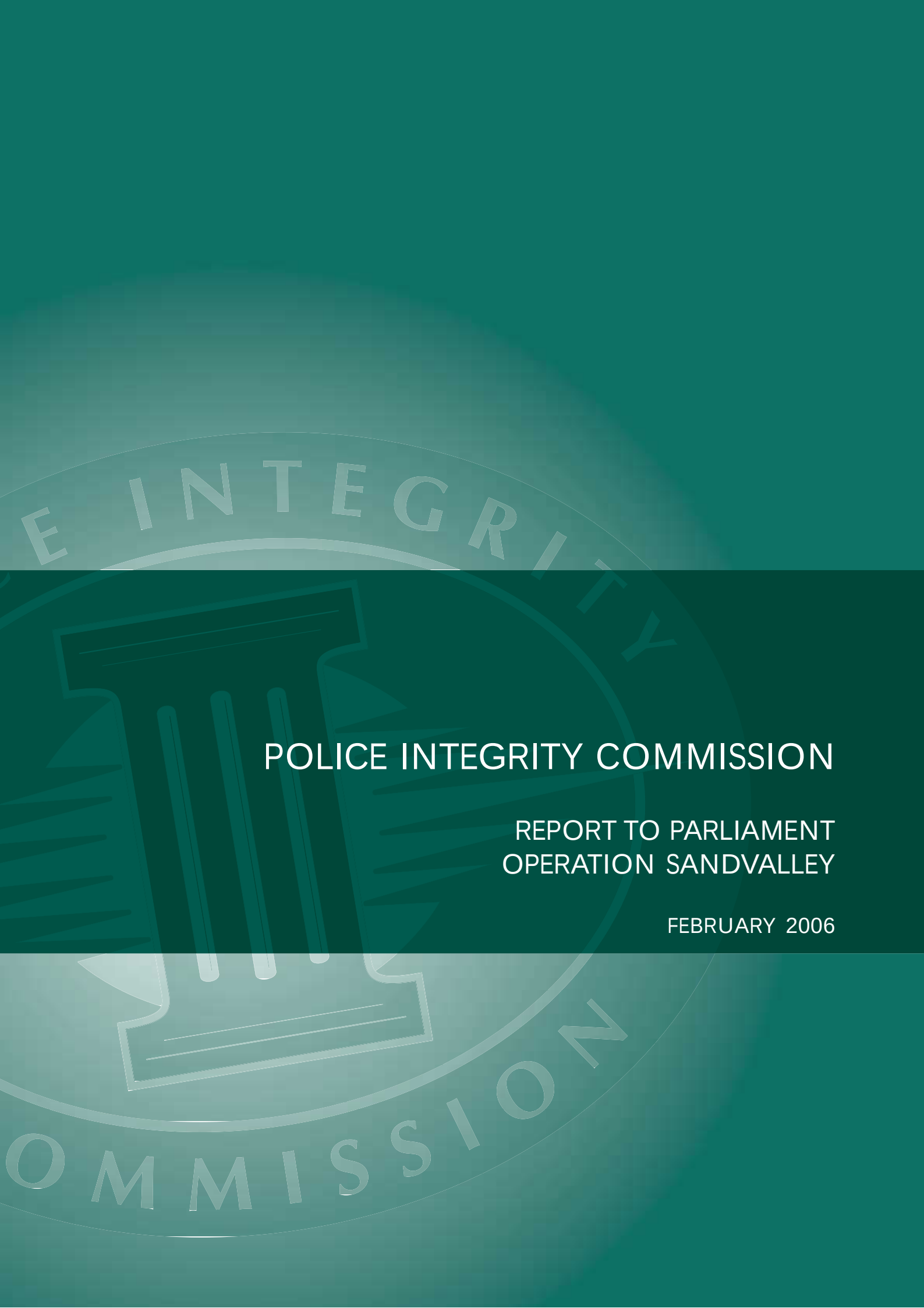




# POLICE INTEGRITY COMMISSION

REPORT TO PARLIAMENT  
OPERATION SANDVALLEY

FEBRUARY 2006



ABN 22 870 745 340

The Hon Meredith Burgmann MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon John Aquilina MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 96(2) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a Report regarding Operation Sandvalley, being a Report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

**T P Griffin**  
**Commissioner**

February 2006

REPORT TO PARLIAMENT OPERATION SANDVALLEY  
FEBRUARY 2006

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# TABLE OF CONTENTS

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|                                                                                                     |           |
|-----------------------------------------------------------------------------------------------------|-----------|
| Executive Summary .....                                                                             | i         |
| <b>1. Introduction .....</b>                                                                        | <b>1</b>  |
| <b>The Hearings .....</b>                                                                           | <b>2</b>  |
| <b>The Witnesses .....</b>                                                                          | <b>2</b>  |
| Senior Constable Daniel Francis Ryan .....                                                          | 2         |
| Darren John Ryan .....                                                                              | 3         |
| Wayne Roger Dixon .....                                                                             | 3         |
| Angela Margaret Dixon.....                                                                          | 3         |
| SV1.....                                                                                            | 3         |
| John William Hancock .....                                                                          | 3         |
| <b>Other Parties of Interest .....</b>                                                              | <b>4</b>  |
| <b>This Report .....</b>                                                                            | <b>4</b>  |
| <b>2. The ATM Thefts.....</b>                                                                       | <b>5</b>  |
| <b>The Theft of \$713,920.....</b>                                                                  | <b>5</b>  |
| 21 November 2001 .....                                                                              | 5         |
| 4 December 2001.....                                                                                | 5         |
| 20 December 2001.....                                                                               | 5         |
| 24 December 2001.....                                                                               | 5         |
| <b>Daniel Ryan – Financial Dealings.....</b>                                                        | <b>6</b>  |
| Cash Deposited into Business Accounts .....                                                         | 6         |
| \$250,000 in Cash to Melbourne .....                                                                | 8         |
| SV1 Spends the Money .....                                                                          | 10        |
| Darren Ryan and Angela Dixon’s Property.....                                                        | 11        |
| Purported Repayment of the \$250,000 .....                                                          | 11        |
| The \$328,000 Cheque .....                                                                          | 11        |
| Attempts to Recover the \$250,000.....                                                              | 13        |
| Telephone Conversations about the Money .....                                                       | 14        |
| Explanations for the Cash.....                                                                      | 18        |
| Daniel Ryan’s Evidence to the Commission .....                                                      | 18        |
| Wayne Dixon, Darren Ryan and Angela Dixon’s Evidence to the Commission                              | 20        |
| <b>3. Matters Arising .....</b>                                                                     | <b>23</b> |
| <b>Daniel Ryan – Non-payment of Income Tax.....</b>                                                 | <b>23</b> |
| <b>Daniel Ryan – Non Disclosure in Family Law Proceedings.....</b>                                  | <b>24</b> |
| <b>Daniel Ryan – False statements in Respect of the Ferrari.....</b>                                | <b>24</b> |
| <b>Daniel Ryan Interference with a Witness.....</b>                                                 | <b>25</b> |
| <b>Daniel Ryan &amp; Wayne Dixon – False Declarations in Loans Applied for by Wayne Dixon .....</b> | <b>26</b> |
| <b>Wayne Dixon – Further False Declarations .....</b>                                               | <b>26</b> |
| <b>Darren Ryan, Angela Dixon and Wayne Dixon – Non-payment of Income Tax .....</b>                  | <b>27</b> |

