

FINAL REPORT

on

HSUeast

by

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3 JULY 2012

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LIST OF RECOMMENDATIONS

We recommend that:

1. The Union call tenders, without delay, for the publication, printing and distribution of the *Health Standard*. The Union could call tenders selectively, and in doing so could exclude Communigraphix (or any business associated with the Gillelands or either of them) from the process. That may be justified. The question is one for the Union to decide. [2.19]
2. All dealings with suppliers, including for printing, promotional goods and clothing, be in the future on the basis of the satisfactory system for procurement dealt with in [9.12], at a minimum. Whether or not it continues to deal with Access Focus is for the Union to decide. [3.11]
3. The Union take steps to regularise the contractual situation between itself and the supplier to it of IT services. When and if practicable, tenders should be called for the provision to the Union of such services. At the very least, the Union should ensure that a contract is entered into between itself and its IT supplier, whether that be United Edge or some other business. [4.18]
4. The Union formulate, document and adopt procedures to be followed in recruiting and promoting staff, with insistence on merit selection being the central requirement. As a matter of documented policy, recruitment of family members should be prohibited or at least discouraged. [6.8]
5. The Union resolve, as soon as is practicable, that the annual accounts of HSUeast be prepared in accordance with all relevant Australian Accounting Standards, including but not limited to AASB124. That should apply to all annual accounts henceforth. If the accounts to 30 September 2011 have not yet been formally signed off, they should be covered by any such resolution. [7.30]
6. The Union consider a change to Union rules and employment contracts precluding employees from taking any position outside the Union except by

permission of Union Council. Further, that it consider a change in the Union rules requiring that any income derived by any employee from any outside position be paid to the Union. [8.9]

7. The Union review its superannuation obligations, with particular reference to its defined benefits schemes. [8.10]

8. The Union introduce controls on its procurement practices, as follows:

- obtain at least two prices before ordering any goods or services;
- establish a formal process and documentation for the calling of tenders or expressions of interest.
- ensure that formal tenders or expressions of interest are called for the supply of goods or services or both where the likely annual expenditure exceeds \$200,000 (or such other amount as the Union determines to be appropriate);
- in such cases, do this regularly and in any case at least each 3 years;
- place orders in writing, and retain order forms;
- keep a written record of goods actually received, and services actually provided, and any shortcomings;
- check invoices against orders, and the records last mentioned, as part of the payment approval process;
- formalise authorisation/payment processes, and incorporate requirements as to appropriate levels of seniority and segregation of duties/responsibility;

- compare actual levels and timing of expenditure throughout the year with those of the organisation's approved budget and cash forecasts; and
 - require discretionary and semi-discretionary expenditure to have the reason for expenditure noted contemporaneously, in a manner adequate for the approval process to determine appropriateness. [9.12]
9. The Union call tenders for auditing services, consistently with [9.12], as soon as is practicable. [9.22]
10. Union Council comprise:
- (a) not more than 12 directors, the number to be decided by the Union,
 - (b) of whom one only, the General Secretary, be a paid employee of the Union, and
 - (c) that the Council elect from its number 3 other officeholders, namely, the President who will preside at all Union Council meetings and Conventions, a Vice President who shall so preside if the President is absent, and a Treasurer who will have responsibility for property and finances, for bringing forward an annual budget and cash forecast, for supervising preparation of periodic and annual financial statements, for dealing with the Union's auditors, and will convene and preside over meetings of the Audit and Compliance Committee. [10.15]
11. Rule 17 (d) be dispensed with in its entirety. [10.16]
12. Union elections be advertised both early and widely within the Union. [10.18]
13. Casual vacancies be advertised widely within the Union at least in any two out of three of the Union Journal, the Union newsletter and the weekly television program, members be encouraged to put their names forward with biographical and other information, and a Union Council vote then be held. [10.18]

14. The Audit and Compliance Committee be reconstituted to comprise 5 members, one of whom is the Treasurer, the balance to be chosen by Union Council, not the General Secretary or the President. That Committee to have responsibilities including approval of budget and cash forecasts, close examination of regular - monthly or quarterly - financial statements, and protection of the money and assets of the Union. [10.21]
15. The Union undertake a comprehensive review of its internal controls, with a view to enhancement as necessary consistent with this report. [10.28]

CHAPTER 1 - THE INQUIRY

Union Resolution

1.1 HSUeast is an industrial union registered under the *Industrial Relations Act 1996 (NSW)*. The Health Services Union, which is registered under the *Fair Work (Registered Organisations) Act 2009 (Cth)* has several branches, the largest of which is HSU East Branch. It came into existence in May 2010 when two Victorian Branches, No. 1 and No. 3, merged with the New South Wales Branch of the Federal Union. The State Union and the Federal Branch enjoy common membership, totalling in excess of 50,000 people, working in the hospital, health and aged care industries.

1.2 The governing body of HSUeast is the Union Council. What follows is taken from the minutes of a Council meeting on 22 September 2011:

'Union Council notes that the General Secretary has been subjected to allegations in the media which have now been referred to the NSW Police.

Union Council determines that the assistance of appropriate independent experts be sought by the Union to ensure that the members' interests are protected by investigating these matters properly and transparently.

Resolution:

Moved P. Mylan - J. Fitzroy that Union Council resolves to request that the President of the Bar Association of New South Wales select an Independent Panel of Experts to review and investigate the following matters:

- *The adequacy of governance arrangements and business practices of the HSUeast including those associated with tenders, recruitment and expenditure.*
- *Access to financial and business related information for HSUeast members to ensure the appropriate level of transparency and scrutiny.*
- *The policies and procedures and the potential for conflicts of interest for HSUeast Officers, or staff holding Directorships on Boards or shares/ownership in external companies particularly in companies which are also suppliers of goods and services to the HSUeast.*
- *Policies around the use of HSUeast and corporate credit cards.*

- *Other matters as determined appropriate by the Independent Panel.*

The Independent Panel shall consist of not less than 3 persons. At least one shall be a chartered accountant with no less than 10 years experience. At least one shall be a legal practitioner with experience of industrial organisations and with no less than 10 years experience and one shall have experience in matters relating to the governance of organisations.

The reasonable remuneration of the Independent Panel members shall be met by the Union and the Independent Panel shall report to Union Council.

Noting that a police investigation is underway in relation to matters potentially relevant to the Governance Review, Union Council also notes that the work of the Independent Panel should be conducted at all times so as not to prejudice the Police Investigation.

In the interests of the members, the Union and having regard to the establishment of the Independent Panel, the General Secretary has decided to step aside from his duties and take a leave of absence. Council notes the decision of the General Secretary and approves the request for a leave of absence and notes that the General Secretary will utilise his own leave entitlements whilst absent from his position.

That the Deputy General Secretary Peter Mylan is appointed to act as General Secretary.

Divisional Secretary Gerard Hayes is directed to liaise with the Union members and the media in his continued capacity as a member of the Representative Body.

Motion put and carried unanimously."

Appointment of Panel

- 1.3 On 27 September 2011, the solicitors for HSUeast wrote to Mr. B. Coles QC, President of the NSW Bar Association, to request that he appoint panel members. That was done by letter of 4 October 2011. One of those nominated decided that she could not find the time to do what was likely to be a big job, and declined to participate. Union Council on 4 November 2011 decided that the investigation could and should be conducted by the other two nominated by the Bar Association President. They are, in order of nomination:

- Ian Temby QC, Barrister
- Dennis Robertson, Chartered Accountant

Short professional biographies of both men are to found in Appendix 1.

- 1.4 This is their report. Temby had principal responsibility for Chapters 1 to 3, and 5 to 8, and Robertson for the balance of the report. They take joint responsibility for the report: hence the frequent use of "we" from now on.
- 1.5 In what follows people are generally mentioned by surname only, without a preceding "Mr." or "Ms.". This is done in the interests of consistency and economy: no discourtesy is intended.

Some Key People

- 1.6 Craig Thomson MHR is the Federal member for Dobell on the NSW Central Coast. He was formerly the National Secretary of the Federal Union. Many see him as a protégé of Michael Williamson, who has for a long time been the General Secretary of HSUeast, and its predecessor.
- 1.7 Williamson said this about himself in the 2010 HSU Annual Convention booklet:

"I am the President of the Federal ALP, a member of ALP Industrial Committee, Executive member of the ACTU, Vice President of Unions NSW, Vice President of ALP NSW Branch, Trustee on First State Super, Director UE Pty. Ltd, Director IPO Pty. Ltd, Member of the Australia Day Council and Unions NSW Finance Committee."
- 1.8 Kathy Jackson is the National Secretary of the Federal Union, and the Executive President of HSUeast.
- 1.9 Allegations were first made against Thomson, centred upon alleged misuse of a Union credit card. They were referred to, he would say ad nauseam, in certain newspapers and in Federal Parliament. After a while allegations began to be made against others, most notably Williamson. Jackson is the main source of the allegations against both men.

- 1.10 If media reports are to be given credence, there are complex and shifting relationships between individuals and factions involved in union and ALP politics, in and around the HSU. We have not entered this territory, fearing it may prove to be a Balkan bog out of which there is no escape.

The Allegations

- 1.11 The resolution of Union Council refers to allegations in the media against the General Secretary, and that assistance is sought to ensure that the members' interests are protected by investigating these matters - which we take to mean the allegations - properly and transparently.
- 1.12 Accordingly, it is allegations against Williamson, not other people, which form the basis of the Inquiry. We note in passing that certain allegations have been made against others, including Jackson. To the extent we have looked into the conduct of others, it is because they are said to have been involved in alleged misconduct by Williamson. The allegations examined range from inappropriate conduct to, the suggestion is, criminal misconduct. Having said that, we are not empowered to reach conclusions as to whether or what crimes have or might have been committed. Under Australian law, that is the exclusive prerogative of a Court duly constituted, which in relation to serious allegations would involve trial by jury.
- 1.13 The allegations, drawn largely from media reports but clarified somewhat by a conference with Jackson and a letter with enclosures which she sent to the NSW Police on 12 September 2011, are now set out under convenient headings.

Communigraphix

- The amounts charged by Communigraphix for producing "*Health Standard*", a journal which goes out to members, are said to be well in excess of market rates.
- Communigraphix is alleged to have provided Williamson (and we note Thomson) with Amex cards which were used for personal benefit.

Access Focus

- It is alleged that large amounts, including \$100,000 in about November 2009, were paid to Access Focus for no or unknown work.

United Edge

- It is said that United Edge, which provides IT services to the Union, charges excessive amounts for doing so.
- It is further alleged that United Edge won the IT contract without tenders being called.
- It is alleged that United Edge works out of the Union's premises in Pitt Street, Sydney, and pays no rent.
- All this is said to have been facilitated by Williamson, who is a director of United Edge.
- It is alleged a Victorian IT company was being paid \$15,000 per month to maintain a membership management system, while United Edge was submitting bills for the same service.

Mab-Chut Architects

- It is alleged that the Union's architects were employed on Union money to do work on Williamson's holiday home at Lake Macquarie.

Nepotism/Cronyism

- It is said that the Union employs a number of Williamson's family and friends, the implicit allegation being that he has looked after them at the Union's expense.

- It is alleged that Williamson's son Christopher uses a Union property for his own purposes.
- Williamson's wife is said to be on the Union payroll, on some covert basis.

Excessive Benefits

- It is alleged that Williamson has a number of well-remunerated positions, obtained by reason of his long service as General Secretary of the Union, and he takes the monies involved for himself rather than using them for the benefit of the Union.

Limitations on Inquiry

- 1.14 Having been appointed by resolution of Union Council, we had no statutory powers. We could not, as Police can, obtain search warrants. We could not, as can a Special Commission of Inquiry, summon witnesses or oblige them to swear or affirm that they would tell us the truth. Indeed we could not make anybody talk to us, and as will appear, some key people declined to do so. In the circumstances it is unsurprising that in some respects we have been unable to draw final conclusions. We have in those respects recorded what we discovered, from which the intended recipients of this report - the members of Union Council - may choose to draw their own inferences, and decide what further action if any is called for.
- 1.15 Parts of the report, in draft form, were sent out to Williamson and to some others who were adversely affected by those parts. Such responses as were received were taken into account by us, and some changes made.
- 1.16 We have been largely reliant on the Union to provide us with information and documents. The individual chiefly involved was Peter Mylan, the Acting General Secretary. Of necessity, we have had to work with the material provided to us.

- 1.17 We regret not having completed the report earlier than this. There were three main reasons. The Union often gave us information and documents slowly, and sometimes partially, so we had to chase them up. We also had to wait for responses from some individuals. And Chapter 7 had to be completely rewritten more than once because we did not well appreciate all the consequences of there being two distinct, although related, legal entities - see [1.1] above.
- 1.18 This report was written to be read by members of Union Council, on the basis they must decide what to do with, and in consequence of, the report. It is not a public document.
- 1.19 Since the report was largely written, an administrator - Hon. Michael Moore - has been appointed by the Federal Court to HSUeast, and also to the HSUeast Branch. That happened on 8 June 2012. In consequence, we will now be reporting to him, not Union Council. That is in one sense a pity: it would have been instructive for Council members, and indeed Union members generally, to have our report. We express the hope that the administrator will take forceful steps, in a timely fashion, to fix the more grave defects in the Union, and hand it back to the members in a better state than it now is.

CHAPTER 2 - COMMUNIGRAPHIX

- 2.1 Communigraphix Pty. Limited is an Australian limited liability company which was registered on 22 March 1996. Its directors from that date have been John Gilleland of 909 Barrenjoey Road, Palm Beach and Carron Gilleland of the same address. They are the only shareholders in the company, each holding 50 \$1.00 shares.

The Journal

- 2.2 According to Union records, the total amount paid (excluding GST) to Communigraphix in the period from 2 March 2007 to 26 September 2011 was in excess of \$3.12M, on average a little over \$690,000 per annum, paid with respect to:

The <i>Health Standard</i> Journal	\$2,377,193.08
HSU History Project	\$195,300.50
Other	<u>\$555,470.23</u>
	\$3,127,963.81

- 2.3 What did Communigraphix do for this? Most of the money went towards publication of the Union Journal, which is sent out to each member a number of times - formerly 11, now 6 - each year. Communigraphix has done the work for many years. It is supplied with copy and photographs, and attends to some editorial and all layout functions, and the printing and postage of the Journal. The cost of each issue, excluding GST, went from \$45,185.20 from March 2007 to \$47,869 from August 2009, and then to \$87,149 from October 2010. The earlier figures were for 11 per annum, and the last was for 6 (larger) issues each year.
- 2.4 Mylan told us that so far as he knew, tenders have never been called: indeed that the cost of publication of the journal had never been competitively tested in any way. However, according to minutes provided to us by Jackson, the earlier of which was marked as a draft, at HSUeast Executive Committee teleconferences held on 25 August 2010:

"UNION JOURNAL

The General Secretary advised that it was his intention to advise Union Council that the production of the Union's journal, Health Standard should now be only 6 editions per annum. He advised that the reason for this decision was based on the fact that the number of pages in the journal would have to be increased to allow for information regarding our Victorian members and if we continue to produce the journal 11 times a year as we currently do would lead to the total cost of production and mailing of the journal to approximately \$1.1M. per annum.

The General Secretary advised that he was of the view that it was now appropriate to seek expressions of interest from a number of Organisations to ascertain the best price for the production of a new 48 page journal on a 6 issue per annum distribution.

The General Secretary is further of the view that an independent consultant should be sought to seek the expressions of interest."

and on 17 September 2010:

"HEALTH STANDARD CONTRACT

On 25 August 2010, the Executive Committee received a Report regarding the contract for the Health Standard. The Health Standard is now to be 6 issues per year and a Consultant was engaged to seek Expressions of Interest to supply the magazine.

