May, 2005 agreeing to appoint Mr Hall? ---10 May, 2005.

10 May, 2005?---Yes, following a request from the UNE Union Board.

Yes?---Yep, from a meeting they held on 6 May, 2005.

30 Yes. Commissioner, I tender that document.

THE COMMISSIONER: Yes. That will be Exhibit V85.

#EXHIBIT V85 - UNIVERSITY OF NEW ENGLAND STANDING COMMITTEE OF COUNCIL FLYING MINUTE- 10 MAY 2005

40 MS MITCHELMORE: It's the case, Mr Cassidy, that Mr Hall at the same time was appointed as the administrator of the UNE Union Limited? ---Possibly.

And that would have been done at the request of the Board of that company?---I think so probably.

And the major asset of UNE Union Limited to your knowledge was the Tattersalls Hotel?---I think there were two major assets, the, the Tattersalls Hotel and the ah, the Cinema.

There was a leasehold over the Cinema. Is that right?---I don't recall that.

But it was ownership of the property of the Tattersalls Hotel?---I believe so.

And as at May 2005 had you ever been to the Hotel?---Not that I recall.

But you knew of the Hotel?---Yes, I think everyone in Armidale knew of the Hotel.

10 And you knew then it was located in the mall in central - - -?---Yes.

- - - central Armidale?---Yeah.

In the period leading to Mr Hall's appointment did you have concerns about the solvency of the UNE Union and UNE Union Limited?---I did.

And it's the case or are you able to tell the Commission why you were concerned?---I think it was a general services fees and there was a political concern that the Students Union was a so-called union and therefore their
20 fees should be curtailed and they, I think they were coming in to the following year, there would have been an embargo on um, voluntary, ah, bringing in voluntary student fees – sorry, they would have used voluntary student fees and they wouldn't have had that, that income coming into that entity.

So there was going to be a loss of revenue to the, to the Union as a result - -
-?---There was, yes, and, and I think also there was probably for, from memory there was no um, ah, recorded accounts coming out of the Student
30 Union organisations.

That you recall seeing?---That I recall, yes.

And apart from the issue of voluntary student unionism having a potential impact on the affairs of the, of the Union you were of the view at this time that the Union was being run badly weren't you?---Yes.

Now it's the case that in June of 2005 you read a report that Mr Hall prepared into the affairs of UNE Union and UNE Union Limited?---
Possibly.
40

And that report was dated 2 June, 2005. Can I show you Exhibit V3, page 13 of the brief?---Page 13, yes.

Yes. Now that's a copy of the report that you saw in June, perhaps if you can scroll through?---Possibly.

You're saying it's possible that you saw it?---I don't recall the report but I'm sure I saw the report.

It's the case that you read the report didn't you, Mr Cassidy?---Probably not in great detail.

Well, these were entities that were associated with the University?---Ah
hmm.

And there was at the time of Mr Hall's appointment a concern that they
were trading insolvently?---Yes.

10

There's no way, Mr Cassidy, that in those circumstances you wouldn't have
reviewed the report closely?---I wouldn't say that.

Indeed, you refer to Mr Hall's opinion as to insolvency as contained in that
report in your letter to the Audit and Compliance Committee of 5 February,
2006 don't you?---Is there, is there something I can refer to there, regarding
that solvency report?

20

Certainly, page 26 of the brief. You'll see there's an opinion expressed at
the bottom of the page as to solvency?---Right, that's pretty clear.

Yes. So you have read this report, Mr Cassidy, at that time?---Ah, I'm, I'm
sure I read parts of that report, yes.

Mr Hall - - -

30

THE COMMISSIONER: Sorry, could I just pause there. Mr Cassidy, are
you looking at the very bottom of that page where it says "Given the above
comments together with the information contained in this report," is the
reference to "this report" a reference to Mr Hall's report that Counsel has
referred you to?---I believe so.

So in order to express that view in the letter you had to have read the report?
---It's Mr Hall's statement not mine but I'm, I'm sure there was a concern
that it would be trading insolvently.

40

I'm sorry. Maybe, maybe I'm mistaken. I can only see one page on the
screen but what's being shown to Mr Cassidy at the moment, is that the
letter that you referred to?

MS MITCHELMORE: No, that's, that's a copy of the – that's from the
report of Mr Hall, Commissioner.

THE COMMISSIONER: All right. Thank you.

MS MITCHELMORE: Yes.

THE COMMISSIONER: All right. Thank you.

MS MITCHELMORE: Yes. But you've certainly picked up in your letter of 5 February, 2006 at page 773 of the brief that the report found that the Union was trading insolvently?---I think so.

Yes?---Mmm.

10 Mr Hall's report annexed a copy of an independent valuation of the Tattersalls Hotel that was prepared by Manenti Quinlan. Do you recall seeing that report?---I recall that report, yes.

And you reviewed that report didn't you, Mr Cassidy?---In general terms.

Again, it's not the case that you, you wouldn't have read it quite carefully isn't it?---I think I glanced through the thing and looked at the summary.

20 Well, it's the only asset of any real value held by a company that was associated with the University and was found to be at risk of failing wasn't it?---Ah, I don't know, I can't recall that.

You can't – sorry, what I'm saying is that the company, Services – not, not Services, I withdraw that, the company UNE Union Limited and the UNE Union were, were at the risk of failing at that time, do you recall that?---Or, or shortly thereafter, yes.

Or shortly thereafter. And the Tattersalls Hotel was, or on your evidence, one of two assets of, of real value that were held by those - - -?---Yes.

30 And it's just not the case is it, Mr Cassidy, that you wouldn't have read the report carefully?---I can't recall that but I certainly read report and glance through the report and come to a conclusion.

And it's the case that the report valued the Hotel on a going concern basis at \$2.35 million?---I believe that's correct.

And do you recall forming a view of the valuation when you read it?---I believe so.

40 Consistently with the low opinion you had of the management of the Union you were of the view that the valuation didn't reflect the Hotel's full potential, is that right?---I believe so.

And it's the case that you subsequently communicated that view?---I, I believe so.

To Mr Fox?---I'm not sure it's Mr Fox but to someone.

Possible it was Mr Fox?---Ah, could have been Mr Fox.

It might have been Mr Dennehy?---Ah, could have been Mr Dennehy.

And it might have been Mr Hall?---Could have been Mr Hall.

Towards the ends of 2004 the Council resolved at a special meeting that the University establish a new company capable of accepting the assets and operations of all or any of the student bodies at the University within the framework that was suggested by the receiver/manager, do you recall that?
10 ---I don't recall it but I think that is what happened.

It was a meeting on 24 June, 2005, do you recall being present at that meeting where a resolution to that effect was passed?---Ah, possibly.

If the minutes prepared by Ms Arthurson record you as being present do you accept that you were there?---I believe so, yes.

Following that decision of the, of the Council you were involved in discussions with Mr Hall, Mr Dennehy, Mr Fox and Ms Paini who was the
20 CEO of the Union regarding the appropriate form that the new entity should take, is that right?---Um, I think I was involved in some discussions.

And whether the Hotel should be sold before the restructure occurred?
---I don't recall that.

You don't recall being involved in discussions as to whether the Hotel should be sold before the restructure is that right?---No, I don't recall that at the moment, no.

30 You were doing what you could at this time to address some of Mr Hall's concerns that were raised in his report in support of which he was recommending that the Hotel be sold prior to the restructure, do you recall that?---Ah, yes, I think so.

So it's the case isn't it that around this time, which is July 2005, you spoke to the local Member, Mr Richard Torbay, about obtaining an exemption for stamp duty?---I don't recall talking to Torbay, no.

40 If I can show you page 37 of the brief. These are notes prepared by Ms Arthurson of a meeting at the offices of Mr Dennehy on 20 July, you see, Mr Cassidy, that you're recorded as being present?---Yes.

And towards the bottom of the page there's a heading "Stamp duty"?---Yes.

And there's a reference to you having had discussions with Mr Torbay, do you see that?---Yes.

Do you accept on the basis of this note of Ms Arthurson's that you had done that?---Yes.

There's no reason to doubt the accuracy of Ms Arthurson's notes?---I don't believe so and I believe I did write to the Treasurer as Chancellor requesting an exemption.

10 I see. And it was your view, Mr Cassidy, that the Hotel should be retained rather than being sold prior to the restructure wasn't it?---Ah, I believe so.

And that was so as to give you time to improve its trading position?---I think it was probably also in, in order to get the new Services Board in place.

I see. Insofar as it was part of your rationale to improve its trading position, the purpose of that would have been to improve its value before any sale? ---I think so.

20 And that appears to be a rationale that you advanced to Professor Pollard and Mr Fox at a meeting with them on the 24 February 2006?---Possibly.

I show you page 817 of the brief. That's part of Exhibit 81?---So this is 24 February 2006, is that - - -

Yes, that's right. So that's notes of a meeting that you had with Mr Fox and Professor Pollard. Do you recall having meeting with them on that day? ---Um, I believe so.

30 In response to questions that you had seen in advance?---Yes.

And at page 817 there's a reference, a notation of an answer that you've given in relation to the sale of the Hotel being deferred for political reasons and your response was no. Do you see that?---The sale of the Hotel is deferred for political reasons, is that your reflection, no.

And you said no?---No.

40 And in the last part of that, the last, sorry, the last sentence of that next paragraph you stated to Professor Pollard and Mr Fox that you had argued not to sell the Hotel but to improve its trading position before the sale?---I can see that.

And that was a view that you had at the time?---I'm sure.

It's the case isn't it, Mr Cassidy, that on 4 August 2005 you were in attendance and spoke in favour of the restructure at a meeting of the Standing Committee which resolved that date to approve the constitution of

the deed of company arrangement for the new entity Services UNE?---I believe so.

And again you would have no reason to dispute the accuracy of the minutes that were prepared by Ms Arthurson about that meeting?---No.

And at the end of that meeting you were tasked with approaching the three persons who the committee considered were appropriate to be University appointed directors of that company?---Yes.

10

That was Ms Maurer?---Ann Maurer.

Who was the chartered accountant?---She was the chartered accountant.

Mr Andrew Murray?---Andrew Murray was a local businessman.

And Mr Watt, Rod Watt?---Rod Watt was the solicitor, yes.

And those three persons were all known to you?---Um, Andrew Murray not particularly, no. Ann Maurer only through the University Council.

20

And in the case of Mr Watt you had been a client of his?---I had. My family, we had.

Yes. Now as you pointed out to the Standing Committee and this is in the minutes of the meeting on 4 August 2005 page 53 of the brief Services UNE would be and was to your knowledge a controlled entity. Do you remember making that point?---This is the Standing Committee, yes.

30

And you made the same point at a meeting of the council on the 8 August 2005?---Possibly.

If the minutes record that you did you would accept that you did?---Yes.

So the University was the sole shareholder of the company, is that right?---I believe so.

So the University continued to have a vested interest in monitoring the affairs of that company?---Yes.

40

And once the new company was formed is the case of the directors took control of the issue of the sale of the Hotel?---Yes.

And at a meeting on 27 October 2005 they resolved to sell the Hotel by a closed tender process. Are you aware of that?---I believe that's correct.

And it's the case that you came to be aware that the Hotel was for sale after the 27 October 2005?---Yes.

Do you recall how you became aware of it?---By seeing an ad in the Armidale Express I recall.

And was that sometime in early November?---Oh look I don't really care but it was just after that press release probably was issued whatever date that was.

The press release was the 31 October?---Yeah, so it could be early November.

10

So shortly thereafter. And at that time, Mr Cassidy, you knew, this is early November 2005 that the independent valuation that was available to the directors of Services UNE valued the hotel at 2.35 million?---I think it did at the time of valuation, yes.

And that was the only valuation to your knowledge that they had?---I can't say that but I believe that could have been correct.

And you considered that that valuation didn't reflect the Hotel's trading potential didn't you?---I did.

20

And the time that had elapsed between Mr Hall's preparation of his report as to solvency and the board's decision was only about five months?---If that's the maths.

And that's not a lot of time to significantly improve the trading performance is it?---Um, I think it depends when the independent directors took over.

Well their first meeting was the 27 September 2005?---Well that doesn't give the new hotel or the hotel much chance to improve its performance.