|                                                 |    |
|-------------------------------------------------|----|
| Darren Ryan and SV1 – Structuring .....         | 27 |
| John Hancock and SV1 – Structuring .....        | 28 |
| 4. Other Police Misconduct by Daniel Ryan ..... | 31 |
| Secondary Employment .....                      | 31 |
| Conduct in the Water Police.....                | 33 |
| Miscellaneous Dishonesty .....                  | 34 |
| 5. Affected Persons.....                        | 37 |
| Daniel Ryan .....                               | 39 |
| Darren Ryan.....                                | 49 |
| Wayne Dixon.....                                | 52 |
| Angela Dixon.....                               | 53 |
| SV1.....                                        | 54 |
| John Hancock .....                              | 56 |
| 6. Procedural Matters .....                     | 59 |
| Secondary Employment .....                      | 59 |
| Appendices .....                                | 61 |

## EXECUTIVE SUMMARY

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In June 2003 the Commission commenced inquiries into suspicious activity being conducted by Senior Constable Daniel Francis Ryan, a police officer attached to the Marine Area Command (the Water Police).

During the investigation it was discovered that in March 2002 Daniel Ryan took approximately \$250,000 in cash to Melbourne and gave it to a business associate. There was evidence that the cash may have been stolen from automatic teller machines in Sydney. The investigation broadened to examine the source of that money and the activities of Daniel Ryan and his associates. A range of suspicious activity was revealed. The following persons were the subject of substantial allegations and are therefore “affected persons” for the purposes of section 97 of the *Police Integrity Commission Act 1996* (the Act):

- Senior Constable Daniel Francis Ryan
- Darren John Ryan
- Wayne Roger Dixon
- Angela Margaret Dixon
- SV1, a business associate of Daniel Ryan
- John William Hancock

The above individuals gave evidence between March and May 2004. All gave their evidence after a declaration had been made pursuant to section 41 of the Act. The effect of that declaration is that the evidence they gave cannot be used against them in civil or criminal proceedings except in relation to offences against the Act (and in the case of police officers, managerial action against them by NSW Police).

The Commission is of the opinion that Daniel Ryan engaged in police misconduct. The Commission is also of the opinion that Darren Ryan, Angela Dixon, Wayne Dixon and SV1 engaged in other misconduct. In respect to John Hancock the Commission believes that the state of the evidence is insufficient to establish that he was involved in any misconduct.

The Commission makes the following recommendations:

### DANIEL RYAN

- That consideration **should** be given to the prosecution of Daniel Ryan for the offence of making or publishing a statement in respect of Wayne Dixon which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it was true or false or misleading in a material particular, with intent to obtain for another person, Wayne Dixon, money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.

- That consideration **should** be given to the prosecution of Daniel Ryan for the offence of making or publishing a statement in respect of the registration of his Ferrari which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it was true or false or misleading in a material particular, with intent to obtain for himself any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.
- That consideration **should** be given to the prosecution of Daniel Ryan for the offence of intentionally giving false evidence in his Family Court proceedings contrary to the provisions of section 35 of the *Crimes Act 1914* (Commonwealth).
- That consideration **should** be given to the prosecution of Daniel Ryan for attempting to procure the giving of false evidence to the Police Integrity Commission contrary to s109 of the Act.
- That consideration **should** be given to the taking of action against Daniel Ryan under section 181D of the *Police Act 1990* with a view to terminating his services as a police officer.

## DARREN RYAN

- The Commission is of the opinion that consideration **should** be given to the prosecution of Darren Ryan for taking part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the cash was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of s.31 of the *Financial Transaction Reports Act 1988*.
- The Commission is of the opinion that consideration **should** be given to the prosecution of Darren Ryan for an offence in relation to the understatement of income to the Australian Taxation Office.

## WAYNE DIXON

- The Commission is of the opinion that consideration **should** be given to the prosecution of Wayne Dixon in relation to a number of loans applied for by him for the offence of making or publishing a statement which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it was true or false or misleading in a material particular, with intent to obtain for himself any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.
- The Commission is of the opinion that consideration **should** be given to the prosecution of Wayne Dixon for the understatement of income to the Australian Taxation Office.



**ANGELA DIXON**

- The Commission is of the opinion that consideration **should** be given to the prosecution of Angela Dixon for the understatement of income to the Australian Taxation Office.

**SV1**

- The Commission is of the opinion that consideration **should** be given to the prosecution of SV1 for the offence of larceny as a bailee contrary to the provisions of section 125 of the *Crimes Act 1900*.
- The Commission is of the opinion that consideration **should** be given to the prosecution of SV1 in relation to the false declarations he made on behalf of Wayne Dixon for the offence of making or publishing any statement which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it was true or false or misleading in a material particular, with intent to obtain for another person, Wayne Dixon, any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB(1) of the *Crimes Act 1900*.
- The Commission is of the opinion that consideration **should** be given to the prosecution of SV1 for taking part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the cash was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of section 31 of the *Financial Transaction Reports Act 1988*.