Four EOI's were received and the current provider, Communigraphix, provided the cheapest quote. The General Secretary noted that Communigraphix has provided an excellent service to HSU NSW.

RESOLUTION

Moved K. Seymour/C. Glen that the EOI from Communigraphix Pty. Ltd. be accepted. Further, the General Secretary is requested in light of this resolution to now contact the Union's lawyers requesting that they draw up a 5-year contract between Communigraphix and HSU East.

Motion put and carried."

- 2.5 On 22 February last we sought from Mylan the name of the consultant, his or her report, the four expressions of interest, the contract between Communigraphix and the Union, and all other relevant documents. Nearly 6 weeks later, by email dated 3 April, Mylan told us:

- “● I am unaware who the appointed consultant was.
- The report referred to in the minutes from recollection was a verbal report.
- I am unaware as to where any copies of the expression of interest are.
- A contract has not been entered into.”

2.6 It is regrettable that, so far as anybody now at the Union could tell us, the cost of publication of the Journal has not been competitively tested at any time. Tenders were never called.

2.7 In order to find out whether the amounts charged by Communigraphix for producing the journal were excessive - see [1.13] above - Robertson sent Mylan an email on 13 February 2012 which relevantly read:

“1. As part of our review of controls/governance we wish to obtain comparable pricing in respect of the journal, health standard”, supplied to HSUEast by Communigraphix Pty Ltd.

2. To obtain a comparable price comparison, we need details of the specific services provided by Communigraphix

In the provision of the journal. Could you please provide me with a detailed list of the services provided by Communigraphix in the provision of the journal.

3. The detailed list should include details , inter alia, of script writing , editing, photography, collation, coordination, number of copies, delivery mode etc (i.e adequate detail for a supplier ,to provide a comparable quote)

4. The pre GST cost appears to be \$87149.00 per issue (that was the invoiced price for each of the last 3 issues in 2011) & it is that service we are desirous of having a comparable price quote.

5. If there are any specification documents contract etc that will assist this process we would appreciate those as well.

6. It may be (as The HSU is obviously a valued customer of Communigraphix) that Communigraphix may be willing to assist you in listing the processes involved in producing the journal.

7. This journal cost is a material amount of union expenditure & accordingly it is relevant to controls & governance matters.

Thank you for your assistance in this matter. Please do not hesitate to call me should you wish to discuss any aspects of this request or the information you are to provide."

2.8 It is worth setting out Mylan's response, dated 7 March 2012, in full:

"I provide you with the following in response to your email to me concerning the abovementioned matter of 13th February, 2012.

Over time and due to the current questions surrounding the Health Standard I have considered a number of factors relating to the production, design and printing of the Health Standard.

The production of the Health Standard is a unique process unlike that of the production of a standard magazine and as a consequence trying to compare its production with a standard magazine is not just a simple exercise of comparing apples' with apples'.

For example consider the following:

If we were to compare the production and printing of the magazine with a printer that offers a design studio (which most large print firms do) the following would most likely occur;

Firstly the copy supplied by us would need to be supplied as a completed document. Our "job" would need to be booked into the "job file" of the design studio. When our jobs reaches the top of the list the design studio would allocate a certain amount of time to compile the magazine. The completed magazine would be sent to us for approval. Should amendments be required, we would then be charged a fee for each amendment. On completion of those amendments the magazine would be again returned to us for final approval. After final approval another press proof would be sent to us for approval yet again. Whilst this is occurring our "job" would be booked into the print schedule to be printed. Should, due to unforeseen circumstances we were to miss our slot in the print schedule (due to amendments etc) we would then be placed back into the queue to be re-scheduled for print a later time. This would then cause a delay in dispatching the magazine. The knock on effect to this is our allotted booking in the mail house's schedule is then affected as well, further delaying the distribution of the magazine. On top of this (due to the size of the print run) some printers will insist on a press check. A press check is where we would have to physically look at the "job" on the printing press prior to them pushing the "print button". Another inconvenience for us. As it currently stands with our long and successful working relationship with Communigraphix most of the steps above do not occur.

For example; unlike a "standard design studio" we are not penalised for amendments. As is very common we make amendments to several pages after the final sign off, (where a breaking story needs to be included). This would not occur with a design studio without incurring a penalty or it would not occur at all. Also to be considered is the design studio would have to have a

designer work late into the night or across a weekend to ensure completion. Again delaying the distribution of the magazine and adding to the cost.

Additionally, when our journalist (a times) over writes and supplies too much copy Communigraphix have years of corporate knowledge that enables them to edit the story to fit the space. A design house would not. We can also supply copy as it is completed, (usually over several weeks), this provides us with an indication of how much space (pages) remain for us to use. This would not occur with a design house). Communigraphix also liaise with advertisers for copy to go into the magazine. Something a design house would not do. Communigraphix also source photography and design elements for the magazine. A design house would not.

Communigraphix also have forged strong working relationships with a printing firm and mail house. As a consequence of these relationships the Health Standard does not "sit in a printing or mail house queue" like it would with most printers and mail houses. We have priority with both the printer and mail house. It's the variables in the completion of the Health Standard that make these relationships Communigraphix have vital for of the timely distribution of the magazine.

As can be seen it really is impossible to simply compare a run of the mill design house and printing firm to that of the expertise and flexibility that Communigraphix provide to the union.

I trust this gives you an understanding of process and the services provided by Communigraphix."

- 2.9 Two comments must be made. The first is that this was a completely useless response to the request for information. It did not advance at all the process of market testing the charges imposed by Communigraphix. Secondly, the response was just the sort of rationalisation which is often put forward to justify a long-standing relationship with a supplier which has not been tested against the market.
- 2.10 There is nothing very special about the Journal. It looks like, but is perhaps a bit better than, many others which are put out by associations of all sorts. The idea that Communigraphix was uniquely qualified to produce and distribute it, and nobody else could do a like job - we take it this is what Mylan was suggesting - is wholly unconvincing.

- 2.11 For want of information we are unable to say with confidence whether or not the amounts charged to HSUeast for production and distribution of the Journal have been excessive.
- 2.12 As to the history project, on which nearly \$200,000 was spent in 4.5 years to September last, we note the invoices are very general, e.g. *"To Research HSU history to date"*, with no details as to what work was done, by whom, or how many hours were worked. Other invoices similarly lack detail. The invoice rendered on 1 January 2009 (no. 08-1645) claims \$16,000 for *"HSU Project Redevelopment. Work in progress to date"*. There are no contracts relating to either the history project or other work. Despite requests to the Union we saw no product relating to the history project until 29 June, and what we saw then did not assist us in assessing the value of the work done.

Credit Cards

- 2.13 According to an article published in *The Sydney Morning Herald* on 17 November 2011, Williamson and Thompson:

"... allegedly received secret commissions from a major supplier to their Union. ... The two men had previously been provided with American Express cards by John Gilleland, who runs a graphic design business. The credit cards were issued in the names of Thompson and Williamson but were attached to Gilleland's account."

At an HSU function this year, Gilleland's wife, Carron, privately complained to senior Union officials that Williamson had 'run amok' with the credit card. According to one official, Carron Gilleland said, 'He even paid his private school fees on it' and 'this was not part of the deal'."

- 2.14 Temby wrote to John Gilleland on 5 December 2011 in these terms:

"Mr. D. Robertson, Chartered Accountant, and I have been appointed to conduct an Inquiry on behalf of HSUeast into allegations against its General Secretary, Mr. M. Williamson, who is presently on leave. We are required to examine, amongst other things, procurement policies. I have been provided by the Union with a large bundle of invoices issued by your company, Communigraphix Pty. Limited. Certain queries arise from examination of them, and I would greatly appreciate the opportunity of discussing with you both the invoices and also, more generally, your relationship with the Union over the years."

I am writing in the same terms to Ms. C. Gilleland. However, it is customary, and I think best, if I meet with you separately rather than together.

If you are prepared to meet with me - as the Union desires, as to which see below - please telephone to fix a mutually convenient time".

The letter bore an endorsement signed by Mylan on behalf of the Union as follows:

'This confirms that HSUeast desires that you provide the Inquiry with all co-operation

*PETER MYLAN
A/General Secretary, HSUeast"*

- 2.15 A letter in similar terms was sent to Carron Gilleland. After reminder letters were sent on 14 December 2011, a letter was received from solicitors dated 19 December 2011, in these terms:

'Thank you for your letter addressed to our clients John Gilleland and Carron Gilleland.

We advise that Mr. Gilleland is in ill health and his wife, Carron Gilleland, is under considerable stress.

As you are aware there have been considerable publications recounting the affairs of HSUeast and matters associated with it in respect of which our clients do not wish to be involved, given Mr. Gilleland's state of health and the stress associated with that.

We trust the above clarifies our clients' position in respect of your request."

- 2.16 Further correspondence did not lead to a change in the position: neither of the Gillelands spoke to us.
- 2.17 Temby wrote to Williamson, to ask that he make himself available for interview. Through solicitors, he declined to do so during the currency of a pending police investigation.
- 2.18 We cannot access the records of American Express, or Communigraphix, or the Gillelands. The police can, and presumably have done so or will do so. We

cannot reach any conclusion as to whether or not Williamson received and used for his private purposes a credit card supplied to him by a major supplier of services to the Union of which he had charge.

- 2.19 We recommend that the Union call tenders, without delay, for the publication, printing and distribution of the *Health Standard*. It is for the Union to decide with whom it will do business. It could call tenders selectively, and in doing so could exclude Communigraphix (or any business associated with the Gillelands or either of them) from the process. That may be justified as the Gillelands, despite a request for co-operation by the Union, declined to be interviewed. The question is one for the Union to decide.

CHAPTER 3 - ACCESS FOCUS

3.1 Avrio Services Pty. Limited, an Australian limited liability company, was registered on 22 April 1996. It changed its name on 11 September 2002 to Access Focus Pty. Limited, and on 25 September of the same year to Aurio Services Pty. Limited. The company, which trades as Access Focus, has two shareholders, each of whom holds a \$1.00 share: Glen Downing and Michelle Downing. He and Alfred Alexander Downing of 7 The Outlook, Bilgola, are directors of the company. The latter, who is generally known as Alf Downing, is the guiding light of the company and the business it conducts.

3.2 We were provided by the Union with a large bundle of invoices and cheque requisition documents, which show that Access Focus received a little over \$4.5M (excluding GST) from HSUeast during the period from 3 October 2007 to 30 September 2011. A typical invoice appears below:

Access Focus

P.O. Box 946
ARTARMON
N.S.W. Australia 1570

A.B.N. 23 073 709 949

Bill To:

HSU
Level 2
109 Pitt Street
SYDNEY NSW 2000

Tax Invoice

Invoice #: 00005618

Date: 26/5/11

Ship To:

HSU
Level 2
109 Pitt Street
SYDNEY NSW 2000

Description

Amount

To provide 2 x 1000 Business Cards Printed & Cello Glazed @ \$750.00 each	\$1,500.00
--	------------

Freight: \$0.00

Terms: Net 30 Days

GST: \$150.00

Total Inc GST: \$1,650.00

- 3.3 It will be noted this invoice contains neither telephone number nor operating address. That is true of all the other invoices. Most of them contain little detail. Perhaps more significantly, the charge for 1,000 business cards shown on the invoice was \$750 excluding GST. Competitive quotes we obtained were for a third as much: 25 cents per card, as opposed to 75 cents per card paid to Access Focus. We do not accuse Access Focus of overcharging: if customers will not protect themselves by testing the market from time to time, it may be that suppliers cannot be blamed for charging whatever they can get away with for goods and services provided. We do say that the amount paid was very much higher than necessary.
- 3.4 Alf Downing agreed to be interviewed. He is a salesman, and likes to talk. Temby wrote to him on 5 December last, and he came in two days later. He arranges for printing work to be done for the Union, but is not a printer. He also sources, generally from China, and supplies clothing and promotional goods to the Union: everything from business shirts to beanies, from breathalyser kits to bottles for water. He also helps with the annual Union convention, and arranges transport and delivery of goods both then and at other times. He agreed with the suggestion he is a "*broker*", and also that he is a "*Mr. Fix-It*" for the Union.
- 3.5 Downing's dealings are largely with Cheryl McMillan. He and she discuss what the Union wants, and he gives her a price, which she on behalf of the Union can accept or reject. Downing could not recall an occasion when she had tried to bargain him down.
- 3.6 The Union has been doing business in this way with Access Focus for a number of years. It has not sought competitive quotes at any time for any of the goods and services which Downing's company supplies. We cannot put a figure on what this has cost the Union, but clearly the figure lies in the range from large to prodigious.
- 3.7 We obtained from the Union some items which were the subject of recent invoices, and obtained prices for supply. Some details follow.

Item	Quantity	\$ Unit Price Access Focus	\$ Unit Price Industry
5618 - Business Cards	1,000	0.75	0.25
5619 - 3 Colour Pads	500	19.84	6.66
5531 - Luggage Scales	600	27.50	34.28
5589 - Water Bottles	6,000	6.30	1.72
5696 - Beanies	5,000	6.50	3.15
5603 - Embroidered Hats	15,000	7.50	3.40
5645 - Printed Pens	10,000	1.35	0.32
5950 - Key Ring Pulls	10,000	1.85	0.73
5686 - Membership Books	10,000	4.20	1.09
5586 - Lanyards	5,000	3.50	1.25

- 3.8 Three points should be made. The first is that these invoices covered only a small proportion of the total goods provided by Access Focus over the years. They may be taken to be representative. Secondly, Access Focus seems to have sourced luggage scales well, and charged below industry prices. Thirdly, we do not know whether Access Focus charged more relative to fair average industry prices than did other suppliers of goods and services to the Union.
- 3.9 As to the allegation - see [1.13] above - large amounts were certainly paid to Access Focus, including a total of \$107,481.60 in three payments in November 2011. It does provide goods and services to the Union. Steps must be taken to ensure that the Union receives fair value for the amounts it pays. At the moment it has no real idea, one way or the other. This is, to say the least, unsatisfactory.
- 3.10 Procurement practices at the Union are very inadequate. This extends beyond the failure to call tenders or obtain competitive quotes. The systems for ensuring that goods as ordered have been received, and for approving invoices for payment, are rudimentary and open to abuse. This aspect is taken up in Chapter 9.
- 3.11 Whether or not it continues to deal with Access Focus is for the Union to decide. In any event, we recommend that all dealings with suppliers, including for printing, promotional goods and clothing, be in the future on the basis of the satisfactory system for procurement dealt with in [9.12], at a minimum.

CHAPTER 4 - UNITED EDGE

- 4.1 United Edge Pty. Limited is an Australian limited liability company, which was registered on 11 December 2007. According to ASIC records, its registered office and principal place of business are both at 2/109 Pitt Street, Sydney. That is also the address of HSUeast's head office. The directors of United Edge from the outset have been Michael Williamson of 31 Meagher Avenue, Maroubra, Bruce Daniel of 21 Cotswold Road, Dural and Bradley Bird of 1/6 Bolton Street, Guildford. Williamson has been the company secretary since 11 December 2007. There are three \$1.00 shares issued, and ASIC records show that one share is beneficially held by each of Williamson, Daniel and Bird.
- 4.2 How did Williamson come to be a director of and one third shareholder in a major supplier of services to the Union of which he is General Secretary? Has there been adequate disclosure of his position? As to this, see Chapter 7. And even if there has been, is it appropriate that the present position should prevail?
- 4.3 Williamson elected not to talk to us, as was his right, and we had to depend upon others. Bruce Daniels and Bradley Bird also elected not to talk to us, notwithstanding they were advised by the Union that it would be appreciated if they cooperated with our investigation.
- 4.4 Stephen Pollard, the President of HSUeast, said when interviewed that at a Union Council meeting a number of years ago Williamson stated that one or more of the proprietors of the business which provided IT services to the Union wanted out, and those remaining would have difficulty in buying them out. Two or three months later at another meeting of Union Council, Williamson reported that he was going to become or had become a director of the company so that it could keep going and continue to provide services to the Union. On neither occasion did any discussion ensue, according to Pollard's recollection. His understanding since that time has been that Williamson has a proprietary interest in United Edge. He said that Bruce Daniels and Brad Bird were involved in both the earlier IT business and in United Edge.