30

No. So and similarly if there's not a lot of time to improve trading performances there's not a lot of time to improve the valuation by any significant amount?---Possibly, mmm.

You were also aware at this time that at least one offer to purchase the Hotel had been made and that had been made in or around the time of the meeting that you had with Mr Dennehy and Mr Fox, Mr Hall and Ms Paini on the 22 July 2005?---I've come to understand that, yes.

40

Well you were aware of it at the time weren't, Mr Cassidy?---I don't believe so but - - -

That was an offer that was made by Camtrad Pty Limited?---Yes.

And it was for \$3 million subject to satisfactory due diligence and inspection?---I've heard that, yes.

Well given a level of your involvement in the discussions at this time, Mr Cassidy, around the 20 July it's likely that you were informed of it. Isn't that the case?---Oh I can't, I can't answer that, I don't know.

I suggest that you were informed of it. What's your response?---Well you can suggest.

THE COMMISSIONER: Sorry, do you know when it was that you did become aware of the Camtrad offer?---No, Commissioner.

10

But you know, but you know that you were aware of it at some point you just can't say when that was?---Correct.

MS MITCHELMORE: Can I show you Exhibit V6. You see that's a letter from Camtrad to Mr Hall of 22 July?---Ah hmm.

And the amount of \$3 million is considerably higher than the valuation, is that right?---Yes.

20

But it was subject to due diligence?---I think it's subject to, it says here subject to favourable buildings - - -

Completing a due diligence and reviewing financial accounts, do you see that?---"Reviewing the financial accounts of the business is completing a due diligence study an issue of receiving a favourable building survey." Yes, I can read that.

So you knew at this time that the figure would likely come down from \$3 million?---No, I didn't. How would I know that?

30

I suggest to you that you were aware of this offer at the time?---Well you've suggested that but I don't recall that.

Now it's not information - - -

THE COMMISSIONER: Sorry, can I just clarify something, Mr Cassidy? ---Yes, Commissioner.

40

Given that you were aware of the Camtrad offer but you can't say when you became aware can we assume that if you were aware of the offer of \$3 million in or, in or around July 2005 that you would have also taken into account the condition of the Hotel accepted the fact that three million might well ultimately be lower than that?---No, I can't say that.

So even if - - -?---I didn't make this offer, somebody's made an offer.

No, no, no, no. Please listen to the question. You've told us that you weren't, that you now cannot remember when you became of the Camtrad offer - - -?---Right.

- - - but you at some stage you were aware that an offer of three million had been made?---Well I've heard that through this hearings this week, Commissioner.

I'm sorry, are you suggesting that the first time you became aware that there was a \$3 million offer on the hotel was during hearings - - -?---It's the first time I've seen, it's the first - - -

10 - - - is of this Commission?---First time I've seen this offer in, in this, in this format.

Well we're not asking about that?---Sorry.

I understood you to say earlier that you became aware that an offer had been made on the Hotel and, and - - -?---I did.

20 - - - Counsel referred you to the Camtrad offer and so you said yes, you were aware of that offer so I was assuming that you were aware that the offer was \$3 million but you couldn't say when it was you became aware of the offer?---Correct.

Right. Just forgetting for one moment when it was that you became of the offer would it be reasonable to assume that when you did become aware of the offer knowing that it was subject to these further conditions that you would have concluded that ultimately the price of three million would probably come down, that's what Counsel was putting to you?---I can't say that, Commissioner.

30 MR THANGARAJ: Sorry. It hasn't been established that he knew about the second paragraph, it's the only, the offer that- - -

THE COMMISSIONER: All right. Anyway, look, he's denied the proposition so we'll leave it there. Go on.

MS MITCHELMORE: Now, Mr Cassidy, it's the case that the valuation document isn't information that other persons who might submit a tender would have had available to them?---Can you repeat that question?

40 Certainly. The valuation report- - -?---Right.

- - -that was provided to Services, sorry, to the UNE Union Limited together with Mr Hall's report, that's not information that other persons who were going to submit a tender had access to?---I wouldn't say that.

Well, if you accept from me that the persons who applied for a tender were not provided with a copy of the valuation report, do you accept that the valuation report is not information, the valuation report of Manenti Quinlan

that you had seen was not information that any other persons who might submit a tender would have had access to?---I, I, I'm relying on your suggestion.

Well, do you accept that proposition?---Your suggestion?

Yes?---Can you just repeat the question because it's, it's very confusing.

I'll go back a step?---Yeah.

10

Assume from me that what was provided as a part of the tender package- - - ?---Yes.

- - -was conditions of tender- - -?---Yes.

- - -a tender form- - -?---This is for the tender itself?

This is the, yes, so this is for the sale of the Hotel?---Oh, I thought you were, I thought you asked me a different question.

20

No, I'm talking about the sale of the Hotel. Do you understand that? ---It went out to tenderers?

Yes?---Yeah.

So the information that went out to tenderers- - -?---Yeah.

- - -comprised a tender form- - -?---Right.

30

- - -conditions of tender, a contract of sale- - -?---Right.

- - -and an information memorandum?---Right.

And in none of those documents was the valuation of Manenti Quinlan disclosed?---Right.

Just accept that proposition from me?---I can accept that proposition.

40

And so it's therefore the case, isn't it, that other tenderers or any tenderers didn't have access to that information. Do you accept that?---They may, they may have.

Well, how would they have got it, Mr Cassidy?---From somewhere else within the University.

Well, it's the case isn't it that at this time your conversations about the sale of the hotel and the restructuring were kept confidential. Isn't that right? ---Um, within the University atmosphere, yes.

I mean they're a confidential document, aren't they?---They are.

They're a highly sensitive commercial document?---You need to work in the University um, of New England's um, management thing to say what confidential is, but I'm just saying, there could be opportunities where that was made available somewhere and that's true to my knowledge of the University of New England.

10 THE COMMISSIONER: Mr Cassidy, my understanding of Mr Hall's report and the valuation that was attached to it was that the, was that the valuation itself, if I'm not mistaken, and the report referred to the confidential nature of that information?---Yes, Commissioner.

Well, are you suggesting that someone at one of those meetings where that report was tabled would have, in spite of the obligations upon them, have disclosed the valuation to other persons who were not privy to those meetings?---May well have.

20 But is that just speculation on your part, you don't have any information to suggest that that actually occurred?---I don't have any information but I've been asked a question and I'm just commenting on it. It's a speculation if you like.

All right.

MS MITCHELMORE: And on the basis of the information that was available to you at this time, Mr Cassidy, you were of the view that the potential for the Hotel was being undersold?---At the time of the tender or, or, or before?

I'm talking about early November 2005, so just at the release of the information that this was going to be sold by tender?---Just repeat the question.

Well, at that time on the basis of the information that was available to you, you were of the view that the potential for the Hotel was being undersold? ---Well, I don't know that it was being sold. It was, it was going to tender, wasn't it?

40 THE COMMISSIONER: No. What the question was, was the potential was being, the potential of the Hotel was if you like being undervalued? ---No, I can't say that.

MS MITCHELMORE: It's also the case, Mr Cassidy, that the large land size of the Hotel – were you aware of the size of the Hotel block?---Only by walking down the mall and looking at the Hotel.

Well, it was disclosed in the report of Manenti Quinlan, wasn't it?---I, I guess it was.

And it's a report that you read?---I didn't look at the land size and, and say, gee, it's a big block.

But it's the case isn't it that the size of the block offered potential for additional development?---It may well have.

10 And it's in a central location?---It is.

And even if you couldn't remove the existing Hotel building which was Heritage listed, do you recall that it was Heritage listed?---No. In fact I don't believe it is Heritage listed or was. Parts of the Hotel façade on the first level was Heritage listed but not the Hotel.

I see?---That I'm aware of.

20 But it's the case for example that there was a disused bottle shop at the back, a drive-through bottle shop. Do you recall that?---Yes.

And that could be knocked down?---Could be.

And so there could be significant potential for redevelopment of that block? ---Could be I suppose.

And it's the case isn't it that you considered the purchase of the Hotel as at early November 2005 to offer a very attractive investment opportunity? ---No. Me personally? No.

30

And you formed that view inter alia on the basis of the valuation that you had seen. Isn't that right?---No.

You were the Chancellor of the University at that time?---I was.

And you couldn't possibly purchase the property in view of your position? ---I could have purchased the property.

40 Notwithstanding all of the information that you had available to you? ---Well, if I wanted to purchase the property I probably would have and declared an interest.

But rather than doing that, Mr Cassidy, it's the case that you rang Mr Hendry around 11 November, 2005?---I don't recall that.

Do you deny that you rang him?---I believe so. I don't, I believe I sent him a fax around about that time.

You deny that you rang him at all?---I don't deny I rang, rang him at all, no, 'cause I don't know what, what, what day you refer to or what was going on at the time.

THE COMMISSIONER: Well, she's referred to on or around 11 November, 2005. That was the date that was suggested?---Well, there was lots of things going on at that time, Commissioner.

10 Yes, but what's being suggested to you is that you had a conversation with Mr Hendry about the Hotel on, on or around that date. Now, do you – I know you say that you can't remember the conversation but do you deny that such a conversation occurred?---In regard to the Hotel, yes.

Oh, so you say you did not speak to Mr Hendry at all about the Hotel around that time?---No.

What did you speak to him about?---Um, Vercot business probably, if I did speak to him around that time.

20 MS MITCHELMORE: Well, call charge records obtained by the Commission, Mr Cassidy, indicate that on 11 November, 2005 at 10.04am there was a call placed from your mobile number to his mobile number for a call duration of 16 and a half minutes?---Could well be. There was, I think there was a share buyback going on round about 11 November.

Can you think of any other – well, the last time that you'd placed a call to him was around 9 November, 2005. That was a very short phone call of 30 seconds duration. Accept that from me. Will you accept that from me?
---I can accept that from you.

30 On the basis of the call charge records, the last time you'd placed a call to his mobile before that was August 2005?---When was the last time I sent him a fax?

You didn't, you told Mr Hendry, didn't you, Mr Cassidy, that he should take a look at the Hotel?---No.

You told him that it was a University-owned Hotel?---No.

40 And that you thought it was a good investment opportunity for him?---No.

And you knew that Mr Hendry would go away and consider that offer?
---No.

Particularly because you were making the suggestion and he trusted your commercial judgement?---I don't – no, that's not true.

THE COMMISSIONER: Ms Mitchelmore, can I just ask you to pause there?

MS MITCHELMORE: Yes.

THE COMMISSIONER: Mr Thangaraj, I don't know how much further we need to go, but none of this was put to Mr Hendry.

10 MR THANGARAJ: Your Honour, there are difficulties. Mr Hendry's evidence was, my recollection was that Your Honour said there was, originally his position was I think that he didn't remember, then Your Honour said, if my recollection's correct, that there was a very strong inference available that that phone call was about- - -
(1100sg

THE COMMISSIONER: No, no, no, Mr Thangaraj. That was not the evidence.

MS MITCHELMORE: That relates, that relates to - - -

20 THE COMMISSIONER: That related, the inference, the inference related to later call which was between the two calls that, that Mr Hendry had given evidence about and he gave un-contradicted evidence that it was Mr Cassidy who called him and said to him, "You should have a look at this hotel in Armidale. It would be a good investment for you." And on the strength of that conversation Mr Hendry went and looked at the Sydney Morning Herald. Now, it was never put to Mr Hendry that at no stage did such a conversation occur with, with your client. So all I'm doing is flagging the problem that has now arisen, and I don't know if it's going to get, if it's going to be exacerbated by, by evidence which is going to be given in the
30 future but, you see, this the problem. It seems to me that Mr Hendry might have to be recalled, and I'm loath to do that given that we excused him again. But I just wanted to bring it to your attention before we went much further. And I think it might be important to keep an accurate record of, of exactly what your client is going to say from now on in relation to conversations he's had with Mr Hendry. Yes.

MS MITCHELMORE: It's the case, Mr Cassidy, that you never disclosed to the university that you had that conversation with Mr Hendry?---I don't believe I had that conversation with Mr Hendry regarding to the Hotel.
40

Well Mr Cassidy, to your knowledge Mr Hendry had never been involved in hotels had he?---Neither had I.