# 1. INTRODUCTION

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- 1.1 In June 2003 the Commission became aware of suspicious activity being conducted by Senior Constable Daniel Francis Ryan, a police officer attached to the Marine Area Command (the Water Police).
- 1.2 Inquiries undertaken by the Commission revealed that in March 2002 Daniel Ryan took \$250,000 in cash to Melbourne. The investigation broadened to examine the source of that money and the activities of certain associates of Daniel Ryan listed below:
  - Darren Ryan, brother of Daniel Ryan
  - Angela Dixon, wife of Darren Ryan
  - Wayne Dixon, brother of Angela Dixon
  - A business associate of Daniel Ryan codenamed SV1
  - John Hancock, a former NSW Police officer and an associate of Daniel Ryan.
- 1.3 The Commission's inquiries revealed that between 21 November 2001 and 24 December 2001 \$713,920 was stolen in separate thefts from five (5) Automatic Teller Machines (ATMs) in the Sydney Metropolitan area.
- 1.4 The ATMs were accessed by use of a security code and the money was removed from the containers. At the time, Chubb Security Services Ltd had the responsibility for servicing the containers in the ATMs. Staff of Chubb Security Services Ltd knew the security code. Wayne Dixon was employed by Chubb Security Services Ltd at the relevant time, as a member of a crew responsible for emptying and replenishing the ATMs.<sup>1</sup>
- 1.5 SV1 told the Commission that he had been involved in business enterprises with Daniel Ryan for a number of years and that prior to 25 March 2002 Daniel Ryan telephoned him to seek advice on the investment of some money.<sup>2</sup> On 25 March 2002 Daniel Ryan and a colleague travelled to Melbourne and met with SV1. SV1 then drove Daniel Ryan and his colleague to Geelong. Daniel Ryan had with him a backpack containing approximately \$250,000 in cash.
- 1.6 \$2000 was used to put holding deposits of \$1000 each on two blocks of land at Torquay. The backpack was then left at the Geelong office of a local Real Estate Agency with which SV1 was associated. SV1 told the Commission that he spent the rest of the money for his own purposes except for \$30,000 which was used to pay off a debt incurred by a business operated by Daniel Ryan, Frozen Concepts Pty. Limited.

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<sup>1</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 23-24

<sup>2</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 p. 30

## THE HEARINGS

1.7 On 15 March 2004 the Commission conducted a private hearing to take evidence from SV1. Between 29 March 2004 and 6 May 2004 the Commission held a public hearing to further the investigation of Operation Sandvalley.

1.8 The scope and purpose of the public hearing which was announced on 29 March 2004 was:

To investigate whether Senior Constable Daniel Francis Ryan or any currently serving or former police officer or any other person associated with him is currently or has been involved in criminal activity or serious police misconduct.<sup>3</sup>

1.9 The hearings and other inquiries conducted by the Commission revealed that Daniel Ryan, as well as being involved in various instances of police misconduct, also appeared to be involved either individually or in conjunction with his associates in a range of criminal enterprises including tax evasion, giving false evidence and obtaining financial advantage by making false statements. Daniel Ryan's associates also appeared to be involved in the structuring of cash dealings contrary to the provisions of the *Financial Transaction Reports Act 1988*. There was evidence to suggest that the \$250,000 Daniel Ryan took to Melbourne was stolen from ATM machines and that Daniel Ryan, Darren Ryan, Wayne Dixon and SV1 all knew this.

## THE WITNESSES

1.10 The Commission heard evidence in public from the following witnesses:

- Senior Constable Daniel Francis **RYAN**
- Darren John **RYAN**
- Wayne Roger **DIXON**
- Angela Margaret **DIXON**
- John William **HANCOCK**

1.11 Summonses to give evidence at the Commission were also served on Kevin Patrick Ryan and Robyn Irene Ryan, the parents of Daniel and Darren Ryan. However they were excused due to ill health.

1.12 A short profile of each witness follows.

## SENIOR CONSTABLE DANIEL FRANCIS RYAN

1.13 At the time of the investigation, Daniel Ryan held the rank of Senior Constable and was attached to the Marine Area Command (the Water Police). He was the principal in the businesses known as DNA Distributions, Frozen Concepts,

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<sup>3</sup> Exhibit 1

Frozen Concepts Pty Limited, Offduty Enterprises and Offduty Enterprises Pty Limited. He is the son of Kevin and Robyn Ryan and brother of Darren Ryan. He is the brother-in-law of Angela Dixon and an associate of Wayne Dixon. He was also a business partner of the person codenamed SV1. He is an associate of John Hancock. He transported \$250,000 to Melbourne and gave it to SV1.

## **DARREN JOHN RYAN**

- 1.14 Darren Ryan is the brother of Daniel Ryan and a son of Kevin and Robyn Ryan. He is also an associate of SV1. He is the husband of Angela Dixon and an associate and brother-in-law of Wayne Dixon. He is an associate of John Hancock. He was employed part time by Daniel Ryan in the business Frozen Concepts Pty. Limited. He gave \$250,000 to Daniel Ryan to “hold”. He and Angela Dixon claimed ownership of \$100,000 of that money, which they alleged was income from her T-shirt business.

## **WAYNE ROGER DIXON**

- 1.15 Wayne Dixon is the brother of Angela Dixon. He is also an associate of Darren Ryan as well as being his brother-in-law. He is a former employee of Chubb Security Services Ltd. He is also an associate of Daniel Ryan. He claimed ownership of \$150,000 of the money given to Daniel Ryan, which he said was his share of the income from his sister’s T-shirt business.

## **ANGELA MARGARET DIXON**

- 1.16 Angela Dixon is the wife of Darren Ryan and is the sister of Wayne Dixon. She operated Sure Shot T-shirt Screen Printers. She was a part time employee of Daniel Ryan in his business Frozen Concepts. She and Darren Ryan claimed ownership of \$100,000 of the money taken to Melbourne by Daniel Ryan, which they alleged was income from her T-shirt business.

## **SV1**

- 1.17 SV1 is a business associate of Daniel Ryan and a personal associate of Darren Ryan. He is also an associate of John Hancock. He was the recipient of the \$250,000 delivered to Melbourne by Daniel Ryan in March 2002.

## **JOHN WILLIAM HANCOCK**

- 1.18 John Hancock is a former NSW police officer. He is a former business associate of Kevin Ryan as well as being a family friend. Mr Hancock is also associated with both Daniel and Darren Ryan and SV1. Mr. Hancock was engaged to assist in the recovery of the \$250,000 from SV1.

## OTHER PARTIES OF INTEREST

- 1.19 KEVIN RYAN is the father of Senior Constable Daniel Ryan and Darren Ryan. He is a former business partner of John Hancock. Kevin Ryan is a former NSW police officer who reached the rank of Inspector before his retirement. He introduced Daniel Ryan to SV51 to assist in the in the recovery of the money he had given to SV1.
- 1.20 ROBYN RYAN is the mother of Daniel and Darren Ryan. She participated in telephone conversations with both Daniel and Darren Ryan which were intercepted by the Commission during the inquiry. The calls suggested Robyn Ryan became aware of the suspicious activity being undertaken by her sons.