4.5 Pollard said Mylan dealt with United Edge. Temby asked whether it occurred to him that it might be difficult for Mylan to negotiate with United Edge, or raise a query concerning a United Edge invoice, or deal with such disputes as must inevitably arise from time to time, if he knew he was dealing with a business of which Williamson - his boss - was a director and part-owner. Pollard said you cannot rise to the top of a big union without being tough - having some mongrel in you - and he did not doubt that Mylan could handle himself and protect the interests of the Union as necessary. A Union official who accompanied Pollard when he was interviewed made the point, which Pollard effectively adopted, that dealings were between Mylan for the Union on the one hand and Bruce Daniels for United Edge: Williamson does not become involved.

4.6 Mylan provided us with a file note, the relevant portion of which we now reproduce.

FILE NOTE PETER MYLAN RE: ALLEGATIONS CONCERNING UNITED EDGE

By way of back ground the Vic No. 1, Vic 3 and NSW Branch merged on 24th May 2010 and created the HSUeast.

Prior to this NSW was running a different IT platform than that of Vic 1 and Vic 3. The NSW platform, Memforce was a fully integrated web membership system which included full call centre functionality as well as an integrated correspondence capacity. Memforce also provided excellent reports for the use of organising and recruiting members. In addition to this Memforce also provides excellent membership capacity which allows the Membership Department to operate very effectively.

In addition to this Memforce is integrated with our website and our Media Centre.

On 3¹⁶ September 2010 the first Union Council meeting of H5Ueast was held and this meeting occurred at Hotel Novotel Brighton Le-Sands, Sydney. At this meeting a number of resolutions were carried relative to the harmonisation process of the new Union.

A Memorandum of Advice was provided by David Langmead Barrister on this subject. He also provided resolutions that were endorsed at the meeting. Copy attached.

One of the resolutions carried (6) was that the Executive Committee be requested to develop a centralised Administrative System which provides for central overseeing and processing in the Sydney office but provides for access and operability in the Melbourne Office in respect of Victorian members.

As a consequence of this resolution a number of meetings were held with the Administration Manager of the Union to resolve any issues that may arise. Due to the fact that 2 IT platforms were operating it became apparent that problems would be experienced in relation to distribution of membership details, issuing of members accounts etc and general distribution of Union paraphernalia to members. An examination was undertaken of the current contract that existed with the IT provider for the Vic 1 and Vic 3 branches to establish as to whether there were any contractual obligations or could the Union terminate the contract and integrate into Memforce.

Arising from an examination of the contract, it revealed that the contract was due to expire on 30/9/11, and if we were to terminate the contract prior to this we would be in breach of the contract and certain penalties would apply. In addition to this, legal advice was obtained from Slater & Gordon that confirmed that this was the case.

It was also resolved by the executive Committee with all members present that the Union adopt as a principal that 1 fee structure apply across HSUeast.

Union Council received a recommendation from the Executive Committee to a new *fee* structure at its 27.10.11 meeting. Union Council endorsed that Union membership fees were to be increased and that prior to this a report had been prepared indicating that within the Vic 1 and Vic Branches 33 different fee structures applied, as opposed to NSW where only 1 fee structure applied. It was clearly apparent that if we were to remain with 2 IT platforms that the Administration of the proposed fee increase was going to become an administrative nightmare. The only solution that would enable a smooth translation to the new fee structure was to operate it through 1 IT system, Memforce.

The proposed fee increase for NSW members was \$1.10 per week and if we had applied the same \$1.10 per week fee increase unilaterally across the Union would have created an enormous backlash from the membership. As members in Victoria had part time and casual rates and these did not apply in NSW. The report that I refer to above relating to the 33 different fee structures is attached.

Therefore a decision was taken following consultation with the Admin Manager, the Executive President and other Senior staff that Vic 1 and Vic 3 would merge into Memforce from 1st November 2010. This will allow if any problem arose, that the Union has 1 month to rectify them as the new fee structure was commencing on 1st December 2010.

In addition a number of emails had been received from Staff in Victoria complaining about the quality of the IT services for the Victorian office. These are available if required.

As a result a commercial decision had to be made that either

- (a) We terminate the current Vic 1 and Vic 3 contract and be required to pay \$165,000.00 immediately (1/11/10 —30/9/11), or
- (b) We continue to pay the \$15,000.00 per month till 30/9/11.

As a consequence option A would have created a cash flow problem for the Union and the only option left open was to continue to pay the \$15,000.00 in accordance with the contract.

The decision to continue the \$15,000.00 per month payment in my view clearly outweighed the administrative problems that would have arisen due to running 2 different IT platforms and the knock on effect from introducing a new fee structure. Further this decision was in accordance with the Council decision of 3/9/10 that we develop a "centralised administrative system".

This decision was also discussed at the HSU Executive meeting held on 13/10/10 in which all Executive Committee members were in attendance.

4.6 There is we think nothing untoward about the fact that \$15,000 per month was for a period paid to a Victorian IT company after the amalgamation while United Edge was submitting bills for the same service, i.e. maintaining a membership management system. This is the last of the allegations concerning United Edge referred to at [1.13] above.

4.7 It is in our view entirely inappropriate, even assuming full disclosure, that Williamson should at the one time have been in charge the Union and also a one

third shareholder in and director of a major supplier of IT services. He should be one or the other, not both. The more work goes to United Edge, the more it and he profits, and the more the Union's costs rise. Hence the best interests of the Union and the company are necessarily opposed. Also, it is we think it difficult to the point of practical impossibility for Mylan or anybody else to deal with United Edge unaffected by their knowledge of Williamson's close connection with the company.

- 4.8 As to whether, and to what extent, Williamson facilitated the opportunities which came United Edge's way, because none of Williamson, Daniel nor Bird would talk to us, we have not been able to reach a confident conclusion. It does not take a cynic to believe he was heavily involved.
- 4.9 In Chapter 7 we recommend, as part of good corporate governance, that the Union should resolve to prepare financial statements that comply with Australian Accounting Standards. The substantial amount of undisclosed payments by a member based organisation to a company (United Edge) related to a union executive (Michael Williamson) was a large factor in our thinking. Adoption of Australian Accounting Standards would eliminate the risk of "*optional*" or "*discretionary*" reporting.
- 4.10 We note that since our appointment:
- United Edge's name has been removed from the tenant directory in the foyer of 109 Pitt Street, Sydney.
 - United Edge notified HSUEast by letter dated 23 January 2012 that it was relocating to new business premises.
- 4.11 We attempted to determine if United Edge had other customers or if its operations were really only a resource of the HSU. Our investigation was made difficult by the refusal of the three shareholders/directors to assist us. Our enquiries have disclosed certain matters that lead us to question whether United

Edge conducts any meaningful business other than with the HSU, State and Federal:

- Prior to our enquiries, United Edge's only business premises were at the premises of HSUeast, on a rent free basis.
- United Edge does not have a website (it charges HSUeast for website services).
- United Edge does not appear to be listed in any telephone directories and the phone numbers on its invoices divert to a non specific message machine which makes no reference to United Edge.
- ASIC records continued to disclose, as at 28 May 2012, United Edge's registered office and principal place of business at Level 2, 109 Pitt Street, Sydney, being the offices of HSUeast.
- An inspection of the premises to which United Edged moved from 109 Pitt Street, Sydney disclosed on the tenant directory "*Cotswold Concepts/ (United Edge)*". Cotswold Concepts is Bruce Daniel's company; it operated from serviced offices until April 2012. The new offices are closed off, with no obvious reception area or signage for Cotswold Concepts or United Edge.
- The two employed principals of United Edge are charged to HSUeast on an annual charge of \$590,385 (Bruce Daniel - \$404,956 and Bradley Bird - \$185,229) being labour charges only. These rates not only appear very high, but indicate that the vast amount of their working time is for HSUeast.

4.12 The accounting records of HSUeast covering the period 22 April 2008 to 30 September 2011 shows that payments by the Union to United Edge in that period totalled \$ 4,689,816.12, an average of over \$ 114,000 per month and over \$ 1,372,631 per annum.

4.13 As at June 2011 the accounting records of HSUeast disclose the following monthly recurring payments to United Edge totalling \$96,488.12 (excluding GST), for the following services:

• Bruce Daniel IT Services (Monthly)	\$33,746.40
• Bradley Bird IT Services (Monthly)	\$15,435.81
• Website services (Monthly)	\$ 6,192.97
• 'Memforce' members database (Monthly)	\$20,218.46
• Call Centre scripting (Monthly)	\$ 4,321.65
• HSU sub branch cost centre (Monthly)	\$1,882.40
• HSU internal cost centre (Monthly)	\$10,124.85
• Equinix IBX data centre (Monthly)	<u>\$4,565.58</u>
• Total	\$96,488.12

4.14 We have been advised by the Union management:

- The union is not aware of any contract with United Edge.
- Up until January 2012 United Edge had its business premises in the Union's offices and were not required to pay any rent for these facilities.
- There were no alternative quotes obtained from other service providers.

4.15 With respect to the allegations in [1.13] above, the last concerning United Edge, has been dealt with: see [4.6]. We deal now with the balance of them.

4.16 We are not in a position to reach a conclusion as to whether United Edge, which provides IT services to the Union, charges excessive amounts for doing so. We sought from Union management details of the services provided by United Edge but they were not forthcoming. Apart from the actual wording on the invoices we do not have detail as to the services provided. Mylan was unable to advise us of the hours worked each month, nor if there were any records in support of the hours worked. The amounts charged by United Edge, as regular monthly payments, do appear very high. They leave open the question of excessive charging, there having been no alternative quotes and there being in existence

neither a contract nor performance records. It is the case the IT contract was let without tenders being called.

4.17 United Edge did work out of the Union premises, and paid no rent for doing so. Mylan insists that the arrangement was mutually beneficial, and in particular that it was to the Union's advantage to have a constant United Edge presence on the premises. It is however odd, as noted at [4.1], that a company which was a major supplier of services to the Union should have its registered office and principal place of business at the Union head office. However, they have now moved.

4.18 We recommend that the Union take steps to regularise the contractual situation between itself and the supplier to it of IT services. When and if practicable, tenders should be called for the provision to the Union of such services. At the very least, the Union should ensure that a contract is entered into between itself and its IT supplier, whether that be United Edge or some other business.

CHAPTER 5 - MAH-CHUT ARCHITECTS

- 5.1 According to Union records, in the period of 4.5 years from 9 March 2007 to 30 September 2011, HSUeast paid Mah-Chut Architects a total of \$3,398,495 (excluding GST). Not all of the money was retained by the firm's principal, Ronald Mah-Chut, as some of the invoices were for design and construct projects.
- 5.2 Mah-Chut was born on 15 December 1935, and voluntarily attended to be interviewed shortly before his 75th birthday. He was at the time clearly ill - he has a liver condition - and accompanied by both his solicitor and a barrister. It is fair to say at the outset that he denied wrongdoing, and it is a matter of speculation whether the use of coercive powers (unavailable to us) or the provision of information by Williamson (who declined to be interviewed) might have thrown up a case of impropriety for him to answer. In what follows we have stated what can be divined from Union records, and information provided by Mah-Chut.
- 5.3 He met Williamson in or about 1996, following a reference by an architect who was retiring, and has done work for the Union since. Some of it is straight design work, some involves maintenance, there are design and construct contracts as mentioned, and Mah-Chut also advises HSUeast on property acquisitions. He deals mostly with Williamson, and to an extent with Barry Gibson. There are no contracts, letters or other documents which evidence the arrangements between the Union and Mah-Chut Architects - merely verbal agreements between Mah-Chut and Williamson. That is unsatisfactory, as becomes clear if one envisages a dispute concerning fees, especially after one or the other of the two individuals who knew the situation had died or lost his senses. The lack of documentation makes it difficult, to the point of practical impossibility, for a person certifying an invoice for payment to know that he or she is acting correctly.
- 5.4 All we have to go on are the invoices, and they throw up their own questions. The content of two of them is reproduced below:

neither a contract
without ten

VOICE 0457

4.17 United

My Principal,
instruct

March 2007 to 30
\$3,398,495

Coastal Sites

claim No. 3 for the quarterly retainer commencing May 2008.

No. 3 Progress Claim

Fee claim	20,000.00
GST	<u>2,000.00</u>
Total	\$22,000.00

Total amount for this tax invoice is \$22,000.00 (includes GST).

Thank you for the opportunity to complete this work. We look forward to continuing to work with you under the terms of our agreement.

TAX INVOICE 0469

3 October 2008

General Secretary
Health Services Union
Level 2, 109 Pitt Street
Sydney. NSW 2000

Ref: Investment Opportunities
Description: Commercial Office Space
Level 3, 109 Pitt Street, Sydney
Michael,

We submit our fee claim for the above purchase.

Summary	
Purchase sum \$5.7M @ 2%	\$114,000.00
GST	\$11,400.00
<u>Total Claim</u>	<u>\$125,400.00</u>

Please make cheque payable to "Mah-Chut Architects."

- 5.5 According to Mah-Chut, the quarterly retainer agreement - see Invoice 0457 - was reached between him and Williamson about 5 years ago. He said it was to reimburse him for the time spent in looking for sites that might be suitable for the Union to develop for retirement villages or holiday destinations, none of which were ever in fact purchased. Later, near the end of the interview, Mah-Chut's barrister said in his client's presence that the retainer was calculated at the rate of \$200 per hour for one day per week, and that Mah-Chut was required to be on-call for any building maintenance issues that arose.
- 5.6 In addition, Mah-Chut charges the Union a spotting fee when properties are purchased at the rate of 2% of the purchase price. He said he "*knows property*", and may be required to look at many properties before charging such a fee. He acknowledged that he knew of no other architects who charged a percentage-based spotter's fee. Mah-Chut said he charged the 2% fee on top of the retainer. Temby put it to him that he was being paid twice - by way of retainer, and the spotter's fee - for the same task, namely looking for property. He initially did not respond, and when the proposition was put again said he did not "*see it that way*". As noted earlier, he was not at all well at the time of interview.
- 5.7 A submission made on Mah-Chut's behalf by his solicitor, after this chapter was supplied in draft for comment, included this:

"In relation to paragraph 5.6 there seems to be a misunderstanding of the nature of the arrangement between HSU East and Mr. Mah-Chut. The quarterly retainer was paid for Mr. Mah-Chut's time in researching and investigating suitable properties as well as being on call for building and maintenance issues on existing properties. The 2% spotter's fee was charged on properties actually acquired by HSU East.

The arrangement was a commercial one. It was concluded in a commercial context and presumably, approved or ratified by the executive officers of the HSU East. There should be no suggestion that Mr. Mah-Chut was unfairly enriched by the arrangement or that he was in a position to overbear on HSU East to agree to the arrangement. Spotter's fees are not uncommon in the commercial world."