Or with regional businesses, Mr Hendry had never been involved with regional businesses?---I don't believe so.

He had no experience in the liquor industry?---Don't believe so.

And he wasn't familiar with Armidale?---No.

You on the other hand lived on the outskirts of Armidale?---Yes.

You knew the town through your involvement in the university?---Yes. I knew, apart from that.

You knew the Hotel?---I knew of the Hotel.

10 You knew it was university property?---I knew it was university property.

And you knew it was for sale?---I knew it was for sale.

And you were in a process at that time of growing a winery business, is that right?---My, my nephew was.

And you were a 50 per cent owner of that business?---I'm what they call a financier to his business.

20 So you had a - - -

THE COMMISSIONER: You, you - - -

MS MITCHELMORE: - - - financial stake in that business, is that right?---I provided the money for him to develop his business.

THE COMMISSIONER: I'm sorry - - -?---I don't run the business.

30 I'm sorry, I'm just trying to understand this. Do you have a 50 per cent shareholding in, in the winery?---Quite possibly.

Well I'm sorry, Mr Cassidy, you must know whether or not you have a 50 per cent shareholding in the winery?---Oh, to me it doesn't mean much, 50 per cent shareholding. There's no money ever come out of the place. It's all gone in.

Well don't worry about what's come out. The fact is that you have a 50 per cent shareholding in the winery?---I think there's two shares.

40 And, and your nephew has the other one?---Yes. So that's 50 per cent shareholding.

And you employ him as the winemaker?---I don't employ him as a winemaker. Well sorry, the company employs him as the winemaker.

Well the company employs him as the winemaker?---Yes.

So together you are running a winery?---No, he is running a winery.

All right?---I'm not involved in the business. I mean, I'm a shareholder, sure.

Go on.

MS MITCHELMORE: But with all of those things I've just put to you, Mr Cassidy, are you asking the Commission seriously to accept that Mr Hendry would decide with any form of communication from you to submit a tender for the hotel in Armidale?---Just repeat the question.

You're saying that you did not have that conversation with Mr Hendry?---Correct.

But in circumstances that I've put to you given his very limited knowledge of Armidale - - -?---Yep.

- - - and not knowing the Hotel - - -?---Yep.

20 - - - as compared to your extensive knowledge of Armidale - - -?---Yes.

- - - and your knowledge of the Hotel - - -?---Yes.

- - - including through your role with the university - - -?---Yes.

- - - suggesting to you that it's not plausible is it that Mr Hendry would decide without any form of communication from you to submit a tender for a hotel in Armidale?---Yeah, that's - - -

30 MR THANGARAJ: Objection. That's not quite correct. That's not what his evidence has been, any form of communication. He said he sent him a fax.

THE COMMISSIONER: No, no, no. But I don't understand, all right, well I didn't understand this witness to say that he'd ever sent him a fax about the Hotel. I thought he was referring to a fax about some business with Vercot. But anyway, that can be clarified.

40 MR THANGARAJ: That's not what he said. That's not what he said though.

THE COMMISSIONER: Well he didn't say, I'm sorry but we need to clarify if - - -

MR THANGARAJ: Yes.

THE COMMISSIONER: But I didn't hear him say anything about a fax in relation to the Hotel. But anyway, that can be clarified?---Commissioner, I

did say that. I recall sending him a fax of the advertisement in the Armidale Express.

Well Mr Cassidy - - -?---I said that.

No Mr Cassidy, I'm sorry, the transcript will show that you did not say that. What you said in your evidence was that you had sent him a fax. You said nothing about the subject matter of the fax?---Oh, okay.

10 And so now we are being misled about the effect of your evidence. So we better go back and clarify it. Ms Mitchelmore?

MS MITCHELMORE: All right, so it's your evidence, Mr Cassidy, that you did not have any phone conversation with Mr Hendry about the Hotel?--Correct.

And you didn't tell him that he should take a look at it because it was a good investment?---I sent him a facsimile with the advertisement in the Armidale Express saying, "Here's your country pub," or words to that effect. Because he often joked about a country pub.
20

Mr Cassidy, I suggest to you that after a few days of your winning him Mr Hendry reverted to you and told you that he would submit a tender. Do you recall that?---I don't, no.

And that he would need partners?---No.

And that response was consistent with what you knew of Mr Hendry's general approach to financial decisions - - -?---No.
30

- - - of spreading the risk?---No. I'm, no. I can't say that.

You didn't say to him that you would not be a partner in that conversation?--I didn't say anything to him.

And you didn't, you said, I'm sorry, I withdraw that. You left open the possibility in that conversation that you would be an investment partner with him?---I didn't have a conversation with him.

40 THE COMMISSIONER: Can I just be clear, Mr Cassidy, are you saying that the sum total of all of your communications with Mr Hendry on the subject of the Hotel consisted solely of a facsimile with a message that was annexed to the facsimile?---Yes, Commissioner.

MS MITCHELMORE: Now Mr Cassidy, it's the case that you didn't have a role in Services UNE's decision to put the sale up for tender, that's right isn't it?---I believe so, yes.

And you've said that in your letter to the Audit and Compliance Committee?---I believe so.

And did you consider it necessary to make that comment on the basis that you appreciated that if you played such a role there would be the appearance of a conflict, given Mr Hendry's role in putting in a tender?---No, I think the decision was done by the Board to, to go to tender.

10 Yes but what I'm asking for is your reasoning for including that statement in your letter of 5 February, 2006?---Can I see that letter please?

Certainly. It's page 773 of the brief. I've got a hardcopy if you like, Mr Cassidy, I can provide.

MR THANGARAJ: Do you have another, please?

20 MS MITCHELMORE: This one hasn't been tendered. And that's a copy, Mr Cassidy, of the letter that you provided to the Audit and Compliance Committee on 5 February?---Yes.

Commissioner, I tender that document.

THE COMMISSIONER: Is this not, has this not previously been tendered?

MS MITCHELMORE: It hasn't, Commissioner. No.

THE COMMISSIONER: No. All right, sorry. That will be Exhibit V86.

30 **#EXHIBIT V86 - LETTER FROM JOHN CASSIDY CHANCELLOR
TO THE CHAIR AUDIT AND COMPLIANCE COMMITTEE
DATED 5 FEBRUARY 2006**

40 MS MITCHELMORE: What I was referring to, Mr Cassidy, was the paragraph at, paragraph E, the decision to sell the Hotel was made by directors of Services UNE on the advice of Mr Hall and of necessity, and that you aren't a director of Services UNE and you didn't take part in the decision to sell the Hotel, or in the subsequent tender process. Do you see that?---Yes.

And what I was asking you was why did you consider it necessary to make that comment in this letter?---It's a fact.

For no other reason, it was just factual background?---I believe so. I tried to put this letter into some chronology.

So it's not the case that you considered it necessary to make that comment on the basis that you were appreciated that if you had played such a role in the sale or the decision to sell there would be an appearance of conflict given Mr Hendry's tender?---I didn't consider that.

It's the case isn't it, Mr Cassidy, that you did play a role in the sale of the Hotel?---In what way?

10 Ah, at the level of the university?---The decision went to the, from the university went to the directors of UNE Services to sell the Hotel.

Yes, but it's the case isn't it, Mr Cassidy, that around 17 November, 2005, around that time you raised with Mr Watt that the university's approval was required to sell the Hotel?---I didn't raise that with Mr Watt. I think that was raised by the legal counsel of the university.

And that you could organise a meeting at short notice of the Standing Committee of the Council?---I think I was requested for that short meeting.

20 But you said that to Mr Watt didn't you?---I don't recall that, no.

It's possible that you said it to Mr Watt?---Oh, anything's possible.

And you knew at that time obviously that the Hotel was for sale?---I believe so.

And on 18 November the Council received a request through Ms Arthurson that the Council approve the sale, if I can show you Exhibit V17, page 282 of the brief. Do you recall seeing that letter at around this time,
30 Mr Cassidy?---Just give me one sec if you would.

Yes, certainly?---This is a request from Sue Paini as I read it to, to Helen Arthurson of the UNE Secretariat.

Yes, do you recall seeing that request at around this time, 18 November?
---Quite possibly, yes.

And it's the case that you asked Ms Arthurson to organise an urgent meeting of the Standing Committee?---That would have been the result, yes, of this
40 letter.

And the Standing Committee meeting occurred on 21 November, 2005?
---I believe so, yes.

And you knew as at 21 November, 2005 from your second conversation with Mr Hendry that he was going to be submitting a tender didn't you?
---No.

And a decision at this meeting of the Standing Committee was an essential step, wasn't it, in allowing the sale to proceed?---I think it was just a natural step that had to be done.

Well - - -?---It's a legal step as far as I can recall.

Well, they were a controlled entity, that's right isn't it?---Yes.

10 And they couldn't sell the property without the approval of the Council?
---I don't believe so.

So this decision of the Council was essential to Services UNE being able to sell the property?---As - I think on legal advice, yes.

Now it's the case, Mr Cassidy, you didn't make any declaration at that meeting of 21 November that you had a material interest, is that right?
---I didn't because I didn't have a material interest.

20 I suggest that you should have made a declaration - - -?---Well, you can suggest, you can suggest what you like.

What's your response?---I didn't have a material interest so if I had I would have declared it. As soon as I knew Mr Hendry made a tender I declared it.

It's the case in approving the sale, Mr Cassidy, that the Standing Committee requested Services UNE to extend the closing date for the tenders, do you recall that?---I do recall that.

30 Do you recall who made that request or how that request came to be made?
---As far as I recall it was from a Mr Scott Williams who was chair of the Finance Committee.

I see. And he was a member of the Standing Committee, that's right?---I believe so.

Yes?---I believe so.

40 Is it the case that you were subsequently informed by Ms Arthurson on 23 November, 2005, so shortly after the, the meeting that the directors had declined to extend the closing date?---Um, I don't think it was a matter of declining, I think they couldn't probably.

It's the case, can I ask again, do you recall that you were informed about that around 23 November?---I believe so.

And is it the case that you were in Sydney that day?---Could have been.

And you asked Ms Arthurson to get hold of Mr Watt and to ask him to ring you?---I don't recall that, no.

And you asked him to ring you about the close of tenders?---I don't recall that.

There would be no reason for Ms Arthurson to request Mr Watt ring you unless you had asked that she do so?---I don't believe so, I think that'd be right.

10

And similarly there'd be no reason for her to say what the subject matter was unless you had told her what was to be the purpose of the call?---I think I would have been very honest with Ms Arthurson, yes.

Yes. Was Mr Watt the director of Services UNE whom you knew the best of the three directors at that time?---Ah, I believe so. Ah, Mr Robinson may have been a director at that time, I can't recall.

20

Just to assist you, Mr Cassidy, Mr Robinson, his directorship formed part of the decisions that were made by the Standing Committee on 21 November - - -?---Right.

- - - 2005 so I don't think it's the case that - - -?---Right.

- - - he was a director at that time. Do you recall – so is the case you don't recall having a conversation with Mr Watt on 23 November?---I don't recall that, no.

30

It's likely that you did so?---If I'd asked for it that's probably right.

Yes. Is it possible that you found out in the course of that conversation that the directors were meeting after the close of the tenders on 28 November? ---I believe so.

And it may be that he asked you to go along?---Yes, probably.

40

Is it the case, Mr Cassidy, that you attended a meeting on 28 November at the offices of Watson McNamara & Watt?---I didn't attend a meeting, the meeting had closed when I got to Watson McNamara's office.

I see. So are you able just to outline to me the circumstances in which you came to the office of Watson McNamara & Watt?---Um, I can't remember um, Mr, Mr Watt's request but I certainly remember seeing Mr Watt privately for my son and in, in Mr Watt's office ah, I recall that meeting had finished and he said we should go and have a look and see what the result was. That's my recollection.

And is it the case at that time that you went down to the, the room?---Went down to the, what I, what I call the archive room and whatever, whatever the meeting room was.

And so on your evidence Mr Watt was not at the meeting?---I think the meeting had finished.

So from what you're, on your evidence Mr Watt did not attend that meeting?---No, I don't, I can't recall that, I wasn't at the meeting.