## THIS REPORT

- 1.21 In this Report, prepared and furnished pursuant to sub section 96(2) of the *Police Integrity Commission Act 1996* (the Act), the Commission summarises the evidence heard relating to the scope and purpose of the hearings.
- 1.22 The Report includes assessments and opinions concerning matters examined during the course of the hearings and contains the Commission's recommendations in respect of a number of people it considers to be "affected persons" within the meaning of sub section 97(3) of the Act.

## **2. THE ATM THEFTS**

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### **THE THEFT OF \$713,920**

- 2.1 Between 21 November 2001 and 24 December 2001 \$713,920 was stolen in separate thefts from five (5) Automatic Teller Machines (ATMs) in the Sydney Metropolitan area:

#### **21 November 2001**

- \$81,050 from the Commonwealth Bank ATM at Westfield Shopping Centre, Hornsby.

#### **4 December 2001**

- \$162,230 from the Commonwealth Bank ATM at Marrickville Metro.

#### **20 December 2001**

- \$136,660 from the Commonwealth Bank ATM at the Alfred Street Concourse, Circular Quay.

#### **24 December 2001**

- \$333,980 (\$235,850 and \$98,130) from two Commonwealth Bank ATMs at 395 Bourke Street, Darlinghurst.

- 2.2 Access to each of the machines was obtained by use of a security code and the money was removed from the containers. At the time Chubb Security Services Ltd (Chubb Security) had the responsibility for emptying and replenishing the containers in the ATMs. The staff of Chubb Security knew the security code for the machines.

- 2.3 Wayne Dixon was employed by Chubb Security at the time of the ATM robberies in 2001 and had worked as a member of a crew responsible for collecting cash from ATMs.<sup>4</sup> Wayne Dixon is the brother of Angela Dixon who is married to Darren Ryan. Darren Ryan is the brother of Senior Constable Daniel Ryan.

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<sup>4</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 23-25

## 2. THE ATM THEFTS

- 2.4 At the time of the thefts from the ATMs, Daniel Ryan was a Senior Constable of Police, stationed at Botany Bay. He transferred to the Marine Area Command in May 2002.

## DANIEL RYAN – FINANCIAL DEALINGS

### CASH DEPOSITED INTO BUSINESS ACCOUNTS

- 2.5 Evidence obtained by the Commission revealed that Daniel Ryan had conducted a number of business enterprises, both unincorporated and incorporated, whilst a serving police officer.
- 2.6 With effect from 5 February 1999 Daniel Ryan was registered as the principal of a business name “DNA Distributions”. Others followed:
- Frozen Concepts from 24 October 2000;
  - Frozen Concepts Pty. Limited from 29 October 2002;
  - Off Duty Enterprises from 3 April 2002; and
  - Off Duty Enterprises Pty. Limited from 1 May 2002.
- 2.7 Daniel Ryan told the Commission that DNA Distributions conducted a business selling ice cream and yoghurt and Frozen Concepts dealt with mixed drinks.<sup>5</sup>
- 2.8 Daniel Ryan was the beneficial owner and sole director of the businesses and companies.
- 2.9 Significantly, between November 2001 and March 2002 Daniel Ryan made substantial cash deposits<sup>6</sup> into the bank account of “DNA Distributions”, an account which was operated solely by him.<sup>7</sup> (The ATM thefts occurred between 21 November 2001 and 24 December 2001).
- 2.10 Beginning on 8 November 2001 the deposits were:

|            |                 |                       |
|------------|-----------------|-----------------------|
| 08/11/2001 | \$13,200        | (\$50 notes)          |
| 05/12/2001 | \$ 8,000        | (\$50 notes)          |
| 21/12/2001 | \$21,000        | (\$20 and \$50 notes) |
| 04/01/2002 | \$10,000        | (\$20 notes)          |
| 07/01/2002 | \$ 7,600        | (\$20 notes)          |
| 14/01/2002 | <u>\$10,000</u> | (\$20 notes)          |
|            | <u>\$69,800</u> |                       |

- 2.11 On 14 January 2002 Daniel Ryan purchased a boat, “Party Games” for \$60,000, of which \$30,000 was paid in cash. The balance was met by a cheque drawn on the DNA Distributions account.<sup>8</sup> Then on 26 February 2002 Daniel Ryan deposited a further \$10,000 in cash into the DNA Distributions bank account.<sup>9</sup> This was followed by the trip to Melbourne on 25 March 2002 when

<sup>5</sup> PIC Transcript, DF Ryan 29 March 2004, pp. 4 -5

<sup>6</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 343-353, p. 368; Exhibit 103

<sup>7</sup> Exhibit 2B

<sup>8</sup> PIC Transcript, DF Ryan, 2 April 2004, p. 267; Exhibit 129

<sup>9</sup> PIC Transcript, DF Ryan, 2 April 2004, p. 353; Exhibit 130



Daniel Ryan took approximately \$250,000 in cash with him and delivered it to an associate (see below).<sup>10</sup>

- 2.12 Thereafter Daniel Ryan made the following further cash deposits into the DNA Distributions account<sup>11</sup>:

|            |                 |                     |
|------------|-----------------|---------------------|
| 03/04/2002 | \$ 5,000        | (\$20 notes)        |
| 10/04/2002 | \$10,000        | (\$20 notes)        |
| 02/05/2002 | \$10,000        | (\$20 & \$50 notes) |
| 15/05/2002 | \$10,000        | (\$50 notes)        |
| 17/05/2002 | <u>\$10,000</u> | (\$50 notes)        |
|            | <u>\$45,000</u> |                     |

- 2.13 On 10 April 2002, in connection with a purchase of a property at Kurnell by his business, Off Duty Enterprises, Daniel Ryan paid a deposit of \$37,400, part of which was funded by means of a bank cheque for \$36,465, drawn on the bank account of DNA Distributions.<sup>12</sup>

- 2.14 On or about 17 May 2002, in connection with the settlement of that purchase, Daniel Ryan provided a further bank cheque for \$39,381.36, which was again drawn on the bank account of DNA Distributions.<sup>13</sup>

- 2.15 Thereafter Daniel Ryan made two further cash deposits into the DNA Distributions bank account:<sup>14</sup>

|            |                 |                         |
|------------|-----------------|-------------------------|
| 26/06/2002 | \$2,000         | (denominations unknown) |
| 02/07/2002 | <u>\$10,000</u> | (\$50 notes)            |
|            | <u>\$12,000</u> |                         |

- 2.16 In summary, in the period 8 November 2001 to 2 July 2002 Daniel Ryan had:

- cash of approximately

- |     |           |                        |
|-----|-----------|------------------------|
| (a) | \$250,000 | (Melbourne)            |
| (b) | \$136,800 | (DNA Account deposits) |
| (c) | \$30,000  | (Boat)                 |

\$416,800

and had

- made expenditures of:

<sup>10</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 16; PIC Transcript, DF Ryan, 2 April 2004, p. 333

<sup>11</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 368-369; Exhibit 104

<sup>12</sup> Exhibit 58B

<sup>13</sup> Exhibit 105

<sup>14</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 369-370; Exhibit 131

## 2. THE ATM THEFTS

| (a) by cheque            |                     |                               |
|--------------------------|---------------------|-------------------------------|
| 14/01/2002               | \$30,000.00         | (boat)                        |
| 10/04/2002               | \$36,465.00         | (Kurnell Property)            |
| 23/04/2002               | \$12,324.00         | (Stamp Duty Kurnell Property) |
| 17/05/2002               | <u>\$39,381.36</u>  | (Kurnell Property)            |
|                          |                     | <u>\$118,170.36</u>           |
| (b) by cash              |                     |                               |
| 14/01/2002               | \$30,000.00         | (boat)                        |
| 25/03/2002               | <u>\$250,000.00</u> | (Melbourne)                   |
|                          |                     | <u>\$280,000.00</u>           |
| <b>Total Expenditure</b> |                     | <b><u>\$398,170.36</u></b>    |

- 2.17 In evidence to the Commission Daniel Ryan denied that any of the cash referred to above was the proceeds of the thefts from the ATMs.<sup>15</sup>
- 2.18 The bank statements for DNA Distributions showed the balance in the account as at 6 November 2001 was \$9,460.74 (cr).<sup>16</sup> The cash deposits referred to above did not appear as receipts in the business records kept by DNA Distributions.<sup>17</sup> The business records prepared for DNA Distributions for the period November 2001 to June 2002 show the total receipts as \$64,135.10.<sup>18</sup> (The cash receipts referred to in paragraphs 2.10, 2.11, 2.12 and 2.15 totalled \$136,800).
- 2.19 Records of the DNA account obtained by the Commission show that between May 1999 and February 2001, a period of 21 months, there were cash deposits into the DNA account of approximately \$13,495.00. As can be seen from the figures quoted above, in the 7 month period between November 2001 and July 2002 the cash deposits into the same account were \$136,800. That amount is in addition to the \$250,000 taken to Melbourne and the \$30,000 used to purchase the vessel in January 2002.
- 2.20 According to Daniel Ryan the operations of the DNA business were not the source of the funds for the transactions summarised in paragraph 2.16 above.<sup>19</sup> His annual salary as a senior constable of police in July 2002 was \$ 55,798 plus an allowance of \$ 6,416.77 per annum. In the Commission's opinion the explanations he gave for the cash, which are discussed below, were not credible.

### **\$250,000 IN CASH TO MELBOURNE**

- 2.21 SV1 told the Commission that prior to 25 March 2002 Daniel Ryan telephoned him and sought advice on the investment of some money.<sup>20</sup> SV1 told the

<sup>15</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 112

<sup>16</sup> Exhibit 109

<sup>17</sup> Exhibit 110

<sup>18</sup> Exhibit 111

<sup>19</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 297-298

<sup>20</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 30

- Commission that he suggested to Daniel Ryan that the money be invested in the purchase of land at Torquay in Victoria.<sup>21</sup>
- 2.22 SV1 also told the Commission that on 25 March 2002 Daniel Ryan and a colleague travelled to Melbourne. SV1 met them at the airport and drove them to Geelong.<sup>22</sup>
- 2.23 SV1 said in evidence that Daniel Ryan showed him \$250,000 in cash, which was in a backpack, in a room at the Sheraton Hotel Geelong.<sup>23</sup> The sum of \$2000 was later used by Daniel Ryan to put holding deposits of \$1000 each on two blocks of land at Torquay.<sup>24</sup> The backpack containing the remaining cash was then left at the office of a local Real Estate Agency with which SV1 was associated.<sup>25</sup> There is no evidence to indicate that Daniel Ryan's colleague had any knowledge of the contents of the backpack.
- 2.24 SV1 told the Commission that the cash in the backpack was in notes in the form of "twenties and fifties".<sup>26</sup> He added that he had asked Daniel Ryan where the money had come from because of the amount. He said that his specific concern was that it may have been drug money but he was told that it was not. When he asked where the money had come from Daniel Ryan said, "Don't worry" and SV1 was given some "gobbly gook" explanation.<sup>27</sup>
- 2.25 SV1 said in evidence that he knew that Daniel Ryan had, prior to his marital separation and divorce, lent money to his father-in-law and that he had also received a compensation payout.<sup>28</sup> He also knew that Darren Ryan had operated a T-shirt business at the markets.<sup>29</sup>
- 2.26 In typed notes created by SV1 and produced to the Commission, it is recorded that, "*Daniel came to Melb on or about March 25 2002 and came to our house ... He needed to see me privately and wanted to clean some money.*"<sup>30</sup> When examined on 15 March 2004 about this entry, SV1 said that it related to his current knowledge, rather than his knowledge at the time.<sup>31</sup> SV1 said that Daniel Ryan was using terms like "clean money" and had probably said it, but he could not confirm that Daniel Ryan had actually used the term. He added that he, SV1, was not so naïve that he did not know that he was assisting Daniel Ryan to "clean" some money although he did not think it was ever spoken about.<sup>32</sup>
- 2.27 The chart overleaf shows the movement of monies discussed above:

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<sup>21</sup> Exhibit 128, p. 16