- 5.8 Over a period of more than 3 years, Mah-Chut Architects claimed and were paid a total of \$254,958 for property acquisitions, on top of the retainer fee of \$88,000 per annum. The details follow:

21.11.06 1535	13/15 Baker Crescent, Botany - 2% of \$715,000 + GST	\$15,730
19.10.07 0443	L9, 109 Pitt Street, Sydney - 2% of \$3.2m + GST	\$70,400
05.11.07 0445	Steele River Warehouse, 1-2 Frost Drive, Mayfield West - 2% of \$394K + GST	\$8,668
20.03.08 0454	L8, 109 Pitt Street, Sydney - 2% of \$400K + GST	\$8,800
03.10.08 0469	L3, 109 Pitt Street, Sydney - 2% of \$5.7M + GST	\$125,400
22.06.09 0482	L15, 109 Pitt Street, Sydney - 2% of \$785K (should be \$15,700 + GST)	\$16,500
24.02.10 0500	Unit 23, Auburn & Miller Streets, Coniston, Wollongong - 2% of \$430K + GST	\$9,460
	Total	\$254,958

- 5.9 The actual allegation against Williamson in relation to Mah-Chut Architects is that they were employed on Union money to do work on his holiday home at Lake Macquarie.

- 5.10 At interview, Mah-Chut confirmed he did work for Williamson, first at home in Maroubra and then at Lake Macquarie. As to the former, he did some drawings and arranged for an engineer. At Lake Macquarie, the work was recent, and Mah-Chut prepared plans, put them through Council, arranged for a builder and part-supervised the work. When asked if he charged Williamson less for the work at Lake Macquarie by reason of the large amount of work he did for the Union, after initial hesitation, Mah-Chut replied in the affirmative. He charged Williamson less than he would have charged an ordinary client with whom he

had no prior association. He said he did not tell Williamson he was being charged less.

- 5.11 When asked whether he had done the work for Williamson either for nothing, or for sharply reduced rates, Mah-Chut said, *'No. It was my decision to charge less. What I received from HSU I deserved'*. He said there had been no other financial or property dealings between Williamson or any person or entity associated with him and Mah-Chut or any person or entity associated with him. He had on occasions attended ALP functions, sitting on an HSU table, and bought items at auction. This happened perhaps annually.
- 5.12 Mah-Chut's barrister put on the record that his client and Williamson have no social relationship, have no business ventures in common, have not shared holidays, have not dined together (save for the ALP functions just mentioned), and share no godchildren.
- 5.13 Mah-Chut later provided, on request, extensive further material. He received from Williamson in relation to the Lake Macquarie building project a total of \$42,085.25 of which \$9,261.25 was by way of reimbursement for charges Mah-Chut had paid on Williamson's behalf. Professional fees including GST totalled \$32,824. His barrister told us the project cost was about \$700,000. If normal architect's fees are taken to be about 10% of the project cost, then this represents a large under-charge. If the rate is taken to be 5% then there was still an under-charge. The submission made on his behalf pointed out that architects are commonly paid in one of three ways - a percentage of the cost of the works, a lump sum or an hourly rate - and that is true. It was contended that for this work Mah-Chut did not charge a percentage fee. The invoices do not help as to the basis upon which fees were calculated. However, we think it is fair to say that Mah-Chut was well paid for the work he did for the Union, and less well paid for the work he did for Williamson personally.
- 5.14 If there is sufficient precision in arrangements between an organisation and those who supply services to it, and in the processing of accounts by service providers, it may not be difficult to refute suggestions that favours have been done, or kick-

backs have been involved, or as to other possible fraudulent practices. The arrangements between HSUeast and Mah-Chut were very loose.

- 5.15 We are unable to conclude whether either Williamson or Mah-Chut has behaved improperly.

CHAPTER 6 - NEPOTISM/CRONYISM

- 6.1 Michael Williamson has been the General Secretary of HSUEast since it was formed in 2010, and for many years before that held the same position, whether or not with the same precise title, in its predecessor organisation. He is the chief executive: the boss. Williamson has been re-elected every 4 years, as Union rules require. Most people within the Union to whom we talked described him as visionary, highly energetic, charismatic, and a very effective leader with strong entrepreneurial drive and capacity. Some were less positive, and asserted he has a domineering nature, and quashes opposition. However that may be, he above all other individuals had power within the Union, at least until he took leave of absence - see [1.2] above - in September last year. It has been so for more than 15 years.
- 6.2 Members of his family employed by the Union include his brother Darren, and his son Christopher. The former is in charge of recruitment and marketing, and the latter is a media project officer. Monique Irvine, a lead organiser, is a sister of Williamson's wife. She holds an elected position. Another family within the Union, now and previously, includes the late Lyn Astill who was formerly in charge of finance, her sister Cheryl McMillan who is in charge of procurement, and their sister-in-law Julie Astill, who is in charge of Head Office administration. Each of M. Williamson, D. Williamson, M. Irvine, C. McMillan and J. Astill is among the dozen best paid employees of the Union: see [8.1] below.
- 6.3 Williamson asserts, and we accept - we know of nothing to the contrary - that he was not involved in the selection for employment of his brother or his son. He also points out that Cheryl McMillan and the late Lyn Astill were employed by the Union well prior to him working there.
- 6.4 Christopher Williamson works on the second level of 109 Pitt Street, Sydney, but spends a deal of time on level 8 where a television studio is situated. He joined the Union in the latter part of 2010, and is presently well advanced towards obtaining a degree in media and communications at the UNSW. He has a diploma in audio engineering. When interviewed he said that he replied to an

advertisement, and won the job against 5 others after having been interviewed by Gerard Hayes. He spends most of his time working on production of the weekly television news bulletin which goes out to all members.

6.5 There is nothing wrong with a family firm favouring its own members. That is natural enough. But different considerations apply to public institutions and companies, and any body which is owned by its members, as the Union is. In such bodies nepotism and cronyism - favouring family and friends as employees or contractors - must be avoided.

6.6 Nepotism gives rise to these risks:

- it discourages and de-motivates other employees, as they perceive their opportunities for promotion to be eroded;
- the ability to recruit good employees is reduced;
- the ability to retain and develop good employees is undermined; and
- the organisation's system of internal control can be weakened due to misplaced loyalty, seen as owed not to the organisation but to the family or friendship group.

6.7 Many public bodies not only have well documented recruitment and promotion procedures, but also adopt an explicit anti-nepotism policy. The Union has neither.

6.8 We recommend that the Union formulate, document and adopt procedures to be followed in recruiting and promoting staff, with insistence on merit selection being the central requirement. As a matter of documented policy, recruitment of family members should be prohibited or at least discouraged.

The Banksmeadow Warehouse

- 6.9 A contract for the purchase by HSU of 13/15 Baker Crescent, Botany was entered into on 18 October 2006. The price was \$787,050, and the balance after deposit and adjustments was \$709,575.35 which was paid at settlement on 6 December 2006. The contract describes the premises as an industrial unit but subject to what follows it is used as a warehouse. The acquisition of a warehouse was approved at a meeting of the Finance Committee of the Union on 9 June 2006. At a meeting of Union Council on 9 August, Williamson advised he had engaged Mah-Chut Architects to find an appropriate warehouse, and he tabled a proposal for the purchase of a unit costing \$905,600. At a Union Council meeting on 17 October 2006, Williamson reported Mah-Chut had advised of a better warehouse that was available, and it was resolved to approve the purchase at \$787,750.
- 6.10 On 21 November 2006 Mah-Chut Architects rendered an account to the Union in relation to the warehouse, sometimes referred to as 13/15 Baker Crescent, Botany but more correctly 13/15 Meadow Way, Banksmeadow. It charged 2% plus GST on the acquisition cost: see [5.7] above. The next account was rendered on 12 February 2007, when a progress claim of \$55,000 was made. This was accompanied by a letter from Mah-Chut to Williamson which had attached a budget estimate of \$351,780, excluding IT installation. The letter noted construction was to commence on 19 March. The next invoice, dated 20 March, noted that *"the Builder has reached the stage of expenditure and orders of over 80% and is progressing at a rate to achieve completion by the middle of April"*.
- 6.11 What was built into the bare shell, in stages, comprised a mezzanine floor, storage units, stairs and two soundproofed rooms, the smaller of which is upstairs and apparently not relevant for present purposes. Downstairs, at the rear and taking up the full width of the building, is the second soundproofed room which is a little less than 40 sq.m. in area.
- 6.12 According to C. Williamson, he became aware that there was an area in Union premises at Banksmeadow, which he described as a rehearsal room, which was

hardly being utilised. He recognised a possible business opportunity, and raised with somebody high up in the Union - perhaps his father, or Hayes, or Peter Mylan or Kathy Jackson - that he might lease it. He said a valuation was obtained, and he agreed to pay a rental figure which was then put to him. He never saw the valuation, but presumes the amount was in accordance with the valuation. He thought he was paying about \$200 per week for the downstairs room and an adjoining sitting area. He paid the rent quarterly. He said he had the premises for 4 years, that the arrangement came to an end by effluxion of time, and another man whose name he gave is now the tenant. He did not know how it is the rehearsal room came to be constructed.

- 6.13 The records tell a rather different story. First, C. Williamson is a sound engineer and he advertised Studio 19, the business name under which he operated, as a recording studio. Secondly, the lease - for 2 years from 1 August 2007, with a 2 year option of renewal - which bears date 10 October 2007 and was signed by C. Williamson with Michael Williamson as his witness, was for annual rental of \$3,750 - just over \$72 per week - inclusive of all outgoings. This small sum was in our view hardly worth the bother of a lease and a valuation. And it will be noted that the commencement date of 1 August was only 8 months after settlement, and 3.5 months after Mah-Chut Architects' estimated date for completion of the works.

- 6.14 Thirdly, the valuation - by Brett, Nelson & Associates and dated 12 June 2007 - included the following:

"The subject area comprises a partitioned facility contained within the development at ground floor level, having plasterboard walls, the fit out as at the date of inspection nearing completion.

Part of the agreement is to share the facilities including toilets and kitchen amenities.

The area being the subject of this assessment, we have been advised, is 56.14 square metres (refer highlighted area on floor plan contained within this report).

We have been advised that the area will be the subject of a sub-lease arrangement incorporating formal documentation.

We have in assessing the Fair Market Rental also given consideration to the fact that substantial sharing of the amenities and access to the unit will be part of the arrangement, this in our opinion is considered detrimental and we have adjusted our rental assessment accordingly.

...

Given the available market evidence, we are of the opinion that the Fair Market Rental of the premises as negotiated being THREE THOUSAND SEVEN HUNDRED AND FIFTY DOLLARS - (\$3,750.00) Per Annum Gross, exclusive of GST, to be within market parameters."
(underlining added)

- 6.15 Hence on the face of the valuation, the fit-out was incomplete as at the date of inspection, which is not stipulated but we take to have been in early June 2007, and the valuer was providing justification after the event of a rental figure which had already been worked out. It looks on the face of it as if the Union premises at Banksmeadow had a soundproofed space installed which could be used by a member of M. Williamson's family for the commercial benefit of that family member. We think it matters little, if at all, that the business does not seem to have returned much by way of profit to the tenant.
- 6.16 C. Williamson provided the Inquiry with what he described as *"the first and the last tax invoice for the lease of the back room at 13/15 Meadow Way, Banksmeadow"*. The earlier as supplied by him appears on the next page. Apart from a period of about 12 months when he moved away from home, Meagher Avenue, Maroubra has been the place of residence of C. Williamson, his father and his mother. The invoice was directed to him there, and was over the name of his father.
- 6.17 Mah-Chut when interviewed said that Williamson instructed him to soundproof the upstairs office, and to have the downstairs room built and soundproofed. Mah-Chut said that room could be used as a recording studio, but Williamson said nothing to him as to what it was to be used for. *"I follow instructions but I don't really inquire as to the use"*.

Health Services Union

ABN 25 007 751 088

Date 4-12-07

RECEIVED from Studio 19

C. Williamson

the sum of One Thous Three Hund

Dollars Seventy Five dollars only

M.A. WILLIAMSON

General Secretary

14844

PER MF

CONTRIBUTIONS		DEDUCTIONS		BALANCES		NETT ACCOUNT	REMARKS
\$	p	\$	p	\$	p	\$	
						1375	13/15 Meadow Way Banksmeadow Rent Period 1-8-07 - 30-11-07 Gst incl 845 082170 696552

NEW ROLL 7003/110-1

Mr Christopher Williamson
Studio 19
11 Meagher Avenue
MAROUBRA NSW 2055

Dear Chris,

Re: Unit 13/15 Meadow Way, Banksmeadow

Rent for 1 August 2007 - 30 November 2007 period.

Rent \$1,250.00

GST 125.00

\$1,375.00

Yours faithfully,

MICHAEL WILLIAMSON
GENERAL SECRETARY

- 6.18 The stated justification for the purchase of the warehouse was that it would save on storage costs. It did, but only to a limited extent. A payments schedule provided to us by Mylan shows that the Union paid Storage King at Eastgardens \$3,318.18 per month up until June 2007, when the monthly cost dropped to \$1,800. It rose by increments to \$2,245.45 per month to and including January 2012, after which it dropped to \$1,654.55.
- 6.19 According to invoices supplied by Mah-Chut Architects, the Union paid that firm a total of \$786,368 for work done at the Banksmeadow warehouse. When that is added to the purchase price of \$787,050, a capital cost of \$1,573,418 arises. Even if the Storage King costs had come down to nothing, the warehouse would represent a sound business decision only if the capital cost was \$800,000 or less. We say this on the basis of Storage King savings of about \$40,000 per annum - assuming that those costs were no longer incurred at all, contrary to the fact - at an interest rate of 5%. As the figures already related show, the saving was only a little over \$1,500 per month.
- 6.20 We note that each of Hayes, Mylan and Jackson informed us that he or she was not involved in the process that led to the lease being entered into: see [6.12] above.
- 6.21 We called for any Union records concerning the portion of the premises that came to be leased to C. Williamson. Apart from the lease, and an account rendered by solicitors for its preparation, nothing of relevance was provided to us. So far as is known, that portion of the Banksmeadow warehouse was never utilised before the lease commenced, never provided any income before C. Williamson began to pay rent, and was never advertised for rental.
- 6.22 A justified conclusion is that portion of the premises were fitted out for and used by Michael Williamson's son Christopher at the instigation of Williamson senior. Christopher has since become an employee of HSUeast and Union management insists he got the job on his merits. As to the studio, we conclude it was built for his use, leased to him for a modest amount and that this was stark favouritism.

6.23 We acknowledge that we have not had the benefit of talking to Williamson senior. However, after so much of this chapter as concerned the Banksmeadow warehouse was sent, in draft, to him and his son, he replied through solicitors on 17 April 2012. The relevant parts of the letter read:

"Our client recalls that the Banksmeadow Warehouse was purchased in or around 2006 for the storage of Union goods, Union pamphlets, t-shirts and other Union material. Our client instructs us that it was the Union's intention on or about the time of purchase, to utilise the upstairs room as the Union's membership service centre (call centre) with the downstairs room sound proofed as the Union's media centre and the construction of a separate service centre facility for emergency situations. There was discussion at this time as to the possibility of obtaining strata title for these 2 rooms and selling or leasing those rooms at a later date, consistent with the Union's position to acquire investment properties, increase its asset base and thus alleviate, in the long term, having to increase membership fees for members."

"The budget for the warehouse as at 7 February 2007 contained itemised works that do not relate to any venture with Christopher Williamson and that the work was 80% completed by March 2007 and was likely to achieve completion by April 2007. This is consistent with our client's position that the fit out did not envisage Christopher Williamson's use ..."

"The Union's intention for the warehouse was initially for storage, with sound proof rooms to be utilised for membership purposes ... Due to the distance between Banksmeadow and the city office, it became apparent that the broadcasting centre should be situated in the city."

"To the best of our client's recollection, towards the end of the construction, Christopher Williamson approached his father as to whether it would be possible to lease the area and utilise it as a rehearsal studio, not a recording studio as has been suggested, if it was not being utilised by the Union."

"Mr. Williamson considered Christopher's request and, as the area was of no immediate need to the Union, and therefore available for leasing, he obtained an independent valuation of the area. An independent valuation was obtained and, shortly thereafter, Christopher signed a lease, and adhered to all the requirements under the lease."