10

No, what I'm saying is that you were with Mr Watt at a meeting regarding your son?---Yes, this was after the meeting of whatever was going on with UNE Services as I recall.

Well, Mr Watt can't be in two places at the time, you'd accept that?---Mr Watt's offices is about three rooms up the hallway from where this other meeting was, I think the meeting had finished, that's what I'm trying to tell you.

20 I'm sorry, the meeting had finished when you arrived to meet with him about your son?---I believe so.

And I'm just trying to get the sequence, Mr Cassidy, I'm sorry. So he – you arrived to meet with him, by that time the meeting had finished?---I believe so.

And you then met with Mr Watt about the matter involving your son?
---Yes.

30 And then he said we should go and have a look at the tenders?---Yes.

That would suggest that Mr Watt hadn't been at the meeting that had finished?---I can't say that.

Do you recall who was the – in what you refer to as the archive room at the time?---Um, I was asked that before and the only person I could recall being there was what I referred to as Mr Galbraith which I have now come to understand was Mr Atkinson.

40 I see. And you come to understand that by seeing him today, sorry - - -?
---No, by seeing, seeing - - -

- - - seeing him in the course of this week, I'm sorry, not today?---Yeah, and I also was confused because Mr Galbraith is, is another member um, gentleman in Armidale.

I see. Can I take you back to your meeting with Professor Pollard and Mr Fox on 24 February, 2006 where they asked you a series of, of questions

which you were given in advance. One of the questions was what was your interest in attending the meeting of 28 November, 2005, if I can take you to – it's Exhibit V76, page 802. Just showing you the questions about the – and this was asking what was your interest in attending, this was the series of questions you were asked, is that right?---I believe so, yes.

And you reported to have said in the notes that were taken by Mr Fox, and this is Exhibit V81, page 819?---Are these the minutes or the draft minutes?

10 These are notes that were prepared by Mr Fox after the meeting, you can take that from, from me and he has recorded you as saying at 3.3 in response to what was your interest, you said you were concerned only one or two offers may have come in and a director of Services UNE thought it prudent that I was advised of the outcome and you were asked if you wanted to attend as Chancellor you wanted to make sure that the process had been carried out in a bona fide manner, do you see that?---Ah hmm.

Are you saying that that occurred at the conclusion of the meeting with your son?---I believe so.

20

So just going back up to the response that you gave at 3.1 you say that you recollect being called to the office after the Board meeting, the offices of Watson McNamara, do you see that?---Yes.

So is it the case that you only attended that day for the purposes of attending the meeting?---I didn't attend a meeting.

Is it the case that you didn't attend the office of Watson McNamara that day - - -?---No, I - - -

30

- - - in relation to meeting regarding your son?---I did both.

You've indicated that you at 3.5 and this is a record of, Mr Fox's records of your responses on that day that you didn't have a role other than to satisfy yourself as to the number of tenders and the amount?---Well I wanted to make sure that the amount was at least above the valuation amount.

40 So is it the case that you were told how many tenders there were?---Um, I believe I was told there were, there were four or five tenders. And you were at least told that they were above the minimum valuation amount?---Um, I don't recall that but I think they were um, the directors had been happy with that tender process.

THE COMMISSIONER: Just going back to an earlier question, Mr Cassidy, you'd indicated that you were at the office of Watson McNamara because you had some kind of prearranged meeting in relation to a legal matter concerning your son, was that the position?---Um, I don't recall, Commissioner, but I know that when I was at Watson McNamara and Rod's

office I met with Mr Watt after the meeting had completed with University Services and the main issue with Mr Watt was an issue regarding my son and a relationship with my son.

All right, well no, I understand that?---After that meeting, right and it only lasted a few minutes Mr Watt had suggested to see what the results were. So whether Mr Watt was at that meeting beforehand or not I can't, I can't comment.

- 10 No, no, I understand that but what I'm trying to get at is if you, if you had gone there for the purposes of obtaining some kind of advice from Mr Watt that suggests that there was a prearranged appointment if you like to meet with Mr Watt on that day?---Could have been correct.

- Well what Counsel Assisting was directing your attention to was in paragraph 3.1 on the document that you were being shown your answer to the question suggests that you were called to the meeting that is that someone rang you and called you into the office of Watson McNamara as opposed to you being there for a prearranged appointment?---That could
20 have been, that could have been the reason why I was there with my son as well, we were talking about my son as well as soon as I saw Rod Watt.

So it could have been that you were called in and you didn't have a prearranged appointment?---Yes.

Right?---I just note there's, there's a, I had a concern in that 3.1 about a, um, an offer of 2.5 million from Archie Campbell, I did have concerns, Commissioner, about that offer.

- 30 MS MITCHELMORE: That was an offer, Mr Cassidy, that had been made by Mr Campbell back in October 2005, is that right?---Um, I think a few days just before the, um, press releases had been made.

So if I said it was made on 21 October 2005?---Yes, and I think it was of some concern that it was coming from a legal firm in Armidale.

And the offer was for 2.5 million, is that right?---I believe so.

- 40 Can I show you Professor Pollard's note of the response at 3.5. This is V78 page 810. Yes. If you go over, over - - -?---This looks like Mr Pollard's handwriting.

Yes. If you go over the page the top, the top of the next page you see it says was satisfied on number tenders and amount (had gone above that)?---Yeah.

And is it that being to your recollection that was the minimum amount of the tender, sorry, the tender valuation that you were aware of at the time?
---(not transcribable)

I'm sorry, I put that badly, Mr Cassidy, I withdraw it. There's a comment that you were satisfied as to the number of tenders and the amount had gone above that, do you see that?---Yeah, I think, I think that probably refers to had gone above the um, valuation amount.

10 Yes, I see. Now if, if what you say or what you said to Mr Fox and Professor Pollard at that time was an accurate reflection of your purpose in attending it's likely isn't it that you would have asked not only for the number of tenders but for at least some indication of the amount of the tenders?---I don't recall that, no. I don't think it was my business to, to know that.

Do you recall being told at this meeting on the 28 November that Mr Hendry had submitted an offer?---I was told that subsequent by Mr Watt.

And that, being told that, Mr Cassidy, was no more than a confirmation of what Mr Hendry had already told you, that's right isn't it?---No.

20 It's not the case is it that the 28 November was the first that you knew of Mr Hendry submitting a tender?---It was.

Do you recall being - - -?---Can you just repeat that question, um?

What, what I was putting to you was the 28 November wasn't the first occasion that you knew of Mr Hendry submitting a tender?---Yeah, it was the first occasion I knew.

30 You recall being told when you heard from Mr Watt about Mr Hendry having made a tender, do you recall being told that day whether he had asked for an extension?---No.

And you heard that he was granted one?---I subsequently yes, probably.

When you say subsequently when was that?---I can't recall that.

It's the case that you placed a call on your mobile to Mr Hendry's mobile on the afternoon of 28 November at about 4pm?---I don't recall that.

40 Possible that you did?---Well if you say I did it's quite possible.

Can you recall for what purpose you rang Mr Hendry that day?---No.

Is it the case that you may have rung him to talk about the fact that he'd been given an extension?---No.

Now it's the case, Mr Cassidy, that whether it was at the office of Watson McNamara and Watt or shortly thereafter you had a conversation with Mr Watt about Mr Hendry?---Yes.

And you said to Mr Watt that Mr Hendry had been the accountant within Abigroup but you had no ongoing connection with him?---No, wouldn't have said that.

10 I suggest that's what you said to Mr Watt?---Well you can suggest it but it's not, not the sort of thing I'd say. Mr Hendry was well known to me.

Well if I can show you, Mr Cassidy, in Mr Fox's record of your subsequent interview with him and Professor Pollard on the 24 February you reported to what you say you said to Mr Watt was that you knew Mr Hendry very well?---Yes.

And that's consistent with your report in the letter to the chair of the Audit and Compliance Committee or your letter of the 5 February?---Have you got
- - -
20

So V81 is the report Mr Fox's record?---have we got Mr Fox's minutes of this meeting or just, this is Mr Fox's record after the meeting or - - -

This is Mr Fox's typed up notes of - - -?---In draft form after the meeting.
- - - what occurred at the meeting - - -?---Right.

- - - and which was provided to Minter Ellison on that day?---Yeah. I always had concerns about that.

30 Can I - - -

THE COMMISSIONER: Concerns about what, Mr Cassidy?---About Mr Fox's role.

Are you suggesting that Mr Fox's notes are either inaccurate, misleading or false?---Um, I wouldn't go that far, Commissioner.

40 Well I mean I need to understand what it is you're saying. Are you saying that Mr Fox's notes as to the conversations he had with you are inaccurate or misleading or that they're false in the sense that you did not say to him what you recorded as having said?---No, I wouldn't go that far, Commissioner. My, my concern has always been that Mr Fox was employed by a firm called Peter Pardy and Associates and the offers from Campbell's office both came out of Peter Pardy's offices and there was some concerns of governance and probity there, that's all I'm saying, Commissioner.

Well regardless of who Mr Fox was employed by I think his evidence is that the notes that we now have in evidence are, or sorry, were reasonably contemporaneous?---Yes, I accept that.

We better go back to Counsel Assisting's question because, because what was being put to you was that you told Mr Fox that Mr Hendry was well known to you.

MS MITCHELMORE: Or that you knew Mr Hendry very well.

10

THE COMMISSIONER: Sorry, that he knew Mr Hendry very well. Now, I'm still a bit confused. Do you deny that you had that conversation with him?---No. I know Mr Hendry very well.

Right.

MS MITCHELMORE: And, and you, that's what you said to Mr Fox and Professor Pollard - - -?---Quite possibly.

20 - - - on that day?---Quite possibly.

And it's consistent isn't it with what you said in your letter to the chair of the Audit and Compliance Committee?---I believe so.

So if I can take you to that document, 773. I think you've got it in front of you?---This is the ah, 5 February?

30 Yes, Mr Cassidy. And paragraph F you'll see that you've advised of a potential conflict as Mr Hendry was, "Well known to me." Is that right?---Yes. And I think that, I confirmed that to Mr Rod exactly on the 28th as soon as I found out.

But even on that recollection, or that recording of what you said, Mr Cassidy, it's an incomplete statement isn't it of the circumstances as they stood at 28 November?---In what way?

Well not only was Mr Hendry well known to you, you were in an ongoing business relationship with him through Vercot?---Yes.

40 And further you had suggested to him that he look into the Hotel hadn't you, because it looked like a good investment?---No.

And he'd told you he was going to submit because he needed, but he needed partners?---No.

And you hadn't ruled out that you would, you would not invest?---No.

Information of that nature being disclosed would have put an entirely different complexion on your attendance at the meeting on 28 November with the other directors, wouldn't it?---I, I recall telling Mr Watt on the afternoon of the 28th that Mr Hendry was well known to me, right, through, through the management buyout of Abigroup.

Mr Watt was the only person you spoke to on 28 November about this potential conflict as you put it?---I believe so.

10 You didn't mention that potential conflict to the Deputy Chancellor?---I recall I did that night.

And, nor did you speak to Professor Pollard?---I don't recall that.

Or Ms Arthurson?---Don't recall that either.

Now, it's the case, Mr Cassidy, that call charge records indicate a phone call from your mobile to Mr Hendry's mobile on 1 December, 2005 for half an hour. Do you accept that that's what the call charge records say?---Quite possibly.

20 It's the case isn't it that in the course of that discussion on 1 December he told you what he was proposing to tender?---No.

And his reasons for submitting that price?---No.

And he told you that because you had left open with him that you would, or may take up an interest in the Hotel?---No.

30 And indeed that you still considered the investment to be a good one?---No.

Now, I'm not suggesting, we should be clear, Mr Cassidy, I'm not suggesting that you told Mr Hendry how many tenders had been made or in what amounts?---I hope not.

But the fact remains doesn't it that on what you're reported to have said to Professor Pollard and Mr Fox you knew at this time how many tenders had been submitted?---I believe so. I think I was told.

40 And you had some idea of the amounts if only if they were above the minimum level of valuation?---Possibly.

MR THANGARAJ: Objection. That's, that hasn't been established.