<sup>22</sup> Exhibit 128, p. 14

<sup>23</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 9

<sup>24</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 10-11

<sup>25</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 11-13

<sup>26</sup> Exhibit 128, p. 13

<sup>27</sup> Exhibit 128, p. 14

<sup>28</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 30-31

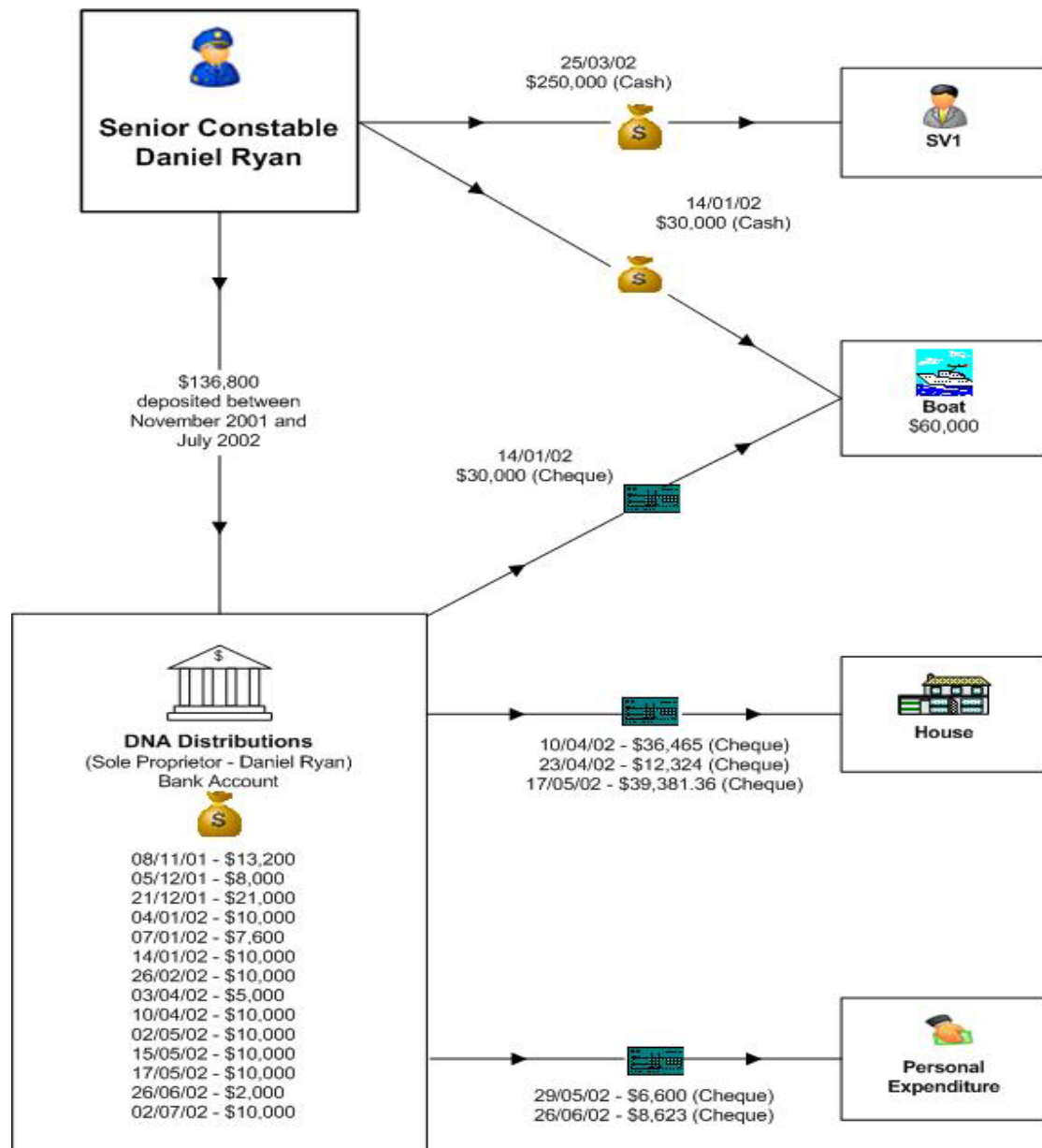
<sup>29</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 31

<sup>30</sup> Exhibit AMZ1C

<sup>31</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 p. 31

<sup>32</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 p. 31

## 2. THE ATM THEFTS



### SV1 SPENDS THE MONEY

- 2.28 SV1 gave evidence that a short time after Daniel Ryan's visit to Melbourne, he returned to the Real Estate office and collected the backpack.<sup>33</sup> A couple of weeks later, SV1 took \$30,000 from the backpack and used it to pay off a debt incurred by Daniel Ryan in connection with the business Frozen Concepts.<sup>34</sup>
- 2.29 SV1 gave evidence that he used the remainder of the money in "dribs and drabs" for his own purposes.<sup>35</sup>

<sup>33</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 p. 13

<sup>34</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 14-15

<sup>35</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 23-25

## DARREN RYAN AND ANGELA DIXON'S PROPERTY

- 2.30 On about 17 July 2003, Daniel Ryan, through Frozen Concepts Pty. Limited, provided funds of \$58,402.50 for the deposit on the purchase of a property at Caringbah.<sup>36</sup> An initial deposit of \$1,497.50 was paid prior to exchange. That property was acquired in the name of SV2, the wife of SV1, but SV1 gave evidence that there was a verbal agreement that it was purchased for the benefit of Darren Ryan and Angela Dixon.<sup>37</sup>
- 2.31 It appears that, on settlement, further funds of \$59,900 were paid and the balance of the purchase price was funded by a mortgage of \$479,200 in the name of SV2.<sup>38</sup> At the time of the Commission's hearing Darren Ryan and Angela Dixon were residing in the Caringbah property.

## PURPORTED REPAYMENT OF THE \$250,000

### The \$328,000 Cheque

- 2.32 The evidence before the Commission suggested that the \$250,000 which Daniel Ryan took to Melbourne came from Wayne Dixon. SV1 told the Commission that Daniel Ryan had told him that he had agreed to repay Wayne Dixon \$328,000.<sup>39</sup> The basis for this amount appears to be that the cash of \$250,000 which Daniel Ryan gave to SV1 was supposed to have been sent overseas to be invested in bonds and that the additional \$78,000 represented the interest to be paid on the money. SV1 said that he had been told by Daniel Ryan that Daniel had told Wayne Dixon that the money had been taken to the United States of America and invested in bearer bonds.<sup>40</sup>
- 2.33 In a telephone conversation between Daniel Ryan and his brother Darren on 1 February 2004, which was intercepted by the Commission, Darren and Daniel discussed Wayne Dixon not understanding how SV1 got Wayne Dixon's money:<sup>41</sup>

Darren Ryan: He doesn't even understand how the fuckin' hell [SV1] got his fuckin' money. He wants to fuckin' know that

Daniel Ryan: Well, why, what

Darren Ryan: As far as he knew his money went

Daniel Ryan: I don't understand is

Darren Ryan: to the fuckin' Cayman's for Christ sake.

- 2.34 Later in the conversation Darren said to Daniel that Wayne Dixon was owed \$328,000.

<sup>36</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 268-269 ; Exhibit 107

<sup>37</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 271-276, 281-289 ; Exhibit 48C; Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 p. 85

<sup>38</sup> Exhibit 108

<sup>39</sup> Exhibit 127 – PIC Private Transcript SV1, 15 March 2004 pp. 60-62

<sup>40</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 37-38

<sup>41</sup> Exhibits 11AC & 12

## 2. THE ATM THEFTS

Darren Ryan: this guy was, this guy was owed three hundred and twenty-eight fuckin' two years ago Daniel, what'd you reckon he's asking for now.