"In the last quarter of 2007, Mr. Williamson found a suitable site for a broadcasting/media centre and discovered vacant space on a number of levels in 109 Pitt St."

"In February 2008 (1st Council meeting of the year) Union Council resolved that Mr. Williamson officially undertake the task of looking for further space at 109 Pitt Street, and in April 2008 Union Council approved of the purchase of a suite on level 8, and that the General Secretary and the

President were to complete the necessary paperwork to give effect to the purchase. A holding deposit of \$5,000 dollars was made in February 2008 as a sign of good faith towards the purchase. Since then Tank Stream Productions, as it is registered by HSYeast, and has operated from that site."

"Mr. Williamson does not accept your view that the annual rental of the lease was hardly worth the bother of a lease and valuation. Christopher Williamson paid commercial rental for the premises in accordance with the valuation and it was in the Unions' interest to receive rental for that area, rather than it being vacant and not earning any income."

"We dispute your assertion that the fit-out was incomplete as at the date of inspection. As you have noted, the works were to commence on 19 March 2007 and ... the baseshell of construction comprised a 'mezzanine floor, storage units, stairs and 2 sound proofed rooms'. The proposal as to the construction required and the construction pre-dated any formal lease arrangement with Christopher Williamson by 5 months, and pre-dated the valuation report of 12 June 2007 by 3 months."

"We also note that, whilst the valuation report refers to a negotiation of a sub-lease arrangement, it is unclear as to whether that sub-lease arrangement referred to the latter lease arrangement with Christopher Williamson. In any event, the valuation confirmed that it was a commercial rental being paid for the leased premises."

"The 'Justified Conclusions' that you have reached are not based on evidence but rather on inference in light of an absence of such evidence. The documents that have been provided are in contrast to those conclusions drawn. The conclusion that a portion of the premises was fitted out for the use of Mr. Williamson's son, Christopher, lacks foundation and is not substantiated."

- 6.24 As to the last paragraph, there were no documents provided with the letter. We have had regard to documents provided by the Union, and obtained from Mah-Chut.

Canme Services

- 6.25 According to Australian Business Register records, from 1 September 2000 Julianne Williamson traded as Canme Services. She is the wife of Michael Williamson. Mylan told us the Williamsons have 5 children - named Christopher, Alexandra, Nicholas, Madeline and Elizabeth. The initials, which we have emphasised, might be whence Canme was derived.

- 6.26 Between 9 December 2005 and 26 June 2009, 25 payments of \$15,385 each were made by HSUeast to Canme Services, a total of \$384,625 including GST. Invoices were received by the Union, approved for payment, and paid. Each of the invoices supplied to us - the last 15 of them - covered a 2 month period. Assuming the others did also, which seems safe, the period covered by the invoices was 50 months.
- 6.27 No contract, or exchange of letters, between the Union on the one hand and Canme Services or Mrs. Williamson on the other was provided to us when we called for documents of this type. Largely what we have to go on are the invoices. One of them is reproduced on the next page.
- 6.28 Assuming that work was actually done, and done by Mrs. Williamson alone, and that she worked a 37.5 hour week throughout the 50 month period - collecting folders, dismantling and collating them for scanning, week after tedious week for 52 weeks of the year - then she was being paid at a rate close to \$43.00 per hour plus GST. The assumptions may be bold, as we do not know whether work was done, if so by whom, or for how many hours a week. But on the stated assumptions, a high hourly rate was paid for what appears to be basic clerical work.
- 6.29 We spoke to Mylan, who approved the invoices for payment. He said he became aware of the arrangement by which Mrs. Williamson provided services after Craig Thompson left to run the Federal Union and Mylan stepped up to take his place. Mylan said Williamson told him that it had been decided to scan old Union records, and his wife was doing the work of opening, sorting and cataloguing the old files. They were held in storage at Eastgardens. This was before the Banksmeadow warehouse was acquired. Mylan said he thought the work was done by Mrs. Williamson at home. He said only she did the work. He had never seen her actually doing the work, but knew she had done it. She was paid a fixed amount each two months, not by the hour.

CANME SERVICES
31 Meagher Ave
Maroubra NSW 2035
ABN: 65756621652
1ST June 2009

Health Services Union
Level 2, 109 Pitt. St,
Sydney 2000

TAX INVOICE

Collection from Storage King and Return -preperation,dismantaling and
collation of Folders and Documents for Scanning for the period April 2009 and
May 2009.

\$15,385 Gst Included.

Cheques should be made Payable to

CANME SERVICES .

Thank You

*Che MO
16/39
26/6/09*



He thought that Williamson would get the files from the storage units for his wife, and after she had done her work would bring them in for scanning. He had seen Williamson doing that, and had certainly seen boxes of files waiting to be scanned. Mylan said the actual scanning was done, not by Mrs. Williamson, but by the librarian. He told us the project was abandoned, the decision to do so being made by Williamson and himself, well before all the files had been scanned. This was because nobody at all wanted to see scanned files: it all turned out to be pointless.

- 6.30 Robertson spoke to the librarian about scanning old files within recent years. She said she did not know what he was talking about, and later in Mylan's presence said the last scanning of files in what she called the old system was on 29 September 1998. She said that when the old files were taken away to off-site storage, she never saw them again.
- 6.31 All this happened on a Thursday. Robertson advised Mylan to take time, and consider his position. By the following Monday, the story had changed somewhat. Mylan then said he had made some "*assumptions and presumptions*", and had not seen files brought in for scanning, but he still believed Mrs. Williamson had done work which entitled her to payment.
- 6.32 Subsequently Robertson sent Mylan some written questions to which he responded on 5 March last. He said that a decision was made by Union Council to create a paperless office; at the time of the move to 370 Pitt Street in 1996 there were hundreds of boxes of old files that had to be archived in some way. He said he recalls being told by Williamson at some stage that the remuneration rate "*was derived from one of the rates in the Public Health Awards*". Mylan says he recalls boxes being in the office for the librarian to scan: "*Upon reflection this was certainly in the 370 Pitt Street office*". He says he recalled "*the matter was definitely as discussed and approved by Union Council that someone be engaged to undertake the work at some stage in the future, Michael Williamson indicated that he would ask he's wife if she would be interested in performing this role, I recall this was known to Union Council and not opposed*". We note there are currently no records available as to these matters.

- 6.33 All this really adds little or nothing to the question as to what services were provided by Canme Services between late 2005 and the middle of 2009. The truth of the matter, we think, is that there was a system set up which saw regular and large sums paid to Williamson's wife, that Mylan became aware of the system later on and went along with it, and has sought to explain his approval of the invoices which he really cannot do. He does not know what work, if any, Mrs. Williamson did in any given 2 month period. Nor do we. She was asked to come in for interview, but did not do so. We cannot say categorically that she did no work, or some work from time to time, or worked hard and regularly over the entire 50 month period. We think the last option is the least probable.
- 6.34 It is extraordinary that the Union Secretary should have countenanced such an arrangement to develop and continue. It appears that those who knew of the Canme Services invoices and payments were few in number, including the Williamsons, Mylan and Gibson. Pollard, the Union President, knew nothing about Canme Services or any work done in scanning documents within the past 5 years. He said that he was aware of a large scanning exercise embarked upon in around 1995, and that Julie Williamson was involved in that and paid for her work. However he was not aware of any work undertaken by her in the years up to 2009.
- 6.35 Arrangements between Union officials and individuals or entities closely associated with them should be absolutely prohibited, at least in the absence of full and continuing disclosure. Otherwise it may well appear that such officials have looked after their nearest and dearest, not the Union. But it is the latter, their employer, to whom they owe a duty of fidelity. Arrangements of the sort outlined above give rise to clear and grave conflicts between personal interest and employment duty.
- 6.36 Temby sent Mrs. Williamson an earlier version of the above portion of the report, in draft form, for her consideration and comment. What are now paragraphs [6.25]-[6.35] were then [6.1]-[6.11], so that [6.26] above was then [6.9],

and it then referred to a 42 month period. On 27 March 2012, he received this letter, signed by Julieanne Williamson:

'Dear Mr. Temby,

I refer to previous correspondence between us and to my last letter to you dated 3/3/12.

Firstly, as you are aware my husband is currently being investigated by The NSW Police relating to a number of allegations emanating from the Print Media, so therefore I feel it would not be appropriate for me to attend a face to face interview with you. But notwithstanding that I wish to provide you with the following in relation to Canme.

My husband Michael raised with me as to whether I would be interested in doing some work for the Union. The work would not require me to attend the Office but rather undertake the tasks required at home. He also advised me that the Union did not have the resources internal to do the work and that the Union Council had approved, if I was interested of me doing the work. He also indicated it was not a pleasant job, but the Union Council wanted the job done.

The job entailed me visiting Storage King Garages in Daceyville, collect the archive boxes, return home and through thru each box, removing staples, paper clips, bulldog clips etc. so that they could be scanned in the Unions Computer system. But not only did I have to remove the above from each box but I also had to sort them into separate groups within the Union. The Union represented members in Universities, Public and Private Health, Ambulance, Juvenile Justice and the Department of Community Services (DOCS), Group Homes etc. Once this was completed, and bear in mind there were well over hundreds and hundreds of boxes to go thru, this task was slow, extremely boring and very time consuming. When every file had been separated I then had to insert a single page in between each piece of paper, catalogue it and then put them back in the box. So a box that may have had 200 pieces of paper as an example at the beginning now had 400 pieces of paper in it. So actually the file was now double its original size.

In fact on a number of occasions the papers in the boxes were so threadbare that I had to sticky tape them together so that document would be suitable for scanning. The job was very dirty due to the oldness of the records, dust was a serious problem and I undertook the task required in a separate room at our house to alleviate the problem. It was not possible to work at the garages as there were no bathroom or lunch facilities available, the only logical place it could be done was at home in a dedicated room. To suggest as you have I only worked 37.5 hours per week is completely wrong, it would be closer to 60 hours per week. The work was during the day, at evening after dinner and at weekends. I used my own car to collect and return the boxes back to the garages in preparation of scanning. This was what I was asked to do and I did just that. I do not know how you came to a figure of \$43.00 ph; I can

assure you on many occasions I felt I should have been charging \$200 ph, as the work was downright disgustingly filthy.

I have taken offence at your conclusion at paragraph 6.9 that the least probable option was that I worked hard and regularly over the entire 42 month period. You have absolutely no basis for forming this opinion and you should withdraw it.

In about the middle of 2009, my husband advised me that a decision had been taken to abandon the sorting of the boxes in preparation for scanning. He did not elaborate with me other than to say that in the period of time I had been doing the work no one had requested to review any of the boxes in the garages, and that he and Mr. Mylan had agreed the work should cease, and that is my involvement in this matter.

Yours faithfully,

Julieanne Williamson

26th March 2012"

6.37 The following is extracted from the letter from Williamson's solicitors dated 17 April 2012:

'We are instructed that in 1996, HSUeast, then known as the Health Research Employee's Association of New South Wales, was in the process of moving its operations from 511 Elizabeth Street, Surry Hills, to 370 Pitt Street, Sydney. At that time, there were hundreds of boxes, filled with files which dated back decades, stored at 511 Elizabeth Street. The content of these files included the following:

- Transcripts, witness statements and exhibits from proceedings before various courts and industrial tribunals;*
- Correspondence between the Union and various government departments, area health services, hospitals (public and private) and universities;*
- Correspondence between the Union and other industrial organisations (employer and employee), the NSW Labor Council (now Unions NSW) and the ACTU;*
- Internal correspondence between the Union, its sub-branches and individual members;*
- Reports from organisers and industrial officers on various dispute matters involving individual members or groups of members; and*
- A vast array of other documents containing information about individual members, groups of members and sub-branches.*

These boxes were moved to 370 Pitt Street and stored on Level 3 and of that building.

After discussions with senior officers, it was decided by the Union Council that these boxes should be placed in storage garages with Storage King and that Level 3 of 370 Pitt Street should be leased out.

Further, the Union Council decided that it would be more economical to have the old records sorted, scanned and retained electronically rather than to have them stored indefinitely. This process required each file in each of the hundreds of stored boxes to be sorted by relevant category or categories and prepared for scanning. This would not only preserve the records, but would make them more easily retrievable.

The Union itself did not have the space or the staffing resources to perform this task internally. Outsourcing of this work was considered but it was not practical, because it would require someone who had (or who had ready access to someone who had) detailed knowledge of the history, internal workings and structure of the Union.

In addition, there were security and privacy issues to consider, given that many of the files contained personal information about past and present members.

Mr. Williamson proposed to Union Council that his wife, Julieanne, would be prepared to do the work in a room at their home, which would be dedicated exclusively for that purpose. The Union Council approved of this arrangement. The work carried out by Mrs. Williamson included the following:

- *Retrieving each box from storage;*
- *Organising each file into its appropriate category;*
- *Dismantling each file by hand;*
- *Placing each document in its correct order;*
- *Removing all pins, staples and clips;*
- *Separating each sheet of paper and placing a blank sheet between each one in preparation for scanning;*
- *Placing each file (now literally doubled in size) back into boxes; and*
- *Returning the boxes to storage.*

Mrs. Williamson performed this work for several years. The work was taxing. The boxes and files were extremely dusty and in poor condition. The work required a great deal of care, given the deterioration of the documents, many being decades old."

"Your assumption that Mrs. Williamson was in receipt of an hourly rate of \$43.00 plus GST is misconceived, that is, because your assumption that Mrs. Williamson worked 37.5 hours per week, being the basis for this calculation, is not accurate. We are instructed that Mrs. Williamson:

• frequently spent well in excess of 37.5 hours and on occasions, up to 60 hours per week performing this work, including at nights and on weekends;

• utilised her own car to collect and return the boxes; and

• utilised a room in her home for the performance of this work.

... Mrs. Williamson did not receive shift, weekend or public holiday penalty rates, overtime payments, annual leave and sick leave, nor did she receive a 9% superannuation contribution."

6.38 The letter also contained the following, which - like the earlier extracts - we include as a matter of fairness:

"Canme Services issued invoices to HSUeast which were disclosed in HSUeast's Financial Accounts. These Accounts (including the payments made to Canme Services) were declared in the Financial Report to the Union's Finance Committee, at its meetings each month throughout this entire period and, further, all the invoices were available at each meeting to inspect by any member of the Finance Committee, if they wished to do so. In addition, these Accounts were audited every six months by external auditors. At no time was any issue raised by the Finance Committee, the auditors or anyone else about the payments."

"From the invoices, the information contained herein, and the information received from Mr. Mylan, it is clear what services were provided by Canme Services between late 2005 and the middle of 2009."

We are instructed that Mrs. Williamson has written to you separately in relation to Canme Services."

We assert that you have no basis for the speculation about what Mrs. Williamson did, and it is clear that:

• *the work was carried out by Mrs. Williamson;*

• *Mrs. Williamson was paid appropriately for the work;*

• *Mrs. Williamson worked hard and regularly over the entire period; and*

• *these arrangements were approved by Union Council."*

6.39 We remain of the view - see [6.34] above - that it is extraordinary Williamson should have allowed such an arrangement to develop and continue. Pollard, the Union President, knew nothing about Canme Services or any work done in scanning documents within the past 5 years. It does not follow, from the fact that

payments to Canine Services were made known to the Finance Committee, that members of that Committee knew Mrs. Williamson was the recipient, or were aware whether work was actually done.

- 6.40 We say more about disclosure, and the general topic of related party transactions, in Chapter 7.