THE COMMISSIONER: Sorry, what was it that hasn't been established?

MR THANGARAJ: That the, that there are a number of tenders above the minimum valuation. My friend just said the amounts, or some amounts.

MS MITCHELMORE: I'm - - -

MR THANGARAJ: She didn't mean that but - - -

MS MITCHELMORE: No, I'm, perhaps if I ask - - -

MR THANGARAJ: Yep.

10 MS MITCHELMORE: - - - a different question, I'll see if I've – you had, you at least knew, Mr Cassidy, in addition to the number of tenders that the tenders were above the minimum level?---Some of them I believe. They were satisfied that there was tenders above the minimum level, I think, the directors.

You'd agree with me, Mr Cassidy, that any discussion with Mr Hendry that day about what he was proposing to tender and given your knowledge at that time would be highly irregular?---Absolutely.

20 And it would potentially expose the university to complaints about the probity of the process?---I believe so.

And it would jeopardise the sale?---Quite possibly.

And you have never disclosed that conversation have you?---No.

And at no stage have you disclosed it to the university?---Which conversation, I mean - - -

30 The conversation I'm putting occurred, Mr Cassidy, on 1 December, 2005 - - -?---Right.

- - - for half an hour?---Right.

And I'm putting to you that he told you in the course of that conversation what he was proposing to tender and the price?---Yes, I think I've answered that question.

40 Yes. And what I'm putting to you is that any discussion with Mr Hendry that day about what he was proposing to tender in circumstances where you had the knowledge that you did, would be highly irregular?---I believe it would be.

Now - - -?---I think if you look at the records of Vercot I think there was a number of things going on there that required quite a lot of discussion with the secretary and director of Vercot.

When do you say you became aware that Mr Hendry's offer was accepted?
--I can't recall that.

Well by 9 December, 2005, Mr Cassidy, Mr Hendry is meeting with Mr Walker - - -?---Right.

- - - a chartered account with instructions about the division of the investment as between you and him?---Yes.

10 And Mr Hendry was to your knowledge a highly experienced financial manager?---Yes.

And he's not commercially naive is he?---I don't think he's commercially naive.

And he'd worked alongside you for nearly 20 years?---Yes.

20 And you'd agree that it would be uncharacteristically foolhardy of Mr Hendry to embark on a series of discussions with accountants and lawyers about establishing a financial structure for an investment without agreement from you to commit two thirds of the purchase price at that time?---I think that's a matter for Mr Hendry. That's, I'm, I can't say what Mr Hendry had in his mind and what he was doing.

What I'm saying to you, Mr Cassidy, is that it would be uncharacteristic from your knowledge of him that he would embark on that exercise?---I can't, I can't answer that question.

30 Would you agree that it would be uncharacteristic, from your knowledge of him it would be uncharacteristic on his part to take the course of setting up a financial structure which included providing your details to advisors if he didn't have a high degree of comfort from you that you were going to invest?---I don't think you can say that.

And also about the level of your investment?---I, you can't say that. I had no level of investment and no commitment.

THE COMMISSIONER: Well just before we - - -?---Yes, Commissioner.

40 - - - go any further there is one question that precedes all of these I suppose and that is why would Mr Hendry be providing your details to Mr Walker?--
-I can't answer that, Commissioner.

You've got no idea why he would on a frolic of his own - - -?---He may have been hoping - - -

- - - provide, provide your details?---He may have been hoping, Commissioner.

Well that's what, that's what I'm asking. You don't know why he would have done that?---No.

Have you ever asked him why he did that?---Ah, not, not during these proceedings, no. But I certainly will later.

Well I mean, this was back in 2005?---Yeah.

10 Have you at any stage since 2005 asked Mr Hendry why it was that at the meeting with Mr Walker he provided details which related to your level of investment when you hadn't made, or you hadn't had any conversation with him about that prospect?---No, Commissioner.

MS MITCHELMORE: Well it's the case, Mr Cassidy, that before 9 December you spoke to Mr Hendry and you agreed to commit two thirds of the purchase price of the Hotel?---No.

20 And you may not have agreed on the precise mechanism for your investment but you had agreed to invest, isn't that the case?---No.

And you had a number of discussions with Mr Hendry in the course of December, 2005 and January, 2006 in relation to, to getting the structure right, is that the case?---Ah, there was some discussions in January, 2006.

I'm saying also December of 2005?---No.

And also at that time discussions about implementing the structure?---No.

30 It's the case that Mr Hendry sent you a number of documents from at least 19 December, 2005?---Not that I recall.

And he sent you those documents because they related to the structure and he wanted you to review them?---Not in December, '05 I'm afraid.

If I can show you exhibit V61, page 385 of the brief. You see that's an email from Mr Walker of WLM Partners to Mr Hendry's email address, do you recognise Mr Hendry's email address, Mr Cassidy?---
Hendry@bigpond, yes. That's one of them.

40 And it's the case that you were sent that document by Mr Hendry on or around the 19 December?---I don't recall that, no.

Perhaps if you can scroll down to see what the attachments were. It's the case that you reviewed the structure in the documents that were attached to this email around 19 December 2005?---No.

You'll see that the structure included that you were to be a Director and controlling shareholder of the two corporate trustees?---I haven't seen it so I'm not sure how I can answer the question.

I'm sorry, are you saying you've never seen this document before?---No, I don't believe so.

10 And you rang Mr Hendry, I'm sorry, I'll withdraw that. It's the case also, Mr Cassidy, that Mr Hendry came up to Armidale before Christmas?---May well have.

And in the course of his visit he met with you and your nephew Shaun Cassidy and Mr Phillip Franklin at the Midale Café?---Yes, I heard that, um, through the hearing but I don't recall that meeting.

And your nephew had contacted Mr Franklin in response to a request from you as to whether he knew of anyone who could manage the hotel?---Yes, again I don't recall that.

20 Is it possible that that happened?---Oh it was possible.

The purpose of the meeting was to see if Mr Franklin would be a suitable manager?---Yes, I don't recall that.

And you agreed with Mr Hendry that Mr Franklin would be an appropriate manager for the hotel?---I don't recall that.

30 THE COMMISSIONER: When you say you don't recall it do I take it that each time that you say you don't recall that you're acknowledging the possibility that those events occurred?---Could have, Commissioner, I just don't recall it, it's a long time ago.

And this, and this, this is in December 2005?---Yeah, yeah, and we're in um, July 2014.

40 No, no, I'm not, I'm not quite querying that, I'm just, I'm not querying that you don't remember the meeting. Well what I'm, what I'm trying to ascertain is you acknowledge that it's a possibility that these events occurred in December 2005. So my question is why would you be involving yourself in, in issues around the services of a manager at the hotel if there, if none of this had been any part of any decision taken by you? ---But, Commissioner, Mr Hendry may have been looking for somebody to operate the hotel.

Go on.

MS MITCHELMORE: Mr Cassidy, if I can show you, I just need to get an exhibit number, pardon me a moment. Page 664 of the brief. I'm just

trying to find an exhibit number. It's 45, Exhibit 45. And you'll see, Mr Cassidy, that on 10 January Mr Hendry provided Brown Wright & Stein with an updated structure for the transaction and if you can scroll down to the, the diagrams you'll see that that had changed the interest from what was in the previous set of diagrams I showed you where Mr Hendry's interest changes from a third to one-tenth and on your side of the transaction from two-thirds to nine-tenths. Do you see that?---Yes.

And - - -?---Can you just scroll down. Yeah.

10

And Mr Hendry wouldn't have done that meaning in effect that he only paid the deposit without confirming you were comfortable with that change?
---Can you just scroll back down to the top I can't - to see the date it is.

This is the 10 January?---Yes, I think - - -

Just go back up to the top of the - - -

20 THE COMMISSIONER: It was actually, I think it was actually drawn up on 9 January but became part of the document on the 10 January.

MS MITCHELMORE: Oh I'm sorry, yes.

THE WITNESS: And I think, Commissioner there was a facsimile that came in on around the 11th or 12 January with something like a structure like this and that's the first time I've seen it so. Yeah. So I think this was -
--

30 MS MITCHELMORE: So, Mr Cassidy, just to clarify what, what I think I heard you just say, is it the case that your evidence is that you received a document with that structure, did you say around the 11 January, is that right?---I believe so, something like that.

It's the case isn't or you have heard Mr Hendry's evidence that he made the change from one-third to one-tenth and two-thirds to nine-tenths because of his concerns about a further capital outlay that may be required and you didn't want all of his assets tied up in a pub in Armidale. Do you remember his evidence to that effect?---Not, not really but I think in general terms.

40 That's understandable, Mr Cassidy, since he lived at this time in Blakehurst?---I don't think it matters where you live.

Well it's the case that you having a nine-tenths interest is not so problematic for you given your location?---I think, don't think it's got anything to do with the location.

Also the fact, Mr Cassidy, that you were the controlling shareholder of a special purpose company with access to a significant amount of funds?---I certainly had a access to a significant amount of funds.

Can I show you Exhibit V44.

THE COMMISSIONER: Just before we go there. Mr Cassidy, if, if the first time that you saw that structure document was around the 11th or 12 January I think you said by way of a facsimile - - -?---Yeah.

10

- - - what did you do after, after seeing that document?---Um, firstly I didn't understand it, Commissioner, and I put it to one side because I was busy doing things and I considered a subsequent date. Um - - -

Well whether you understood it or not you knew that it had come from Mr Hendry?---I knew it had come from Mr Hendry.

20

Did you ring Mr Hendry and say what's this about, I don't know why it is that I'm, I'm being drawn into this investment in the hotel?---I may well have without committing.

When you say you may well have do you mean to say that you don't remember having that conversation with Mr Hendry?---I don't remember having that conversation with Mr Hendry, no. Um, can - - -

So do I understand you correctly when you, when you say that you received this document not having seen anything to that effect ever before - - -?
---Correct.

30

- - - you understood the document to in effect nominate you as the majority purchaser of a hotel in Armidale, is that right?---Yes, according to that.

And that's the first you'd heard of it?---Yes.

And you put it to one side and did nothing?---No, until, until later. I - - -

40

Until how much later?---Oh, I'm not sure of the date of this, this is 9th or 10th, probably I think there's a meeting at Vercot on the 11th saying look Vercot's considering this but um, this structure was very unusual for me, Commissioner.

Don't worry about whether it was unusual. I'm trying to, I'm trying to ascertain what that document meant to you when you said that you saw it for the first time on the 11th or 12 of January and I understood you to agree with me that when you looked at the document you could see that you were proposed as a majority purchaser of a hotel in Armidale?---Yeah.

Right?---I can see from that that Mr Hendry is looking for somebody to finance the hotel.

Well but why would you leap to that conclusion? Could there not be the possibility according to that document that Mr Hendry has in fact gone ahead and committed you to such a purchase?---I don't believe he'd gone and commit me, no.

10 Well did it occur to you to pick up the phone and make sure that he didn't done that?---It may well have, Commissioner, I can't recall that's what I'm saying.

And you don't remember doing that?---No. A lot of things going on in my life and no.

MS MITCHELMORE: Can I show you Exhibit 44 at page 664?---Isn't that the one we just seen?

20 Oh, I'm sorry, I might have the wrong one. Well, okay. So it's that you saw that document around the 10th or 11th, is that, is that right?---Or 12th, I, yes, something like that.

And at around the same time is it the case that you were shown documents associated with the unit trusts that were being set up?---No. I don't believe I've ever seen trust deeds or unit trust documents.

30 Can I show you an email, Exhibit V45 which is page 667 of the brief. You'll see that's an email, looking at the bottom email first, Mr Cassidy, an email from an associate at Brown Wright & Stein to Mr Hendry - - -?
---Right.

- - - attaching a first draft of the above trust and it's the trust, Tattersalls Unit Trust, sorry, Tattersalls No. 2 Unit Trust, do you see that?---Yeah, yeah.

And that's the trust, isn't it, in which Vercot holds all of the units?
---I can't read that from there, no.

40 I'm sorry, the subject matter is Tattersalls No. 2 Unit Trust, do you see that?
---Right, yes, I see that.

The subject of the email is Tattersalls No. 2 Unit Trust?---Yeah.