Daniel Ryan: Well Darren he can ask for what ever he wants.

Darren Ryan: Daniel, h-, this guy will walk into a fuckin' Police station, and I'm fuckin' telling

Daniel Ryan: Well Darren,

Darren Ryan: you now

Daniel Ryan: Darren he's gonna

Darren Ryan: an-and he'll implicate everybody including Mum and Dad.

2.35 Prior to the above conversation Daniel Ryan had taken steps which appeared calculated to convey the impression that Wayne Dixon would be paid \$328,000.

2.36 On about 27 May 2003 Daniel Ryan drew a cheque No 001152 on the Frozen Concepts Account for \$328,000,<sup>42</sup> in favour of a company which had been set up by Wayne Dixon. In respect of that cheque:<sup>43</sup>

- the stub was removed from the cheque book;
- the cheque itself was never presented;
- the company in favour of which it was drawn was initially controlled by Wayne Dixon, but was later controlled by SV1 and/or SV2;
- the cheque bore an inked stamp with the words "Information Systems Accessed" and a hand written note with the words "Berra Bonds Cleared OK". A date and time and reference number were also provided.

The steps appear to have been no more than a sham.

2.37 SV1 gave evidence that he was given the cheque by Daniel Ryan and told not to bank it.<sup>44</sup> SV1 said that there was no money to pay the cheque if it was presented and that he had informed Wayne Dixon of that at a later date.<sup>45</sup>

2.38 In his evidence to the Commission Daniel Ryan agreed that the cheque was a pretend payment.<sup>46</sup>

2.39 SV1 believed that the cheque for \$328,000 was given to him to enable him to have more time to collect the money together to pay Wayne Dixon. The cheque was given to him at a meeting with Wayne Dixon and Daniel Ryan. At that meeting Ryan told Dixon that the money had been returned from America. The cheque was made out in the name of the company set up by Dixon as he

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<sup>42</sup> Exhibit 106

<sup>43</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 96, 104-105; Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 65-69; Exhibit 106

<sup>44</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 37

<sup>45</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 pp. 47, 71

<sup>46</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 100

was going to purchase property in the company name and later have it transferred to his own name.<sup>47</sup>

### Attempts to Recover the \$250,000

- 2.40 Despite the apparent closeness between Daniel Ryan and SV1, Daniel Ryan gave evidence that he had recruited people to recover the money from SV1. He said that he had sought the advice of his father, Kevin Ryan, and was introduced to a retired Victorian police officer codenamed SV50, through another person codenamed SV51.<sup>48</sup>
- 2.41 SV1 said in his evidence that he had met SV50. SV50 telephoned SV1 and said that he had been engaged by Daniel Ryan to recover the \$250,000 and that he wanted to arrange a meeting with SV1 to discuss the matter. SV1 believes that this call and the meeting occurred after the cheque referred to in paragraph 2.36 above was written.<sup>49</sup>
- 2.42 SV1 believed that Daniel Ryan had initially made the arrangement with SV50 to recover the money in February 2003 but that SV50 had not made contact prior to the cheque being written in May 2003.<sup>50</sup> According to SV1, he contacted Daniel Ryan after speaking to SV50 on the telephone and informed him that he had been approached about the recovery of the money. Daniel Ryan informed SV1 not to worry and that he would fix it.<sup>51</sup>
- 2.43 In his evidence, SV1 said that SV50 asked that if he, SV50, needed to see some documentation that the money had been repaid, could SV1 produce it. SV1 told SV50 that he could do so.<sup>52</sup> SV1 in his evidence explained that the plan with the cheque for \$328,000 was meant to convey the impression to everyone involved that the money had been repaid to Wayne Dixon. As he (SV1) had spent the money given to him by Daniel Ryan in March 2002, he would have to sell assets in order to pay it back. SV1 said that he had warned Daniel Ryan that when he managed to sell property he would have to pay capital gains tax. SV1 said that Daniel Ryan responded that he had promised to pay Wayne Dixon \$328,000.<sup>53</sup>
- 2.44 In a telephone conversation on 7 November 2003 between Daniel Ryan and SV1,<sup>54</sup> Ryan informed SV1 that he had arranged to pay people to recover the money and to have him (SV1) killed.

Daniel Ryan : ... that money was for, to do that and to knock you off,  
...they haven't done what the contract, they're saying oh  
they fulfilled the contract, they never.

SV1: What to knock me off as in D E D?

Daniel Ryan: D E D yeah.

<sup>47</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp.41 – 42

<sup>48</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 262-266

<sup>49</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 55

<sup>50</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 55

<sup>51</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 56

<sup>52</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 55-60

<sup>53</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 59-61

<sup>54</sup> Exhibits 18 & 19

## 2. THE ATM THEFTS

SV1: (unintelligible)

Daniel Ryan: That's why it was such a large amount of money.

- 2.45 In his evidence SV1 said that he did not believe Daniel Ryan wanted to have him killed and that he considered it was all “show”.<sup>55</sup> When examined about the telephone conversation with SV1, Daniel Ryan said that it was just a threat and that what he said to SV1 about having him “knocked off” was untrue.<sup>56</sup> He agreed that when he spoke to SV1 he made a habit of lying to him.
- 2.46 The conversation was primarily concerned with Daniel Ryan's decision not to pay the commission to those he had recruited to collect the money or at least not to pay them the full amount. It appears that Ryan was taking the position that the fee that he had negotiated for the recovery of the money should not be paid as those he had recruited had not recovered the money i.e. fulfilled the contract.
- 2.47 John Hancock, a former NSW police officer, also gave evidence about the recovery of the money from SV1. He said that he was aware that SV50 had been employed by Daniel Ryan to recover the money from SV1 and that SV50 was a former Victorian police officer.<sup>57</sup> Hancock testified that he had also been recruited by Darren Ryan to recover the money from SV1<sup>58</sup> and that he received \$22,500 for attempting to do so.<sup>59</sup>
- 2.48 There was evidence from SV1 that he paid Hancock \$15,000. In his evidence to the Commission SV1 said that the \$15,000 he paid to Hancock, was not for Wayne Dixon. SV1 paid Hancock his commission for attempting to recover the money for Dixon in the hope that if he paid the commission directly to Hancock then Hancock would “drop off”. SV1 was counting on Hancock's self interest and believed Hancock had no real interest in assisting Wayne Dixon.<sup>60</sup>
- 2.49 When he was examined about his attempt to recover the money from SV1 and the money paid to him by SV1, Hancock agreed that he had looked after himself. He also believed that Daniel Ryan was satisfied with what had occurred, as SV1 “*had made suitable arrangements to transfer the larger sum*” to Sydney.<sup>61</sup>
- 2.50 As far as the Commission is aware none of the \$250,000 was ever repaid by SV1 to Wayne Dixon.