CHAPTER 7 - ACCESS TO INFORMATION

- 7.1 Those who run businesses, using other people's money, must disclose what have come to be known as related party transactions. If a public company is dealing with a supplier run by the uncle or lover of its managing director, or by a company run for the benefit of that person, then he or she might be inclined to favour the supplier over the company that employs him or her. This problem is tackled in two ways. First, as a director is obliged to act in good faith towards the company at all times, he or she must make full and continuing disclosure of any such circumstances. That enables the company to decide whether to move dealings with the supplier to another person, so there will be no conflict between personal interests and duties as a director. Alternatively, the directors of the business might decide to terminate, or more closely monitor, the supply contract.
- 7.2 The second way in which the problem of related party transactions is dealt with is by the requirement that there be disclosure to members of the company in the published annual accounts. That enables shareholders and others with a legitimate interest to ascertain the situation and ask questions about it. Shareholders who are inclined towards active involvement in the company which has their money can only be effective if they are well informed.
- 7.3 As it is with companies, so it is with unions. They take fees from their members. The officers of the union owe it a fiduciary duty - an obligation to exercise the utmost good faith at all times in the pursuit of the union's interests. This extends to disclosure by such officers of related party transactions. That must be done formally, and be recorded, if such disclosures are to be effective. A mere off-hand comment, or unrecorded statement, cannot suffice. The proper way is to make a written disclosure, which is recorded in the minutes of the union in question.
- 7.4 Furthermore, there is a requirement upon at least Federal unions to disclose in their annual financial statements information concerning related party transactions. The obligation arises under the *Fair Work (Registered Organisations) Act 2009*, and the Australian Accounting Standards.

A related party transaction is a transfer of resources, services or obligations between related parties, regardless of whether a price is charged."

7.8 Also by cl. 9:

"Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity."

"Close members of the family of an individual are those family members who may be expected to influence, or be influenced by, that individual in their dealings with the entity. They may include:

- (a) the individual's domestic partner and children;*
- (b) children of the individual's domestic partner; and*
- (c) dependants of the individual or the individual's domestic partner."*

7.9 Clearly M. Williamson is one of the key management personnel of HSUEast, and each of J. Williamson and C. Williamson is a close member of his family.

7.10 What is the extent of the required disclosure? The following clauses of AASB124 are of high relevance:

"17 If there have been transactions between related parties, an entity shall disclose the nature of the related party relationship as well as information about the transactions and outstanding balances necessary for an understanding of the potential effect of the relationship on the financial statements. These disclosure requirements are in addition to the requirements in paragraph 16 to disclose key management personnel compensation. At a minimum, disclosures shall include:

- (a) the amount of the transactions;*
- (b) the amount of outstanding balances and:*
 - (i) their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and*
 - (ii) details of any guarantees given or received;*

7.5 T

provisions for doubtful debts related to the amount of outstanding balances; and

the expense recognised during the period in respect of bad or doubtful debts due from related parties.

Following are examples of transactions that are disclosed if they are with a related party:

- (a) purchases or sales of goods (finished or unfinished);*
- (b) purchases or sales of property and other assets;*
- (c) rendering or receiving of services;*
- (d) leases;*
- (e) transfers of research and development;*
- (f) transfers under licence agreements;*
- (g) transfers under finance arrangements (including loans and equity contributions in cash or in kind);*
- (h) provision of guarantees or collateral; and*
- (i) settlement of liabilities on behalf of the entity or by the entity on behalf of another party.*

21 *Disclosures that related party transactions were made on terms equivalent to those that prevail in arm's length transactions are made only if such terms can be substantiated."*

7.11 These reporting requirements are not mere formalities. They enable concerned members of any Federal union or branch to find out whether their interests are perhaps being prejudiced by dealings between an official and his intimates. That matters because the union must be run for the members, not the officials. Also mandatory disclosure - even if delayed until the time the annual financial statements are published - acts as a fetter upon the conduct of officials. If they know that related party dealings must and will be disclosed, in a clear and comprehensible way, such officials will be much less likely to enter into such dealings.

7.12 Obviously, all of this is practically useless if disclosure is entirely lacking, or deficient, or opaque.

Imaging Partners Online

- 7.13 As noted near the outset - see [1.7] above - Williamson disclosed in 2010 that he was a director of IPO Pty. Ltd. That was done in the Convention Journal, not in the annual accounts. An ASIC search discloses that Michael Williamson of 31 Meagher Avenue, Maroubra was a director of Imaging Partners Online Limited between 7 May 2008 and 9 October 2011.
- 7.14 We asked Mylan whether there were payments by the Union to, or dealings by it with, any of IPO Pty. Ltd, Imaging Partners Online or Imaging Partners Online Limited. He replied in the negative. If there were no related party transactions between the Union and any of these entities, it must follow that there was nothing to disclose to members of the Union.

Canme, Banksmeadow, United Edge

- 7.15 Different considerations apply to United Edge (Chapter 4), portion of the Banksmeadow warehouse, and Canme Services (both dealt with in Chapter 6). In summary:
- M. Williamson is a director of and shareholder in United Edge Pty. Limited, a major supplier of services to HSUeast;
 - he was involved in the lease of portion of 13/15 Meadow Way, Banksmeadow to one of his sons; and
 - he must have known of large payments to Canme Services, his wife's business name, between 9 December 2005 and 26 June 2009.
- 7.16 To what extent were these facts and surrounding circumstances made known to Union members?

7.17 As pointed out at [1.1] above, there is a difference between:

- the State union, HSUEast;
- the Health Services Union, a Federal union; and
- its biggest branch, HSU East Branch.

7.18 We note there is nothing said about any of the matters in [7.15] in the published accounts of the HSU East Branch. Nor do we suggest there had to be, as that Federal Branch did not have the relevant dealings.

7.19 In the accounts of HSUEast (the State union) for the period to 30 September 2010, this appeared in the notes at p. 18 under the heading "Related Party Transactions":

"Transactions with related parties are on normal terms and conditions no more favourable than those available to other parties, unless otherwise stated.

...

Michael Williamson is a director of United Edge who provide computer and IT services to HSU East. During the year ended 30 September 2010 payments to United Edge totalled \$1,225,710 (2009: \$1,133,665).

...There have been no other transactions between the officers and the Union other than those relating to their membership of the Union and the reimbursement by the Union in respect of expenses incurred by them in the performance of their duties. Such transactions have been on conditions no more favourable than those which it is reasonable to expect would have been adopted by parties at arm's length."

Nothing was said as to the other matters in [7.15] above, that is to say Canme Services and the Banksmeadow lease.

7.20 In the 2010 Convention booklet, this appeared in the report of the General Secretary/Treasurer (M. Williamson):

"I am the President of the Federal ALP, a member of ALP Industrial Committee, Executive Member of the ACTU, Vice President of Unions NSW, Vice President of ALP NSW Branch, Trustee on First State Super, Director UE Pty. Ltd., Director IPO Pty. Ltd., Member of the Australia Day Council and Unions NSW Finance Committee."

and in the 2011 Centenary Convention booklet, this appeared in the report of the Acting General Secretary/Treasurer (P. Mylan):

'Michael Williamson is a Director of First State Super, Chairman of SGE Credit Union, Director of United Edge Pty. Ltd. and State Water. Michael is also Senior Vice President of Unions NSW and a Member of the ACTU Executive. He is also National President of the HSU.'

- 7.21 We know of nothing else which has been published for the information of members generally.

Canme Services

- 7.22 Nothing was said in the most recent published accounts of HSUEast, or in preceding years, as to the dealings between the Union and Canme Services. Our inquiries lead us to the conclusion that, outside a privileged few, members were oblivious to Canme Services or the payments to it. This was true even up to the level of the Union President.

Lease to C. Williamson

- 7.23 Nothing was said in the published accounts concerning the dealings between the Union and the General Secretary's son. It is no answer to say that some within the Union knew of the lease, or at least knew of Christopher Williamson's paid occupancy of part of the Banksmeadow premises. All members of the Union should have had the facts and circumstances disclosed to them.

- 7.24 In the HSUEast financial report for the year ended 30 September 2010, this was said:

"Transactions with related parties are on normal terms and conditions no more favourable than those available to other parties, unless stated."

and then nothing about the lease (or Canme Services). C. Williamson was a related party as he is a close family member of an individual who was and is in a key management position in HSUEast. So was J. Williamson.

- 7.25 We doubt the accuracy of the statement just quoted. Our conclusion is that the lease was distinctly favourable to the lessee.

United Edge

- 7.26 In the financial report of HSUEast for the year ended 30 September 2010 submitted to the State authorities this appeared:

"Michael Williamson is a director of United Edge who provide computer and IT services to HSUEast. During the year ended 30 September 2010, payments to United Edge totalled \$1,225,710 (2009: \$1,133,665)."

- 7.27 This statement was deficient. Williamson is not just a director of United Edge Pty. Ltd. As demonstrated in Chapter 4, he is the beneficial owner of one of the three \$1 shares issued - a one third owner of the business. He did not just have responsibilities as a director of United Edge Pty. Ltd, but stood to profit from the extensive dealings between that company and the Union. Nothing was said as to his proprietary interest in United Edge.

- 7.28 We observe that note 1 to HSUEast's financial report for the year to 30 September 2010 commences in this way:

"The financial report is a general purpose financial report ..."

- 7.29 There has been inadequate disclosure of related party transactions by HSUEast. We do not contend that this involved a breach of the law, first because there is doubt as to whether State unions are under a legal duty of disclosure: see [7.5] above. In any event it is not our function to reach any such conclusion. But the members are surely entitled to know the nature and extent of related party transactions between their union and its officials.

- 7.30 We accordingly recommend that the Union resolve, as soon as is practicable, that the annual accounts of HSUeast be prepared in accordance with all relevant Australian Accounting Standards, including but not limited to AASB124. That should apply to all annual accounts henceforth. As we understand it, the accounts to 30 September 2011 have not yet been formally signed off. If that is correct, they should be covered by any such resolution.

CHAPTER 8 - EXCESSIVE BENEFITS?

8.1 This chapter chiefly deals with the known sources of income available to Michael Williamson. However he is not the only person on the Union payroll who is well paid. The table below sets out, with respect to the dozen most highly paid Union officers and employees - ignoring one recorded as being on maternity leave - their pay as at 30 September 2010 and 12 months later, and the percentage increases. All this information is taken from a staff and salaries list provided to us by the Union. The figures show total salary and allowances:

Name	Position	30.09.10	30.09.11	Increase
M. Williamson	General Secretary	\$315,272.82	\$394,675.87	25%
K. Jackson	Executive President	\$173,314.00	\$286,976.00	66%
P. Mylan	Deputy General Secretary	\$197,879.10	\$222,881.36	13%
M. Bolano	Deputy General Secretary	\$118,737.00	\$201,463.00	70%
G. Hayes	Divisional Secretary	\$164,026.64	\$194,980.88	19%
C. Glen	Divisional Secretary /	\$104,999.00	\$184,951.00	76%
K. Seymour	Assistant Divisional Secretary	\$118,246.58	\$161,959.45	37%
C. McMillan	Procurement Manager	\$124,985.60	\$155,525.42	24%
B. Gibson	Chief Financial Controller	\$120,209.00	\$155,100.00	29%
D. Williamson	Manager, Recruitment and Marketing	\$111,205.00	\$141,140.00	27%
M. Irvine	Lead Organiser	\$119,325.00	\$141,140.00	18%
J. Astill	Administration Manager	\$98,150.00	\$131,835.00	34%

8.2 Our understanding is that Mylan is now being paid on an acting basis in M. Williamson's stead, and certainly he has had a very heavy burden upon him over the last few months. Part of the reason why Jackson, Bolano and Glen have had such large increases is because the salaries and allowances paid in Victoria were,

prior to the amalgamation, markedly less than those paid to New South Wales officers.

- 8.3 C. Glen resigned with effect from 1 December 2011. She was replaced by S. Miller, who is now paid \$174,650 per annum, and was previously employed as an organiser on \$82,963 per annum.
- 8.4 In the case of M. Williamson, we have been made aware of the process by which his salaries and allowances were fixed. The first step was that a consultant was engaged. She was Beth Jensen, and the minutes show that she is the partner of the Union's Victorian barrister, D. Langmead. She recommended increases within a range, and then the Union President in discussions with the General Secretary set his salary at the top of the recommended range.
- 8.5 In addition to the \$394,675.87 paid to him by the Union by way of salary and allowances, Williamson presumably receives income from United Edge, and perhaps also from Imaging Partners Online. The amounts are not known to us, because private companies do not need to publish accounts or their dividend outcomes.
- 8.6 Other income he received until he resigned recently came from board positions he held with each of First State Super, Sydney Water and the SGE Credit Union.
- 8.7 Was this additional income due and payable by Williamson to the Union? As a matter of law and general practice, the answer must be in the negative. We take an example from industry. An individual who runs a large manufacturer, X Limited, is also a director of Y Bank Limited. Income received from the latter goes into the pocket of the individual, and is not due and payable to X Limited.
- 8.8 Should a different approach perhaps be taken with respect to Union bosses? There can be little doubt that Williamson held these extra positions by reason of his long period of service, and his position, with the Union. Further, he is very well paid and should have devoted his entire working time and attention to the Union and its affairs. Accordingly, and this applies equally to other officers and

employees, he could and should be precluded by contract or the Union rules or both from taking any outside position except by permission of Union Council. And the rules could require that any income received through holding any outside position be paid to the Union:

8.9 We recommend that the Union consider such a change to Union rules, and such a change in future employment contracts, so that members do not see people such as Williamson profiting personally from outside activities. Having said this, we recognise two things. First, such changes would have to apply to future arrangements. Williamson was and is entitled to keep income from outside positions for himself. Secondly, such changes would place those who run unions in a less privileged position than are private sector bosses. Whether this should be the situation is a policy question for Union Council to deliberate upon and decide.

8.10 The Union, as with all employers, provides superannuation for its employees. A small number of executives and employees (approximately 14) are members of two older type "*defined benefits*" schemes, where the members are entitled to a specific amount upon retirement. These schemes, which are not open to new members, were underfunded as at 30 September 2011 by \$3,085,899 and such shortfall is disclosed as a liability of HSUeast. The extent of the underfunding increased during that year by \$1,727,838 and this amount was treated as a cost of the Union for that year. We have not investigated the Union's options in respect of these defined benefits funds, but strongly recommend an immediate review to determine possible remedial actions. We have included this observation, due to its relevance in respect of executive benefits as the cost of these defined benefits funds to the Union has exceeded \$1.5 million in each of the last two years and only relates to a relatively small number of employees.

CHAPTER 9 - PROCUREMENT PRACTICES

- 9.1 There can be found in each of Chapters 2 (CommuniGraphix), 3 (Access Focus), 4 (United Edge), 5 (Mah-Chut Architects) and 6, concerning the Banksmeadow warehouse and Canme Services, examples of poor and/or suspicious procurement practices. Other examples could be given. We deal now with the use of Union credit cards, and expense reimbursements.

Credit Cards

- 9.2 There are no guidelines on the use of the Union's credit cards, or expense reimbursements, to explain the type of expenditure that can and cannot be incurred, nor differing levels of authority for approval of different categories of expenditure. Union credit cards currently on issue to officers and employees of the Union incur total expenditure averaging in excess of \$600,000 per annum (over the last 4 years).

- 9.3 Union credit cards were also used to procure discount shopping/giftcards for sale to members as part of the Union's reward (discount) program. These involved costs in excess of \$1,100,000 on average each year being processed via Union credit cards, reinforcing the need for the formulation of control procedures. We have been advised that this service to members has now ceased (it is now outsourced) and hence we did not conduct any further investigation on the controls over this program. Our cursory examination indicated the controls over gift cards were inadequate.