Tattersalls No. 2 Unit Trust is to your knowledge the unit trust in this transaction in which Vercot holds all of the redeemable units?---If you say so.

And what is said in the email is “Find attached the first draft of the above trust.”?---Yeah.

And do you see the response from Mr Hendry is, “John and I are happy with the terms of the trust deed,” do you see that?---Well, that’s what he says, yes.

Are you suggesting that Mr Hendry made up that he showed you the trust deeds?---I don’t recall seeing the trust deeds, I just, I think I said that before.

10

MR THANGARAJ: Objection, it doesn’t – that document does not say that he showed him the trust deeds.

THE COMMISSIONER: Oh, well, the – all right then. We’ll – the question can be withdrawn and put another way.

Mr Cassidy, are you suggesting that on the basis of Mr Hendry’s representation that you had not seen the Unit Trust Deed?---Yes.

20

So you’re saying that he made that representation independently of ever having shown them to you?---I don’t believe I’ve seen a trust deed, Commissioner, I’ve said that.

MS MITCHELMORE: Mr Cassidy, you’d agree with me that it’s not the case that the first time Mr Hendry sent you documents in relation to this transaction was about a week before 19 January?---This is, you mean, this is the week before 19 January?

30

What I’m suggesting to you is you’ve indicted in your evidence - - -?
---Yeah.

- - - that you first received documents in relation to this transaction around the 10th or 11th?---Or 12th.

Or 12th?---Yes.

And I’m putting to you that that’s not the case?---I don’t know how you can do that.

40

THE COMMISSIONER: Well, that’s the role of Counsel, Mr Cassidy, she puts a proposition and you either agree or disagree with it. That’s the role of this inquiry. We have to put a proposition to you so that we know where you stand in relation to it?---Right.

Go on, Ms Mitchelmore?---I think I’ve already said, Commissioner, this is – about the 12th, the first time I’ve seen anything in a structural form.

Go on, Ms Mitchelmore.

MS MITCHELMORE: Yes.

It's the case, Mr Cassidy, that the trust deeds have been set up by Brown Wright and Stein?---It – yes, I've heard that.

And you and your wife were joint appointers of Tattersalls Unit Trust No. 2?---Well, I've heard that.

10 Can I show you a document. Exhibit V49. Page 530 of the brief. You'll see this is a trust deed establishing Tattersalls No. 2 Unit Trust?---Yes.

And you'll see on the front cover that you are listed as being as, an appointer, do you see that?---That's what it says.

Together with your wife?---Yes.

And is it your evidence that you have never seen a copy of this trust deed?
---I'd go further than that and say my wife's never seen it either.

20

Mr Cassidy, Mr Hendry would not have finalised the terms of trust deeds naming you or your, and your wife as appointers unless he had your agreement to do so, isn't that right?---It doesn't appear so.

And nor would he have had the units issued to Vercot in establishing the trust unless he had a high level of confidence that it would be Vercot funding the purchase?---When were they, when were they issued to Vercot?

30 Well, the date of this trust deed is 6 January but there's some question as to whether it was around that time or subsequent to 11 January.

THE COMMISSIONER: Can I just make sure that we're – that the record is accurate here. What is now on the screen is the Tattersalls No. 2 Unit Trust Deed of 6 January, 2006 - - -

MS MITCHELMORE: Yes.

THE COMMISSIONER: - - - which is Exhibit - - -

40 MS MITCHELMORE: V49.

THE COMMISSIONER: - - - V49 so, Mr Cassidy, your evidence in relation to that document is neither you nor your wife have ever seen it before?---I think that's correct, Commissioner.

Right?---I don't recall it.

MS MITCHELMORE: So it was the case though, Mr Cassidy, that by this time it had been agreed, so by 12 January I'm putting to you it had been agreed that the balance of the purchase price was going to be funded through this unit trust?---No.

And when the minutes of Vercot of 13 January, which is Exhibit V51, when I – when it says on the second page under the heading “Future investments”, sorry, it's just being brought up, 13 January. So these are minutes of a meeting of Vercot, do you see that?---Yes.

10

You see that, Mr Cassidy, and just on the second page of that, Mr Cassidy, you'll see that there's some underlining that the company's currently considering an equity investment in a Hotel in Armidale, do you see that? ---Yes.

But it's the case at this time isn't it that there was a lot of work being done to facilitate Vercot investing in the Hotel wasn't there?---I'd assume that from being in this hearing.

20 So - - -

THE COMMISSIONER: Well, no, sorry. That's really not responsive. The question was put to you in terms of those minutes of 13 January and the decision that was being considered there was at that time a lot of work being done to put those structures in place, that's what's being put to you. Now do you agree or disagree with that?---(No Audible Reply)

30 Not what you might have learnt through sitting through this hearing, we're asking for your personal knowledge of what you knew was occurring as at 13 January?---From my personal knowledge I know that Vercot was looking at an equity investment.

And in relation to that decision did you also know that a lot of work was being done to establish the structures necessary for that investment?---I, I do now, Commissioner.

But you say you didn't know it then?---No.

40 MS MITCHELMORE: It's the case, Mr Cassidy, that that work was being done by Mr Hendry to your knowledge?---Ah, no.

And with your approval?---No.

And on 16 January, 2006, Mr Cassidy, Mr Hendry had included your details and those of your wife and those of Vercot on the application for the transfer of the liquor licence, if I can show you Exhibit V46, page 720 of the brief?---This is what date?

This is a document that was sent by Mr Hendry to Brown Wright and Stein -
- -?---Right.

- - - on 16 January - - -?---Right.

- - - 2006 and you'll see that he has included your details and those of your
wife?---Right.

Do you see that?---Yeah.

10

And that is in relation to directors and shareholders of proprietary
companies having an interest, do you see that, an interest in the property
that's the subject of the licence?---Yes.

Licensing documents without your knowledge and approval?---I, I'd suggest
that Mr Hendry's getting a number documents um, prepared.

20

And it's the case isn't it that Mr Hendry would not have put your name and
that of your wife, or Vercot's name on liquor licensing documents without
your knowledge and approval?---I, I'd suggest that Mr Hendry's getting a
number documents um, prepared.

THE COMMISSIONER: With your knowledge and approval was the
question that was put?---I don't believe so at this time, Commissioner.

So even as at 16 January you say that Mr Hendry is doing this of his own
accord without any prior consultation with you?---I haven't seen this,
Commissioner, before.

30

Well sorry, that's not responsive to the question. Are you saying that as at
16 January Mr Hendry was providing these details in this form without your
prior knowledge or approval?---I believe so.

MS MITCHELMORE: It's the case, Mr Cassidy, that you asked Mr
Gusheh to go up to Armidale to look at the Hotel?---I did.

He was a civil engineer with Abigroup?---Ah, yes.

40

Perhaps not at this time but, but he had been, is that right?---Um, at that
time he was much more than a civil engineer I'd suggest.

He may by that time have been the operations manager of the Sydney
Superdome?---Ah, could have well been, yes.

And he went up to Armidale at your request, is that right?---Yes.

To see what could be done with the site?---Not necessarily, no. I wanted to make sure the structural integrity was, that the Hotel was structurally sound if you like.

And he was, he went up at your request to look the suitability of the site for redevelopment?---Ah, no. Not at that stage.

One of the issues Mr Gusheh raised in his evidence yesterday, you'll recall, was car parking?---Yes.

10

Why would he be asking or, sorry, I withdraw that. You're in the central mall of Armidale, is that right?---The Hotel is.

The Hotel is, I'm sorry?---Yes.

Yes. Why would you need so much car parking?---Um, for the Hotel or for, so redevelopment.

20

Well, for the Hotel? If all that you're doing at this point, Mr Cassidy, is looking at the structural issues surrounding the Hotel why would Mr Gusheh be so concerned about car parking?---Probably because there was very little car parking.

It's the case at this time that you were considering options for redeveloping the site?---Not at that stage, no.

And that's why Mr Gusheh was interested in car parking?---No. Not that I, not that I recall.

30

There's a - - -?---This - - -

There's a reference, Mr Cassidy, in, in the minutes of Vercot of 19 January, 2006, exhibit V52 that Mr Gusheh had visited the Hotel twice. It's on, on the second page possibly. You see in the second paragraph there's a reference - - -?---I think that's on the same day.

40

THE COMMISSIONER: Sorry, what's on the same day?---Well, with respect I'm being asked that Mr Gusheh's had two visits to Armidale but I think he's, this minute refers to the fact that earlier that day he'd gone and done something on his own. But I'd actually gone round with him separately.

Well Mr Gusheh himself gave evidence that he went to Armidale on two occasions. The minutes seem to reflect that. Is it your recollection that he didn't go to Armidale on two occasions?---No, I think the second occasion to my recollection is, is much later.

Well, I, I don't think we've got to the timing yet. Do you agree that Mr Gusheh went to Armidale on two occasions?---At this stage, no.

What, you don't agree with that?---I don't believe so.

MR THANGARAJ: I think you're, I think you're at cross purposes, with respect. I think it's - - -

THE COMMISSIONER: Well I must be.

10

MR THANGARAJ: I think it's, whether it's, I'm just loath to say anything in his presence, that's all.

THE COMMISSIONER: That's why, no, that's why I'm trying to make myself clear so that we know - - -

MR THANGARAJ: Can I tell my friend.

20 THE COMMISSIONER: - - - what his answer is but anyway, look, never mind. Why don't we take a brief adjournment and we'll resume at 20 past 12.00. Thank you.

SHORT ADJOURNMENT

[12.04pm]

THE COMMISSIONER: Yes, Ms Mitchelmore?

30 MS MITCHELMORE: Yes. Mr Cassidy, I was asking you before the adjournment about Mr Gusheh coming up to Armidale to inspect the, the Hotel and I was asking you about that second paragraph of the minutes of the meeting on 19 January, 2006. I'll just bring that back up. And that there's reference to Mr Gusheh having, you having inspected the Hotel with Mr Gusheh. Do you see that?---Ah hmm.

And that he'd earlier carried out a separate instruction. It's the case that Mr Gusheh had been to the Hotel twice on, Mr Gusheh attended the Hotel on two occasions, is that right?---I don't recall, no.

40 Whether he, whether he attended on one or two occasions?---I think, my recollection is he, he, he attended the Hotel on two occasions but one was much later than this.

When you say much later - - -?---Or some - - -

- - - you mean after 10 January, is that - - -?---Yeah.

When you're saying much later - - -?---Yes.

- - - you mean much later in time?---Well five or six or so weeks later.

I see. So your, your evidence is that the first time Mr Gusheh attended was this date, 19 January?---I believe so.

And it's the case that you attended the Hotel with him on both occasions of his visits?---I believe so, yes.

10 You accept, Mr Cassidy, that there's an ambiguity in that paragraph as to whether Mr, when it says Mr Gusheh had earlier carried out a separate inspection whether that was the subject of a separate visit to Armidale?---Oh well, it's not the way I read it but it could be, I suppose.

But your evidence is is it, Mr Cassidy, that that paragraph refers to Mr Gusheh carrying out two inspections of the Hotel but on the same day?---Yes.

I see?---That's my recollection.

20

And is it the case, Mr Cassidy, that you had been to the Hotel before 19 January?---Um, I don't recall that.

Well it's the case isn't it that you'd been there at least once before that on your own?---No, I don't, I don't recall being there on my own, no.

And that you were discovered by the then manager, Mr Snell on one of the upstairs floors?---No, I deny that.

30 You deny that that happened?---Yes.

If I can take you back to your interview with Professor Pollard and Mr Fox on 24 February, page 820 of the brief, 81, and you've indicated that you thought that you, you first visited on the 19th but you thought that you'd been to the Hotel once before to have a drink with Mr Torbay. Do you see that?---Yes.

40 And it's the case isn't it, Mr Cassidy, that you had in fact been there before and been seen by Mr Snell?---I don't believe I've been seen by Mr Snell at all.

I see?---I didn't know Mr Snell.

Can I take you back to the minutes?---Is this the same, maybe this is the same time as Mr Snell saw me, I don't know. But I don't recall being seen by Mr Snell at all.

And, and you don't recall having a conversation with Mr Snell asking him how to, how you get out?---Absolutely not.

