

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 25 007 751 082

Date 4-12-07

RECEIVED from Studio 19

C. Williamson

for sum of One Thous Three Hund

Dollars Security five dollars

M. A. WILLIAMSON
General Secretary

14844

PER MF

CONTRIBUTIONS		DEDUCTIONS		BALANCES		NETT AMOUNT	REMARKS
\$	0	\$	0	\$	0	\$	
				1375		1375	13/15 Meadow Way Banksmeadow Rent period 1-8-07 - 30-11-07 Gst incl ✓ BCE 082170 696552.

10-11-07 11:10-1

Mr Christopher Williamson
Studio 19
31 Mengler 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
	<u>\$1,375.00</u>

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 HISUeast, 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 Julieanne 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 -preparation,dismantling 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

*Chk 100
15239
26/6/09*

APPROVED
[Signature]
Signature

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 Canne 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;**

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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.