- 9.4 Credit card expenditure incurred by HSUEast in the last 4 years was:

	Discount Card Purchases	Other Expenditures	Total
Y/E 30.9.2011	\$1,183,457	\$538,705	\$1,722,162
Y/E 30.9.2010	\$1,428,312	\$633,448	\$2,061,760
Y/E 30.9.2009	\$1,190,257	\$734,312	\$1,924,569
Y/E 30.9.2008	<u>\$ 756,989</u>	<u>\$629,365</u>	<u>\$1,386,354</u>
Total	<u>\$4,559,015</u>	<u>\$2,535,830</u>	<u>\$7,094,845</u>
Annual Average	<u>\$1,139,754</u>	<u>\$ 633,957</u>	<u>\$ 1,773,711</u>

9.5 Expenditure incurred on credit cards is instant and can result in expenditure being incurred without the normal pre approval/authorisation process that forms part of an organisation's system of internal control (i.e. there are less controls in place at the time the credit card expense is incurred as opposed to controls normally in place for payments by cheque). Accordingly there is a need for a complete and detailed policy in respect of the use of credit cards.

9.6 Almost invariably there is nothing to justify the HSUeast credit card expense in question (i.e. not shown why the taxi trip taken, entertainment incurred, why flowers were purchased and so we could go on). We set out, hereunder, a handful of examples from the year ended 30 September 2011, but what is about to be stated could be endlessly repeated:

- Employee purchased \$50 Krispy Kreme doughnuts – on each of 4 consecutive days.
- Senior officer incurred expenditure at IGA on 4 occasions in 1 month and removed the half of the IGA docket which disclosed the products acquired (\$100; \$40; \$27; \$68).
- More senior officer incurred a total of \$2,799 in restaurant entertainment on 5 occasions over a 6 day period.
- Another senior officer incurred a total of \$1,370 on restaurant entertainment on 2 occasions (\$370 + \$1,000) within days.
- Employee incurred \$840 travel with Qantas.
- Employee incurred \$170 per week on flowers from “Eden Floral Design”.
- Same employee regularly incurred CBD parking (7.5 hours costing \$80.58).

9.7 In none of these cases has any reason or justification been noted for the expenditure being incurred at HSUeast's expense. The vast majority of credit card expenditure sighted by us, similarly, provides no reason for the expense. Whilst some employees and officers, if questioned, may be able to provide “*after the event*” reasons, this is not a component of proper control procedures.

Expense Reimbursements

- 9.8 Whilst most employees/officers incurred expenditure via credit cards, Michael Williamson appears to have not used a Union credit card. He was reimbursed by HSUeast for expenditure he claimed to have incurred on behalf of the Union. In a 9 month period before he stood himself aside, the amounts reimbursed totalled \$56,267.75, averaging \$6,251.97 per month. We analysed 16 reimbursement cheques paid to Williamson which disclosed monthly expenditure on average as to these categories:

Accommodation	\$1,272.86
Taxis	\$588.55
Petrol	\$503.62
Parking and Tolls	\$240.88
Meals and Entertainment	\$2,879.89
Others	\$165.86

- 9.9 We have sighted expenditure by Williamson in August 2008 for accommodation in London (at the Sheraton Park Tower Hotel) and the room rate paid was \$A1,191.78 per night; the hotel account for 4 nights totalled \$A6,039.75.
- 9.10 We have sighted expenditure by Williamson in August 2008 for accommodation in Dublin (at the Morrison Hotel) totalling \$A5,771.62. This amount appears on Williamson's personal credit card statement, but as the hotel account was not included as a voucher we were unable to determine either the number of night's accommodation or the room rate. The sum in question was reimbursed to Williamson by the Union.
- 9.11 The vouchers supporting Williamson's expense claims (like credit card expenditure) do not identify the reasons for the expense nor why the expense is a cost of the Union. The Union should extend any new credit card policies and controls to also encompass expenditure reimbursement claims by officers and employees.

A Satisfactory System

9.12 The characteristics of a satisfactory procurement system for an organisation such as the Union, which is not a private concern but a member-based organisation responsible for other people's money, are to:

- obtain at least two prices before ordering any goods or services;
- establish a formal process and documentation for the calling of tenders or expressions of interest.
- ensure that formal tenders or expressions of interest are called for the supply of goods or services or both where the likely annual expenditure exceeds \$200,000 (or such other amount as the Union determines to be appropriate);
- in such cases, do this regularly and in any case at least each 3 years;
- place orders in writing, and retain copies of order forms;
- keep a written record of goods actually received, and services actually provided, and any shortcomings;
- check invoices against orders, and the records last mentioned, as part of the payment approval process;
- formalise authorisation/payment processes, and incorporate requirements as to appropriate levels of seniority and segregation of duties/responsibility;
- compare actual levels and timing of expenditure throughout the year with those of the organisation's approved budget and cash forecasts; and

- require discretionary and semi-discretionary expenditure to have the reason for expenditure noted contemporaneously, in a manner adequate for the approval process to determine appropriateness.

We recommend accordingly.

- 9.13 This last point relates to matters such as entertainment, travel, taxis, accommodation, flowers, sundry purchases and the like. There is no such requirement at present and substantial amounts of the Union's money are currently spent on such matters. The documentation in respect of this type of expenditure does not give any reason how the expenditure incurred related to the Union's operations. Much of this expenditure is incurred via credit cards.
- 9.14 Such a system - and we stress these are minimal requirements - has two prime purposes. One is to ensure that value for money is received. That cannot be done unless prices proposed by suppliers are checked against the market. Secondly, the possibility of abuses of position by either suppliers or members of procurement staff or both, including merely cosy or frankly illegal practices, are minimised.
- 9.15 Existing Union practices satisfy none of the requirements in [9.12] above, save that a rudimentary matrix is kept as to items of uniforms ordered and received.
- 9.16 The Union's lack of controls around procurement practices is most unsatisfactory. In Robertson's 40 years of auditing practice, he has seen few systems with such lack of formalised controls. The external auditors in their draft management letter dated 7 February 2012 also refer to a number of areas where they are of the opinion that controls need to be implemented or improved.
- 9.17 Our role does not extend to developing a detailed system concerning governance, processes and controls. We are willing, however, to provide further comments to management that may assist in determining and implementing necessary changes.

Whose Fault?

- 9.18 We have not sought to allocate responsibility for the present unsatisfactory situation. It has prevailed for many years. What matters is to fix it. Internal controls are the responsibility of both Union Council and senior management.

The Audit Process

- 9.19 Auditors do not just sign off on the financial report as representing a true and fair view as to a company's position as at balance date. They also draw to the attention of management and the governing board any procedures they have observed which give rise to risk of losses to the company. This is generally done by way of a management letter.
- 9.20 BDO has been the Union's auditor for a number of years past. We have been advised no management letters have been sent over those years. Whether or not the audit partner drew matters to the attention of management, otherwise than in writing, we cannot say. This year two things changed. First, the former BDO partner responsible for the audit in previous years changed and a new audit partner was appointed. Secondly, there was substantial overlap between the time when the audit was conducted and when our inquiry was under way. During that time Robertson spoke to BDO and pointed out the lack of management letters in previous years.
- 9.21 On 7 February 2012, BDO wrote the letter which appears on the next page. After request and delay it was provided to us by Union management. The appendix to that letter is Appendix 2 to this report. The BDO letter highlights a number of areas where internal controls are either weak or non-existent.
- 9.22 We recommend that the Union call tenders for auditing services, consistently with [9.12] above, as soon as is practicable.



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Committee of Management / Councillors
Health Services Union East and
Health Services Union East Branch
Level 2, 109 Pitt Street
Sydney NSW 2000

7 February 2012

Dear Committee of Management / Councillors

MATTERS ARISING FROM OUR AUDIT OF:

- HSU EAST FOR THE YEAR ENDED 30 SEPTEMBER 2011
- HEALTH SERVICES UNION EAST BRANCH FOR THE YEAR ENDED 30 JUNE 2011

During the course of our audit of HSU East ('the Union') for the year ended 30 September 2011 and Health Services Union East Branch ('the Branch'), we identified matters that may be of interest to management and those charged with governance.

Appendix 1 to this letter sets out our findings which we would like to bring to your attention. We have discussed this letter in draft form with the Acting General Secretary (Mr Peter Mylan) and Chief Financial Controller (Mr Barry Gibson). We understand they will consider the matters raised by us along with the report to be received from Independent Panel of Experts, and formulate an appropriate action plan in response.

We remind you that the objective of an audit is to obtain reasonable assurance whether the financial report is free of any material misstatement and it is not designed to identify matters that may be of interest to management in discharging its responsibilities. Accordingly, our audit would not usually identify all such matters.

This letter is prepared solely for the information of management and is not intended for any other purposes. We accept no responsibility to a third party who uses this communication.

We shall be pleased to discuss with you further any matters mentioned in this report at your convenience.

Yours faithfully
BDO Audit (NSW-VIC) Pty Ltd

Jeff Abela
Director

Cc. Peter Mylan, Barry Gibson,

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Commonwealth.

CHAPTER 10 - GOVERNANCE ISSUES

- 10.1 This chapter deals with issues of governance, and recommends certain changes. Most will require, for effective implementation, change to the rules of the Union. If that is to happen, there will have to be acceptance by those who run the Union of the need for change, and probably also pressure from the general membership.

Union Council

- 10.2 By the rules of HSUeast following amalgamation, and in particular rule 15, the affairs of the Union are vested in the Union Council which comprises 76 members as follows:

- "(a) General Secretary (1) (elected by and from the members of the Branch)*
- (b) Executive President (1) (elected by and from the members of the Branch)*
- (c) Deputy General Secretaries (2) (elected by and from the members of the Branch)*
- (d) Divisional Secretaries (2) (elected by and from the members of the Branch)*
- (e) Assistant Divisional Secretaries (2) (elected by and from the members of the Branch)*
- (f) twenty-one Councillors from Hospitals or Health Services one of whom shall come from Health Managers Sub-Branches and with at least two but not more than three Councillors being drawn from each of the eight Area Health Services (refer note 1) (elected by the membership of the Branch from members of the Branch in New South Wales)*
- (g) Twenty General Representatives from New South Wales (elected by the membership of the Branch from members in New South Wales)*
- (h) Twenty-three Councillors from Victoria (elected by the membership of the Branch from members of the Branch in Victoria)*
- (i) One Councillor from a private hospital (elected by and from the members of the Branch)*

- (j) *One Councillor from an aged care facility (elected by and from the members of the Branch)*
- (k) *One Councillor from an Ambulance Service (elected by and from the members of the Branch)*
- (l) *one Councillor from the Australian Capital Territory (elected by the members of the Branch from members in the ACT)."*

and a further 4 following election of the President and 3 Vice-Presidents who are elected by and from the Council. By rule 15 (4):

"Where a member of the Union Council becomes the President or a Vice-President, he/she shall cease to be and act as a member of the Union Council and the office previously held shall be a casual vacancy and filled in accordance with rule 18."

10.3 We note that by rule 15 (3):

"All of the members of the Council shall have a vote on the Council except for the Divisional Secretaries, the Assistant Division Secretaries and any other employees of the Branch who hold office."

Union Elections

10.4 By rule 17, members of Union Council are elected every 4 years, and hold office for that period. However there has not been a contested election since 1999. On each occasion since a slate of candidates, called the "*Williamson ticket*", sufficient to fill all vacancies but no more, nominated. Each candidate was elected.

10.5 All candidates on such a ticket are beholden to the leader of it: the General Secretary. With his support, they become members of Union Council. That carries with it responsibilities, but also prestige and monetary benefits. Nearly all of those on the *Williamson ticket* support whatever he wants at Union Council level, and can be relied upon to vote as a block. These people clearly belong to, or travel along with, a faction which has run the Union for the past decade or more. And the leader of that faction is *Williamson*.

- 10.6 What has just been said was true up until amalgamation. It is untrue, or less true, now. On some issues nearly all the NSW members of Union Council take one position, and nearly all the Victorian members take another. But that has to do with conflict, and little to do with a functioning democracy

Size of Union Council

- 10.7 There is meant to be an Annual Delegates Convention, to be held each June. In 2011, a Centenary Convention was held in November, as the original predecessor organisation of HSUEast was registered on 12 October 2011. This year, we are told, no Convention is to be held. How this can be is a mystery to us, as by rule 36 (a):

"An Annual Delegates Convention of the Union shall be held within the month of June (the first being in June 2007) at such time and place as the Union Council may determine ...".

but that power of determination does not extend to not holding a Convention one year, or to holding it outside June.

- 10.8 In any event, there is meant to be and generally is a Convention each year. Each Sub-Branch sends a voting delegate, and depending on size may send up to 4 non-voting delegates. The Convention contributes to the democratic functioning of the Union, although we note that by r. 36 (i) it has no power *"to exercise any of the functions of management"*.
- 10.9 Given the required frequency of meetings of the Convention, which we are told are well attended and often lively affairs, it is quite unnecessary that there should be a Union Council as large as it is. Most large public companies in Australia have boards of directors comprising 10 or 12 members only. Because of the size of the Council and the way in which it has since 1999 been elected - see [10.4] above - it functions like a members' congress, or a powerless parliament, not a board of directors. Such a board is required to make decisions for the good of members generally, which decisions are then implemented by management. An additional benefit of radically reducing the size of Union Council, apart from giving it some

real power, is that there would be a greater likelihood of real elections for membership. This is in contrast to the present situation where those on a ticket are elected unopposed.

General Secretary/Treasurer

- 10.10 In some organisations - indeed in some countries - nearly all effective power is exercised by an individual, perhaps called the President. In a golf club that may not matter much, but in a union it matters greatly. One reason is that such a person tends to have allies, and to see all others as enemies. The latter are frozen out. Also ideas are better generated where power is dispersed, not centralised. And it is hard to make individuals properly accountable if they are all under the command of one person, as has been the case in HSUeast. By r. 24, the General Secretary is the chief executive officer, the keeper of the minutes, the keeper of the register of members, the holder of Union property, and *"shall run the affairs of the Union between Union Council meetings"*. By r. 25, each of the Executive President, the Deputy General Secretaries, the Divisional Secretaries and the Assistant Divisional Secretaries are *"subject to the direction of the General Secretary"*.
- 10.11 Rule 15A sets up an Executive Committee. It comprises the General Secretary, and each of those persons just mentioned. They have all been under his command. It must be expected that the Executive Committee will did his bidding. And that Committee has power by r. 15A (b), subject to the rules and Union Council, to *"conduct and manage the affairs of the Union and between meetings of the Union Council may exercise all the powers of Union Council"* save power to change the rules, or the pay or conditions of employment of full-time paid officers of HSUeast.
- 10.12 We can find nothing in the rules which requires that the General Secretary also be the Treasurer of the Union. However that is how it is in practice. In the 2011 Centenary Convention Journal, he was described as such, and at pp. 12-25 Mylan reported as *"Acting General Secretary/Treasurer"*.

- 10.13 It is highly desirable that the functions of General Secretary and Treasurer should be held by separate individuals, with the latter not being subject to the direction of the former. The Treasurer should have responsibility for property and finances, for bringing forward an annual budget and cash forecast, for supervising preparation of periodic and annual financial statements, and for dealing with the Union's auditors.

Employees as Council Members

- 10.14 At present, by rule 15 (3), each member of Union Council has a vote *"except for the Divisional Secretaries, the Assistant Divisional Secretaries and any other employees of the Branch who hold office"*. So the strange situation is that there are members of Council who are elected, accordingly have their employment situation with the Union entrenched and protected, are members of Union Council but cannot vote. There is no point in having them on Union Council as non-voting members. And it would be better for the Union if they were ordinary employees, capable of being dismissed in the ordinary way for misconduct or incompetence.