And he said, "The way you came in"?---No. That's - - -

And you then went downstairs and left in your car?---No, I heard that evidence. No, no, I deny that.

10 Now Mr Cassidy, just going back to the minutes of the meeting on 19 January at V52 it's the case that you made the notes of this meeting, is that right?---Yes.

There's a reference on the second page to the directors approving the decision to take an interest, a controlling interest in the investment and to apply for 2.7 million A-class units in the Tattersalls No. 2 Unit Trust at an issue price of \$1 in accordance with the documents tabled. Do you see that?---Yes.

20 Can you recall what documents were tabled at this meeting?---No.

And you wouldn't have referred to documents being tabled in your notes of the meeting if none were tabled, is that right?---No. I believe some documents must have been tabled.

It's the case that the documents included an application to Tattersalls Unit Trust No. 2 for units in the trust?---I don't recall that.

30 And that document had been prepared in anticipation of a decision on the part Vercot at this meeting to invest?---May well have been but I don't recall it.

And it's the case, Mr Cassidy, that this is how the balance of the purchase price was funded?---I believe so.

And it's right isn't it that in order to make an application for units in the trust the trust would have had to be established by the date of this meeting?--I'm sure.

40 I'm sorry, was that one - - -?---Yes, I believe so.

- - - you're sure. Yes. And Tattersalls Unit Trust No. 2 was established with Vercot being the only holder of redeemable units?---I don't recall that but - - -

If you - - -?---I take - - -

You accept that?---I accept that.

And so that had been done in preparation for Vercot taking a controlling interest in the Hotel investment hadn't it?---Could have been. Has, well, have to have been.

And it's the case, Mr Cassidy, that there was an operating trust which had been established at the same time as the two unit trusts for the property, do you recall that?---Ah, I believe there's an operating trust.

10 And that was established by issuing Vercot with 90 unites and Darrelen with 10 units, do you recall that?---No.

That, that was enough to give Vercot the majority interest in the operating trust wasn't it?---It would have been, 90 to 10.

Yes. And it's the case, Mr Cassidy, that you were shown drafts of the Tattersalls Unit Trust No. 2 deeds back on 10 January, 2006, isn't that right?---I don't, I don't recall that at all.

20 Do you recall, Mr Cassidy, that this trust, the Unit Trust No. 2 and the other trusts were established as discretionary trusts?---I don't, I don't recall that.

It's the case isn't it that with a discretionary trust distributions from the trust would be in the discretion of the trustee?---They would in discretion with the trust deed I'm sure.

Yes. And the trustee in the case of Tattersalls Unit Trust No. 2 and No. 1 was the corporate trustee Armpub No. 1, is that right?---Um, as I said earlier I don't, I've never seen as far as I can recall these trust deeds.

30 So are you saying, Mr Cassidy, that on 19 January you made a decision without reviewing any of these documents?---I believe so.

It was always planned, Mr Cassidy, that you would be the controlling shareholder of Armpub No. 1?---By Mr Hendry or - - -

Well, by Mr Hendry with your agreement?---No. Not with my agreement.

40 Ultimately it was Vercot who purchased those shares. Is that right?--- Ultimately.

And you were substituted in as a director for Mrs Hendry?---Some time later.

That was 30 January?---That, that's about right I think.

It's the case that you controlled Vercot at that time by reason of your shareholding?---Yes.

And it's the case isn't it that although Mrs Hendry was initially put in as a director and shareholder of the company it was always intended by you and Mr Hendry that you would be the shareholder and director of that company?---No.

And you would also be the director and shareholder of Armpub No. 2?---No.

10 And the mechanisms for your investment in this property through Vercot to take a controlling interest had all been put in place before this meeting, that's right isn't it, and I'm talking about the meeting on 19 January?---I believe it had.

They had all been put in place by that time, is that right?---I think it must have been.

Yes. And they'd been put in place with your approval and your agreement, that's the case isn't it?---No. I think we've said that a number of times.

20 At the bottom of the page, the second page of these minutes there's reference to employment of suitable personnel previously interviewed by Mr Hendry. Do you see that?---Ah hmm. Yep.

And that's a reference to Mr Franklin isn't it?---As it turns out, I agree believe that's correct.

To your knowledge he had already been offered a position in the Hotel?---No, not to my knowledge.

30 And this minute is just documenting arrangements that you'd already made, isn't that right?---I think it, probably documenting arrangements Mr Hendry's made.

The reference to the licensing application, do you see that also in that paragraph?---Yes.

And there is a reference to an application, or for an application to be made for transfer of the licence to comply with the settlement date of 31 January?---To, yes.

40 And it was the case that the application had been made by that date, isn't that right?---Ah, I don't recall.

And that - - ?---I guess, I guess it would have had to have been done for settlement.

Yes?---But ah, I don't recall.

And, and, and it was a document I took you to earlier, Mr Cassidy. It listed Vercot as a company that had an interest?---Right.

And it listed you, your name and the name of your wife as persons who were shareholders of Vercot?---That would be correct.

And again it's the case, Mr Cassidy, that this minute is documenting what has already occurred?---I assume so.

10 So to the extent that there is use of the future tense in that paragraph for an application to be made that's not accurate is it?---I can't say that, I don't know. I don't know when it was made.

The minute refers, if I can take you back to page 1, Mr Cassidy, to Mr Hendry now offering Vercot the opportunity to co-invest. Do you see that?--Um, yes. Mr Hendry's now offering Vercot the opportunity to co-invest.

20 And to the extent that you wrote that in the present tense that's an accurate isn't it?---I don't believe so.

What this minute is doing is signifying that a formal making of an offer?---A formal making of an offer?

Well it's formalising arrangements that were already in place, isn't that the case?---Um, no, I can't answer that in that sense. But he's, he's, Hendry on this day is certainly offering Vercot the opportunity.

30 What I'm saying to you, Mr Cassidy, is that he had already done so hadn't he before this date?---Made an offer?

Yes?---No.

The minute on the first page, Mr Cassidy, refers to you having taken legal advice by this stage?---Yes.

When did you do that?---I can't recall and I, I've wracked my brain.

40 So that's another reason isn't it why the reference to now, Mr Hendry's now offering Vercot, isn't, isn't it the case that the fact that you've already taken legal advice is another reason why the reference to now is indicating the present tense is inaccurate?---No, I don't believe so.

To the extent that you record matters in the first paragraph on, on page 1 - - -?---Sorry, the legal advice is, is in relation to a conflict of interest.

Yes?---It's not, not in, not in regard to ah, taking up an opportunity to invest.

But what I'm suggesting to you, Mr Cassidy, is that the purpose of taking the legal advice was to confirm that you didn't have a conflict of interest should Vercot decide to invest, you see that?---Mmm.

It's implicit in that that an offer has been made to Vercot to decide to invest.

MR THANGARAJ: I object to that, I don't agree with that as a premise, your Honour.

10 THE COMMISSIONER: Well, you might not agree with it but I think Counsel's entitled to put the question.

MR THANGARAJ: Yes, sorry, I don't think it's a, it's a fair premise to make, the, a fair basis to put that question with respect.

THE COMMISSIONER: Well, I don't know about that. If, if you advised, if you took the trouble, Mr Cassidy, to note in the minutes that on learning of Mr Hendry's tender you had notified the solicitors in relation to a perceived conflict of interest what's being put to you is that that suggests
20 that you were aware of that perceived conflict of interest otherwise you would not have in fact contacted the solicitors and minuted - - -?---I think I notified, Commissioner - - -

- - - the contact to that effect?---I notified the solicitor at the time on the 28th – this is referring I think to 28 November.

Yes, but that's not the question. I think the question, the question is that your actions in that regard were based on your perception that there was a perceived conflict of interest or that there may be a perceived conflict of
30 interest in your decision to invest in the Hotel?---I don't believe so.

MS MITCHELMORE: Ah - - -

THE COMMISSIONER: Sorry, I need to clarify this.

MS MITCHELMORE: No, no.

THE COMMISSIONER: Mr Cassidy, you see that the minutes say, and I quote, "Mr Cassidy advised that on hearing, that on learning of Mr Hendry's tender" which was at some stage before this meeting of 19 January wasn't
40 it?---Yes, I believe it was on 28 November.

Right. So "that on learning of Mr Hendry's tender, namely late November 2005, he, that is you, had notified the vendor's solicitor, Watson McNamara and Watt, that he, namely you, Mr Cassidy may have a perceived conflict of interest in that you were the Chancellor of UNE?---Correct.

You see that sentence?---Yes.

What is being put to you is that you took that action, namely notification to the solicitors because you knew that there may have been a conflict of interest if you had been considering an investment in the Hotel?---No, I can't agree with you, Commissioner, I mean, I wasn't considering on 28 November.

Well, can you - - -?---And I didn't, I didn't, it wasn't in my mind that there was a perceived conflict of interest.

10

All right. Well, then I just want to, I just want you to explain why was it that you took the step of informing the vendor's solicitor of a perceived conflict of interest when you learnt of Mr Hendry's tender, why did you take that course of action?---I think I was compelled to because Mr Hendry had put a tender in and he was well-known to me.

But why, why would that have created a conflict of interest just because he was well-known to you?---Well, here we are sitting in, in this hearing, Commissioner.

20

No, no, no, I'm asking about – I'm asking about why you took that action back in November, late November 2005 - - -?---Well, well, I - - -

- - - if the only basis that you knew Mr Hendry?---Because he was well-known to me.

And that was the only basis upon which you made that notification to the solicitors?---Correct.

30 MS MITCHELMORE: Mr Cassidy, to the extent that you record the matters that the Commissioner's just raised with you in that first paragraph it's the case that Mr Hendry wasn't in a position to verify the truth or otherwise of those statements, is that right?---Sorry, which statements?

You're recording – these are minutes of a meeting that have occurred with Mr Hendry and Mr Gusheh, is it the case that – well, perhaps I can ask this question. What was the purpose of you including this material in the minutes of the meeting?---I, I can't recall but ah, these minutes certainly were typed up by Mr Hendry's secretary and, and sent back for signature so
40 Mr Hendry certainly would have been aware of the content of this minute.

But you're the person who's prepared the minutes, is that right?---Yes.

Yes. What I'm, what I'm suggesting, Mr Cassidy, is that Mr Hendry of course wasn't in a position to know what you had done in relation to learning of his tender, do you accept that, insofar as you spoke to persons within the University about what your conflict or otherwise might be?
---Yes, I think that's probably – that may be right.

Yes. So is it the case that you were just putting on the record in this document what had occurred?---The thing I was trying to put on every record what had occurred, particularly the letter of that 5 February, I was trying to put it in a chronological order of what had occurred.

10 I see. Now, Mr Cassidy, on page 2 of the minute, just going back to page 2 and the paragraph that I've already taken you to, there's a reference to following discussion, do you see that, after which the directors approved the decision, so I'm just back on that sort of middle paragraph on page 2?
---Yes.

Do you see that? It's, it's the case isn't it that the bulk of your discussions with Mr Hendry took place well before 19 January, that's right isn't it?
---No, not that I recall, no.

You're suggesting are you that the bulk of your conversations about this investment only took place on 19 January?---Yes, I believe so.

20 That's just not right, is it?---Why?

Do you agree with me or not?---No, I don't agree with you.

On 20 January, 2006 you had a meeting with Professor Pollard, is that right?
---Right.

Do you agree with me that you did that?---Well, I think so, I think we've seen that.

30 In the course of that meeting you told Acting Vice-Chancellor Professor Pollard of your decision of 19 January to invest?---Yes.

And it's the case that Adrian Robinson came into the meeting at some point in time?---I believe so.

And you repeated what you'd told Professor Pollard?---I believe so.

40 And in that, at that time, perhaps I need to show you the minute, yes, it's page 751 of the brief and the note in question, Mr Cassidy, is the one at the top of the page as of, or the first one with the arrow, do you see that?
---As of yesterday.

Yes, yes, it's that, that note?---And this is the 20th? Yeah.

This is the 20 - - ?---Yeah.

- - - of January. Now at this time in what you said to Professor Pollard you weren't seeking to draw any distinction between yourself and Vercot were you?---Oh, I don't believe so.