- 10.15 We recommend that the Union Council comprise:

- (a) not more than 12 directors, the number to be decided by the Union,
- (b) of whom one only, the General Secretary, be a paid employee of the Union, and
- (c) that the Council elect from its number 3 other officeholders, namely, the President who will preside at all Union Council meetings and Conventions, a Vice President who shall so preside if the President is absent, and a Treasurer who will have the functions stated in [10.13] and convene and preside over meetings of the Audit and Compliance Committee.

- 10.16 It is a nice question whether the board should be elected by the membership of the Union as a whole, or by discrete groups within the Union. We favour the

former as being more generally democratic. We recommend that rule 17 (d), which allows for a team nomination or ticket, be dispensed with in its entirety.

The Election Process

10.17 Because there have been no real elections since 1999, the great majority of members of Union Council have been appointed to casual vacancies. By r. 18, such vacancies are filled by Union Council.

10.18 The process that should be followed, but is not at present, is that casual vacancies be advertised widely within the Union, members encouraged to put their names forward with biographical and other information, and then a Union Council vote held. At a minimum, casual vacancies should be advertised in any two out of three of the Union Journal, the newsletter which is distributed with frequency, and the weekly television program. Even more obviously, the elections - held every 4 years - should be advertised both early and widely within the Union. A culture of engaged participation by members can only lead to a better Union.

Audit and Compliance Committee

10.19 Williamson has for years past decided the membership of Union committees. Ted Hinge, who has been a member of Union Council since early 2008 when he filled a casual vacancy, wanted to become a member of the new Audit and Compliance Committee after the amalgamation. He approached Williamson to that end, was unable to attend the next meeting of Union Council, and when he got the minutes found he had missed out. He sent Williamson an email on 9 September 2010 part of which read:

"Can you please enlighten me as to what process was followed with regard to the nomination and appointment of Council members to the Audit and Compliance Committee."

to which Williamson replied the same day:

"Hi Ted, will give you a call. I remember our conversation re your interest all OK. Will explain. Michael."

- 10.20 Williamson rang and told Hinge that some people had been on the committee for years, and *"we owe them, but you will be the next cab off the rank"*, or words to that effect.
- 10.21 Hinge told us that the committee comprises individuals chosen by Williamson, who individually and collectively lack either the ability or the inclination, perhaps both, to ask questions concerning accounts and finance. This tends to be borne out by our perusal of minutes of the Audit and Compliance Committee, and the Finance and Audit Committee which preceded it. The meetings were invariably short - typically they lasted for 15 or 20 minutes only - and the minutes follow much the same form, meeting after meeting. So far as appears from the minutes, the committee did not closely scrutinise figures or other information presented to it. And a person such as Hinge could have made a real contribution to the functioning of the committee. He is an accountant, presently working as property manager for the South Eastern Sydney and Illawarra Area Health Service, and has much experience with budgets and financial statements. Had positions on the committee been chosen on merit it is hard to see how he could have not been chosen.
- 10.22 We recommend that the rules be changed so as to require that the Audit and Compliance Committee comprise 5 members, one of whom is the Treasurer, the others being chosen by Union Council, not the General Secretary or the President. Its functions should include preparation of the budget and cash forecasts, close examination of regular - monthly or quarterly - financial statements, and protection of the property of the Union generally, including money and all other assets.

Internal Control

- 10.23 Internal Control can be described as:

"a process, effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- effectiveness and efficiency of operations;
- reliability in reporting;
- compliance with applicable laws and regulations.

Internal control can be considered an integral part of an organisation's governance and risk management system - effected, understood and actively followed by the governing body, management and other personnel - to exploit the opportunities and to manage the risks in achieving the organisation's objectives ... all organisations, no matter their size or structure, private or public, should have an appropriate internal control system in place."

- see the December 2011 report of the Committee of Sponsoring Organisations ("COSO") of the Treadway Commission.

10.24 The five components of internal control (relating to each of the three main categories referred to in 10.23) can be described as:

- Control Environment
- Risk Assessment
- Control Activities
- Information and Communication
- Monitoring Activities.

10.25 We have been advised that the Union's system of internal control has not been documented. This does not mean that a system (or part thereof) does not exist. Many procedures and customs adopted by an organisation and its staff and management may have evolved over many years as a partial development of a control system. The lack of a formal documented system of internal control, however, has inherent limitations:

- (a) non-documentation makes it impossible to determine the extent and sophistication (or otherwise) of any controls that may exist;
- (b) the system cannot be tested or monitored;
- (c) changes in employees and Councillors will, most likely, result in any procedures and controls being partially or completely lost;

of the system of internal control cannot occur.

One basic (non-documented) procedure in operation, it is our view the Union does not have in place policies and procedures that can be properly described as a system of internal control. The Union should embark immediately on the formation and implementation of such a system. To the extent that established rules and procedures exist, they should be documented as a matter of urgency in a most basic and summarised manner (i.e. in bullet point form unless more detail is required) to enable existing procedures to be maintained, but without incurring substantial costs on recording these procedures that are likely to be changed substantially.

10.27 When formulating the system of internal control, the following areas should be included:

- procurement processes (tenders, orders, authorisation, payments)
- property management
- credit cards
- expense reimbursement
- recruitment, employment and remuneration/payroll processes
- accounting function (including recording processes, reconciliations and review of general ledger and expense allocation)
- cash controls (bank reconciliations, profit budgets, cash forecasts)
- capital expenditure budget
- management reporting framework
- records retention and business continuity/disaster recovery plan
- segregation of duties/responsibilities in all aspects of operations to underpin effectiveness of internal control system
- membership (recruitment, billings, services, registers)
- asset protection (registers, inventory controls, insurance).

This task is formidable and it may be appropriate for the Union to formulate a plan and prioritise components of that plan.

- 10.28 We recommend that the Union undertake a comprehensive review of its internal controls, with a view to enhancement as necessary, consistently with this report.

In Conclusion

- 10.29 This much of this final chapter had been written when the administrator was appointed: see [1.20] above. By final order made by the Federal Court on 21 June, all elected positions have been declared vacant. The Union will be under administration for 120 days from that date, possibly less, quite likely more, given the tasks that have to be performed before fresh Union Council elections can be held. The administrator can do many necessary things - for example, fix all aspects of the procurement and employment processes of the Union, rationalise staff, call tenders with suppliers, and consider whether proceedings for unjust enrichment should be brought - but he cannot achieve a democratically functioning union. That must await resumption of control by Union Council. Then it will depend upon acceptance by all concerned that the Union has not been governed for and by the members, as it ought to be, over a past extended period. And that this must change.

APPENDIX 1

IAN TEMBY QC

Born in Perth in 1942, Temby obtained a law degree with honours from the University of Western Australia, was admitted as a solicitor in 1966, and became a member of Northmore Hale Davy & Leake. He went to the independent Bar in 1978 and was appointed as a QC in 1980. Temby is a former President of the Law Society of WA, and of the Law Council of Australia, which is the peak national body for lawyers.

Temby became the first Director of Public Prosecutions for the Commonwealth in 1984, and the first Commissioner of the Independent Commission Against Corruption in Sydney in 1989. Since 1994 he has been in private practice as a barrister in Sydney. He is a long-serving member of a Bar professional conduct committee, has been on the Council of the Bar Association for several years and is currently serving as Treasurer. He was appointed as an Officer of the Order of Australia for his services to the law.

DENNIS ROBERTSON FCA

Robertson is fellow of the Institute of Chartered Accountants in Australia. Born in 1949, he joined the firm which is now Weston Woodley & Robertson in 1968, and became a partner in 1973. He is registered as a tax agent, and was registered as a company auditor for 38 years until 2010.

Robertson has worked continuously as an accountant for 45 years. He has experience in a range of industries including hospitals (public and private), construction and property development, multi-national companies, trade unions, government bodies, law firms and financial institutions. His work has chiefly been in the audit and business services areas, Robertson has conducted investigations both local and overseas for business and company acquisitions, and has acted as an expert in litigation, including for the liquidator of Spedley Securities Limited in actions against former auditors and other parties, and for the Bar Association in disciplinary matters.

Robertson was a member of the Institute of Chartered Accountants National Audit Advisory Committee for a number of years. He was granted the Institute's Meritorious Service Award in 2003.

APPENDIX 2

APPENDIX TO LETTER FROM BDO TO COMMITTEE OF MANAGEMENT/COUNCILLORS, HSUeast, 7 FEBRUARY 2012

3. SEGREGATION OF DUTIES - ADMINISTRATION ACCESS TO THE GENERAL LEDGER

Observation

The finance team currently have administrator access to the general ledger system, MYOB.

Implication

Administrator access in MYOB allows a person to go back, delete and modify transactions without an audit trail to track and report such changes.

Recommendation

We recommend someone independent of the accounting department be assigned administrator access to MYOB. This could be the IT personnel. The systems settings should be established to ensure the audit trail reporting is always on, and change requests are made only on proper approval of the request.

The finance team should only have user access. With a user access, incorrect postings have to be corrected through journal entries, which provide an audit trail.

4. REGISTER OF RELATED PARTIES

Observation

We noted that several related party relationships exist, some of which are disclosed in the statutory finance report of the Union and Branch and others that are not required to be disclosed but are relevant to Council decision making.

Implication

Related parties are a source of conflict of interest that may result in inappropriate dealings by the Union with related parties.

Recommendation

We recommend that a "*register of related parties*" be maintained.

Such a register would identify related parties, the Union's business dealings with the related party and details of authorisation/approval of the arrangements. We believe related parties should be broadly defined to include any person or entity for whom there could be a perceived "*conflict of interest*". This definition would be beyond the definition described in Australian Accounting Standards for statutory reporting purposes.

Good governance practices would require that where there is a potential conflict of interest that the Officer or staff member involved abstain from the decision making.

If a business dealing is independently approved, we recommend it be recorded in a *"related parties register"* for transparency and reference be newly appointed Officers.

5. LONG SERVICE LEAVE RECORDS

Observation

We noted that the leave liability report has some software limitations and does not accurately record long service leave entitlements (LSL). In all instances, it appears that once an employee as a full entitlement to LSL after 10 years, the subsequent incremental accrual is not accurate.

However, we also note that when LSL is paid out or taken, a manual determination is made from underlying personnel records maintained.

Implication

The LSL provision reported in financial reports may not be accurate and the leave liability report is not necessary reliable for all individual employees.

Recommendation

We recommend that further consideration be given to using more accurate software for automated leave liability records.

6. RECONCILIATION OF MEMBERSHIP SYSTEM TO ACCOUNTING SYSTEM

Observation

We noted that the separately maintained membership system is not compared with the accounting records.

Implications

Without comparing the data from one system to the other, there is no way of ensuring that they are recording the same transactions or that income is complete.

Recommendation

Reports should be made available from the membership system on a monthly basis which are then tracked back and compared with the MYOB general ledger income balance.

7. EXCESSIVE ANNUAL LEAVE BALANCES

We noted excessive balances of annual leave and long service leave accrued per your *"leave liability report"* for many employees at year end. We note below those with entitlement balances as at 30 September 2011 or 500 hours or more for annual leave and 1,500 hours or more for long service leave:

Staff Name	Annual Leave Hours More Than 500 Hours	Long Service Leave Hours More than 1,500 Hours
A. Anset	681	
B. Morgan	722	
M. Bolano	807	
R.K. Feithem	875	1,923
B. Gibson	772	
G.J. Hayes	1,066	
J. Jackson	976	
K. Jackson	453	
C.R. McMillan	864	
P.J. Mylan	837	1,923
M.A. Williamson	539	2,216

Implication

Accumulation of excessive leave can lead to issues including staff fatigue and performance, if leave is not taken regularly. Internal controls can be enhanced by staff taking annual leave of at least 2 weeks as other staff are able to be trained in taking on other responsibilities. The taking of leave also reduces the incremental cost associated with annual leave being paid after successive pay rises and improves cashflow.

Recommendation

We recommend that a policy be formulated in respect of accumulation of leave entitlements.

8. CASH FLOW FORECASTS

Observation

In our opinion the Union has cashflow pressures which need to be carefully managed. The Union's bank facilities are currently being negotiated. We noted that cash flow forecasts are not prepared for future years.

Implications

The union has a significant loans balance payable with regular repayments required.

Without preparing a cashflow forecasts it will be difficult to determine the cash requirements. This may result in an increase cost of finance and incorrect decision in respect of discretionary spend, for instance to purchase or sell properties.

Recommendation

Cash-Flow forecast and comparisons to actual cash flows should be provided to the Committee of Management on a regular basis.

9. ACCOUNTING RESOURCES

Observation

We noted that the Chief Financial Controller has a significant workload which includes all accounting and associated financial reporting and transactions, as well as managing the Union's properties (which is not outsourced):

We do note that some changes are occurring in the Finance Department with expected staff movements.

Implications

The resources in the accounting management and property areas may be insufficient.

Recommendation

We recommend that the resourcing of finance department and property management functions be assessed in detail.

10. CREDIT CARD APPROVALS

Observation

We have observed that there are internal control procedures requiring credit card transactions to be supported by appropriate invoices/receipts and that during the year we noted that these were approved.

We note that credit card approvals for the Secretary are performed by the Deputy Secretary.

Implications

Because the Deputy Secretary is junior to the Secretary, this internal control may not be effective.

Recommendation

We recommend considering having the Secretary expenses approved by the President as we consider this to be more appropriate.

11. CREDIT CARD POLICY

Observation

There is on credit card policy covering the purpose and use of individual credit cards, for employees to sign upon receipt of a Union Credit Card.

Implications

Employees may use the credit card in a way that may be considered to be inappropriate by management. Without written policies and agreed terms and conditions as to its use with the staff member, it may be difficult to take action against the staff member for inappropriate use of the card. Also management approving the payments do not have a clear direction on the approval of the amounts charged or if they should be referred to a higher authority.

Recommendation

Card holders should be made aware of their rights and responsibilities when receiving a credit card. We recommend that the Union introduce a clear written policy for all members of staff that have credit cards. Staff member should only have a credit card if they have signed and agreed to all terms and conditions of its use.

12. PROPERTY, PLANT AND EQUIPMENT

Fixed Asset Register

Observation

The Union maintains its register on excel spreadsheets.

Implications

Excel is not a robust system to maintain the size and nature of the assets of the Union currently owns. It's very cumbersome to work on excel spreadsheets especially due to the substantial amount of assets.

Recommendation

We recommend you invest in a suitable system to replace the excel fixed assets register.

13. PROCUREMENT

Observation

We are not aware of the Union having any documented policies in respect of procurement of significant goods and services.

Implication

The union may not be securing the best value. Committee of Management may not be able to make meaningful assessments if not supplied with appropriate comparative data to make an informed decision.

Recommendations

We recommend that a procurement policy be established setting out the requirements for:

- Selecting suppliers
- Contracting for ongoing supply of goods and services
- Monitoring quality of service and delivery.

14. APPROVAL OF CAPITAL AND SIGNIFICANT EXPENDITURE

Observation

The Union's regulation, state that any expenditure between \$100,000 and \$200,000 needs to be approved by the Audit and Compliance Committee. Expenditure over \$200,000 needs the approval of the Council.

We noted during the year ended 30 September 2011, that the review and approval of expenditure by the Council only happens after the payment is made.

In the conduct of our work we did observe approvals for expenditure below \$100,000 in line with the above requirement. We did not observe the requirements being met in respect of capital expenditure exceeding \$100,000. These expenditures were ratified by Council after being paid.

We regard the requirement of the regulations to be that of *"pre-approval"* i.e. before the expenditure is committed to rather than ratification.

Implication

Transactions may be inappropriately authorised.

Recommendation

Significant capital expenditure to be undertaken by the Union should follow the authorisation procedure above. Any capital expenditure exceeding \$100,000 or \$200,000 should be authorised by the Audit and Compliance Committee or the Union Council, before the project commences. Subsequent payments should be approved in accordance with the pre-approved expenditure budget.