You were just saying you had made a decision to invest, is that right?

---Yes.

10 And you didn't say to Professor Pollard that you were involved in a company that had decided to invest in the Hotel?---I don't believe so, I think probably people knew that but ah, these are Mr Pollard's notes.

By reason of the, the matters that I've canvassed with you this morning it's just not the case, is it, that you didn't, that you only decided to invest on 19 January, 2006?---That's not true. It was only taken on 19 January, 2006.

And if I suggest to you that your representation to Professor Pollard that you only decided to invest was misleading, what's, what's your response to that?
---I don't agree with you.

20 It's the case isn't it that the first, that this occasion, 20 January, was the first time you said anything to Professor Pollard who was the Acting Vice-Chancellor about your investment?---Um, possibly.

You didn't tell him previously that you were thinking about investing did you?---Um, I may have but I don't, I don't recall.

30 Well, I suggest to you, Mr Cassidy, that this note records the first occasion on which you told Mr – sorry, Professor Pollard that you'd made a decision to invest?---That's when I had, had made a decision to invest, that's correct.

And you hadn't told him previously that you were thinking about investing?---I think I may have earlier in, earlier in January but I can't recall it.

Can I take you, Mr Cassidy, back to your letter of 5 February. It's page 773 of the brief?---Mmm, yeah, I got the hard copy.

Mr Cassidy, if I can take you to paragraph F of the letter?---Sorry?

40 To paragraph F?---F.

That paragraph does not reflect the terms of what you told Mr Watt does it?
---I believe so that's why I wrote it.

And I submit or I put to you that it was misleading paragraph F to the extent that you told, that you said in that paragraph that you told Mr Watt about Mr Hendry being well known to you on learning of the tender and only on learning of the tender given the discussions that you'd had with Mr Hendry

before he submitted the tender including that he was going to submit it?---I don't believe that's correct. I think this is the correct version.

And it's also misleading to say isn't it, Mr Cassidy, no more than that Mr Hendry was well known to you without disclosing your longstanding directorships and shareholdings in Vercot?---I believe so.

Can I take you to paragraph H. It's the case isn't it that Mr Hendry approached about investing even before he submitted a tender?---No.

10

A statement that he only propose that you invest in the hotel in January isn't correct is it?---That's correct.

I put to you that it's misleading?---I don't agree with you.

Can I take you to paragraph I.

20 THE COMMISSIONER: Just before we go there, I'm sorry. Paragraph H where you say, H where you say in January of 2006 Mr Hendry proposed that I invest in the hotel when in January in 2006 was it? Are we talking the first, second, third or fourth week?---I believe we're talking around about that 10 or 11 or 12 of January, Commissioner, when I received a trust structure.

Well was this, was this the trust structure that you say was faxed to you around the 11 or 12 of January?---I believe so.

30 Well your earlier evidence before the adjournment was that you received that facsimile with the trust structure on it and that you simply looked at it and put it to one side and did nothing with it until much later. Do I understand you now to be saying that when you received that trust structure by facsimile on the 11 or 12 January that you had a conversation with Mr Hendry about investing in the hotel?---I don't recall the conversation but I took that to mean he was proposing that I invest in accordance with that structure.

40 Well I'm sorry, how would you have gleaned that impression without having a conversation with Mr Hendry?---Just look at the trust structure. Why else was he sending that to me with Vercot's name on it?

Well didn't you ring Mr Hendry and have a conversation with him about why it was that he'd sent you the document and what it was that he was proposing?---I don't recall that, any conversation. There may well have been but I don't recall that.

So you're saying that the first time Mr Hendry raised this with you was around the 11 or 12 of January?---I believe so, yeah.

And just one other thing, when you say that you, you may have told Professor Pollard that you were thinking of investing in the hotel when, when was the first time that you were, that you had that inclination, that is when was it, when was the first time that you were thinking about investing in the hotel?---Um, sometime in January.

Well can you be a little bit more precise? Was it before you received the trust structure on the 11th or 12th or sometime thereafter?---Oh I can't, I can't recall that, Commissioner, but sometime in early January to - - -

10

Early January suggests what during the first week?---First or second week, yes.

Sorry, Ms Mitchelmore.

MS MITCHELMORE: No, that's all right. Can I take you, Mr Cassidy, to paragraph I which refers to you having advised the Acting Vice Chancellor that you were considering investing in the Tattersalls business. Do you see that?---Yes.

20

You hadn't actually told the Acting Vice Chancellor or anything about this investment before the 19 of January had you?---No, I believe I made telephone calls, that's my recollection um, and that's why it was in this um, in this letter of the 5 February and that's the letter that was circulated prior to the Audit and Compliance Committee meeting and which um, went unchallenged at both that Audit and Compliance Committee and the subsequent full council meeting. So I'm sure if I hadn't somebody would have said hang on that's not right.

30 Mr Cassidy, you've referred also to having advised the Chief Financial Officer that you were considering investing the business. Do you see that? ---Yes.

It's the case isn't it that you, you did not do that before the 19 of January 2006?---I don't believe so.

Sorry, just to be clear you're saying you believe that you did - - -?---I think I - - -

40 Is that right?---I believe I called him, mmm.

Paragraph J, is it the case from, from what you've said this morning, Mr Cassidy, that Mr, Mr Gusheh was the Sydney consultant that you or who you took up to Armidale, is that right?---Yes.

He's the consultant that you were referring to. It's the case though isn't it, Mr Cassidy, that the statement that you took the decision, only took a

decision on 19 January to invest is not correct for the reasons I've put to you earlier?---No, it's not.

And I put to you that it's misleading?---I don't believe so. It can't be misleading we only took the decision on the 19th.

Yes. Well I suggest it to you that you took the decision much earlier than that?---Well I've heard your suggestion but - - -

10 It's the case, Mr Cassidy, that you ultimately chaired the next meeting of the Audit and Compliance Committee on the 10 of February, do you recall doing that?---Yes, I think so.

And did you do that because the chair was absent?---I believe so.

And the chair was the Deputy Chancellor?---Correct.

20 And this is a meeting in which you are tabling or having tabled a letter regarding your involvement in the sale of a hotel?---No, I hadn't tabled this letter the secretary of council had a table, it had been circulated with the papers.

You're saying it had been circulated with the papers? I'm sorry, I'm just, just to make sure I understand are you saying - - -?---Yeah, that's generally the procedure of a letter like this because this letter was actually typed by um, Ms Helen Arthurson and circulated with the papers, so the word table may be misleading or - - -

30 It's not – it's the case, Mr Cassidy, isn't it that you have business papers for a meeting and you also have documents which don't make it into the papers and they're the documents that are tabled?---Oh, it depends on the meeting I think and the papers and the, and the documents I think but this, this certainly um, and I've heard evidence during this Commission that, this hearing that these were circulated with the papers, this letter I think, mmm.

40 Mr Cassidy, did you give any consideration to whether it was appropriate for you to chair the meeting in circumstances where you were putting in a letter that was detailing your involvement in the sale of the hotel?---No, I didn't turn my mind to that.

And it's the case isn't to your recollection of the discussion of this meeting focused on item C. If I can just take you back to item C?---I believe so.

And it's the case, Mr Cassidy, that subsequent to this meeting of the committee on 10 February that you had the interview with Professor Pollard and Mr Fox on 24 February 2006?---I believe that's correct.

And you'd seen the questions in advance?---Yeah, I believe so.

And you were able to check the questions against at least your letter of the 5 February before you had the interview?---Most probably.

Is it the case that you did that?---Mostly probably.

And you may also have checked your notes of the minute of the Vercot meeting on the 19th?---Probably and probably from my memory too.

10 I see. And we've gone through a lot of the responses that you gave to those answers to Professor Pollard and Mr Fox in the course of this morning but I wanted to ask you about what you're recorded to have said in response to the question about the form and extent of your investment. If I can take you to page 811 of the brief, exhibit 80, and Mr Cassidy, if you take it from me that the question that was 6.1 was, "What is the form and extent of your investment, and what is the role of Vercot Pty Limited," that was the question 6.1. Do you see that Professor Pollard recorded you to have said, "Not, not our concern"?---Right.

20 Do you see that?---(No Audible Reply).

Do you recall saying that to Professor Pollard?---I don't but it's recorded here so I take it to be correct.

And if I can just show you Mr Fox's notes which are at page 821 of the brief in relation to the same question, exhibit 81, age page 821 in response to the answer 6.1 if you see down the bottom there's a comment in square brackets, do you see that at the end of that answer?---(No Audible Reply).

30 That you didn't wish to go into the detail of the financial investment, do you see that?---Right.

And that's because you would have had to disclose isn't it that interests associated with you had paid for 90 per cent of the purchase price of the Hotel?---Oh, I can't say, I can't turn my mind to that.

Well that, but that's the reason that you didn't want to go into it isn't it, Mr Cassidy?---No, I don't believe so. I don't, I can't recall at the time. Today I can't recall why that's written like that. Just have to read it again.

40

So you don't now have that recollection, Mr Cassidy, as to why you didn't want to go into the detail?---No.

I just wanted to ask you a couple of questions that I should have asked you in the context of earlier questions. I'm sorry to backtrack but can I just ask you to look at the minutes of the meeting of 13 January, 2006. It's exhibit V51. And you'll see, Mr Cassidy, under the, under the, under the words,

“On January 13, 2006 at 9.00am,” there’s an annotation, “Fri.” Do you see that?---Yep.

Is that your writing?---I believe so. I think it’s my scrawl.

And then on the second page you’ll see that the date is 12 January?---Oh, yes.

Is that your handwriting saying, “Thurs”?---That’s, yes.

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Are you able to explain what the, the difference in the, or the fact that this one meeting has two dates on it?---No, I think it’s maybe just a typo.

I see. Do you recall when you put the Fri and the Thursday on the - - -?---Probably when I ah, was looking at the minute.

I see.---Could you just go back? I think because the first one’s ah, the 13th wasn’t it?

20 That’s right, yes?---Yeah, yeah, I think it’s just a typo um - - -

All right. Mr Cassidy, I just wanted to take you back to 9 December, 2005, that was the day on which Mr Hendry first had a meeting with Mr Walker - - -?---Right.

- - - to talk about the trust structures and if you accept from me that the meeting took place at 8.00am on the, the 9 December, call charge records that have been obtained by the Commission indicate that there was a phone call between your mobile phone and Mr Hendry’s mobile phone at 18

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minutes past 10.00 on that day - - -?---Right.

- - - for, for 12 and a half minutes?---Right.

It’s likely isn’t it that in the course of that call Mr Hendry filled you in as to the contents of the meeting that he had with Mr Walker?---I don’t recall the conversation so, he may have, he may not have, I don’t, don’t recall that at all.

40 And it’s the case looking at the minutes at V51, just going back to those minutes, Mr Cassidy, there was, the meeting, it was a telephone meeting at 9.00am on 13 January, do you see that?---Um - - -

On the first page, just on January 13, 2006 at 9.00am?---Or, or the 12th.

Or the 12th, yes. It’s the case, Mr Cassidy, if you accept from me that again call charge records obtained by the Commission have a phone call from your mobile to Mr Hendry’s mobile at 5 past 11.00 on Friday, the 13th of January going for 11 and a half minutes. That’s after the, the Vercot

meeting, that's right, isn't it?---Well, it's after the date on the Vercot meeting, after the time on the Vercot meeting.

It's after the time of the Vercot meeting. And it's the case, isn't it, that that discussion on 13 January for 11 and a half minutes wouldn't have been about Vercot given that you'd just had a meeting at 9.00am?---Ah, it may have been to do with arranging funds or whatever, I don't, I don't recall.

I see. Commissioner, I note the time. I'm, subject to checking - - -

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THE COMMISSIONER: You've got some, a few further things to put?

MS MITCHELMORE: Well, I don't know that I do, Commissioner, but I just want to - - -

THE COMMISSIONER: Yes, no, I understanding.

MS MITCHELMORE: - - - I just want to check if that's the, the case or not.

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THE COMMISSIONER: Right. All right. Well, we'll take the luncheon adjournment and resume at 2 o'clock, thank you.

LUNCHEON ADJOURNMENT

[12.57pm]