## TELEPHONE CONVERSATIONS ABOUT THE MONEY

- 2.51 In a telephone conversation between SV1 and Wayne Dixon on 20 January 2004 the following exchanges took place:<sup>62</sup>

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<sup>55</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 69

<sup>56</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 109-111

<sup>57</sup> PIC Transcript, JW Hancock, 31 March 2004, pp. 149-151

<sup>58</sup> PIC Transcript, JW Hancock, 31 March 2004, p. 151

<sup>59</sup> PIC Transcript, JW Hancock, 31 March 2004, p. 159

<sup>60</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, p. 81

<sup>61</sup> PIC Transcript, JW Hancock, 31 March 2004, p. 167

<sup>62</sup> Exhibit 113



Dixon: If when Daniel came down with you know what in his back pack

... and you didn't know it was mine, that it was mine ...

And when did you find out ... that it was actually mine?

SV1: Ah when he started telling about those bearer bonds bullshit. Later, way later ...

Dixon: ... the story that I thought, I thought all this was being taken overseas.

2.52 Darren Ryan told Wayne Dixon in a telephone conversation on 23 January 2004 that the police were looking at him.<sup>63</sup>

Darren Ryan: everybody ... knows about this.

Dixon: The police know about it, do they?

Darren Ryan: ... have I told you that or not?

Dixon: No ...

Darren Ryan: Yes I ... did.

Dixon: So someone's looking at me then?

Darren Ryan: Most ... definitely.

Dixon: What coppers?

Darren Ryan: Well who else do you reckon would be?

2.53 In another telephone conversation with Wayne Dixon later on 23 January 2004, Darren Ryan commented:

"... if you had of kept the money yourself you'd be in prison now Wayne."<sup>64</sup>

2.54 Wayne Dixon in response said "that's life", and he did not appear surprised or perplexed by the comment.<sup>65</sup>

2.55 In the previously mentioned telephone conversation on 1 February 2004 between Daniel and Darren Ryan, the following exchanges occurred:<sup>66</sup>

Daniel Ryan: I just can't believe that Dixon is ... such a dickhead to not say anything for six months.

<sup>63</sup> Exhibits 20 & 21

<sup>64</sup> Exhibits 31 & 32B

<sup>65</sup> PIC Transcript, WR Dixon, 5 May 2005, p. 507

<sup>66</sup> Exhibits 11AC & 12

## 2. THE ATM THEFTS

Darren Ryan: Well who gives a shit about that Daniel, he didn't, he hasn't got his money, he hasn't had ... his money for two years.

The Commission believes that the reference to "he" in the speech of Darren Ryan is a reference to Wayne Dixon. It is suggested the time period referred to is the period between the ATM thefts in November and December 2001 and the date of the conversation. The conversation then continued:

Daniel Ryan: ... Why ...

Darren Ryan: Because he's been bullshitted

He doesn't even understand how the ... hell [SV1] got his ... money. He wants to know that.

It's ... right out of ... control, and everyone's ... pointing their finger at you.

Daniel Ryan: Well let them ... had any person came to me ...

... why ...

didn't he contact you or me six months ago?

Darren Ryan: this guy was owed three hundred and twenty eight ... two years ago

2.56 Again this is a reference to the amount in the transaction referred to in paragraphs 2.32 to 2.39. The conversation continued:

Darren Ryan: ... this guy will walk into a ... police station ...

... he'll implicate everybody including mum and dad ...

Daniel Ryan: ... okay they're just gonna look at the trail and it's gonna start and finish with ... him ...

Darren Ryan: ... they'll make an attempt to get their money back ...

Daniel Ryan: ... who are they gonna go after?

Darren Ryan: [SV1]

Daniel Ryan: No they won't ..... he'll turn around and say ... I don't know what you're talking about. And it's gonna revert back to Dixon again.

... there's no trail ... is there?

... he's just gonna sink himself and nobody else ...

Darren Ryan: Yeah, right Dan.

2.57 Much later in that conversation:<sup>67</sup>

Daniel Ryan: If that's the threat Dixon's doing I'm gonna take it, I'm gonna take it straight to the police tomorrow myself saying I know who did those jobs ..... cause they all know it's an inside job ...

Darren Ryan: ... and you reckon you'll walk away scot free? I'll walk away scot free? ... and they'll nail him?

Daniel Ryan: Yep, absolutely.

2.58 In a telephone conversation on 6 February 2004 between SV1 and Darren Ryan:<sup>68</sup>

- (a) SV1 asserted that he, SV1, had told John Hancock that the money he had received from Daniel Ryan was:

“... something to do with ATMs ...”.

- (b) there was then the following exchange:

SV1: So tell me honestly is it, is that where the money came from?

Darren Ryan: Yes it is. I'm telling the truth.

2.59 Although Darren Ryan confirmed to SV1 that the \$250,000 had come from ATMs,<sup>69</sup> in his evidence to the Commission Darren Ryan claimed that he made up this statement to assist in the recovery of the \$250,000 from SV1.<sup>70</sup>

2.60 Wayne Dixon admitted in evidence that he and Darren Ryan had told SV1 that the \$250,000 had been stolen from ATMs and that he and Darren Ryan had been involved in those thefts.<sup>71</sup>

2.61 However Dixon also asserted that he and Darren Ryan “*made up*” the statement that the money had come from ATMs, as part of a plan to put pressure on SV1 to return the \$250,000. They wanted to suggest to SV1 that criminals were involved and that they wanted their money returned.<sup>72</sup>

2.62 It is difficult to accept Wayne Dixon's suggestion that the story of the money having been stolen from ATMs had been made up. It is also difficult to accept Darren Ryan's assertion that Dixon's relationship to the money that went to Melbourne was made up.

<sup>67</sup> Exhibits 11AC & 12

<sup>68</sup> Exhibit 112

<sup>69</sup> Exhibit 112

<sup>70</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan 30 March 2004, pp. 121 – 122

<sup>71</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 96, 104-106

<sup>72</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 96, 104-106

## 2. THE ATM THEFTS

2.63 According to SV1, Darren Ryan and Wayne Dixon had told him that:<sup>73</sup>

- they had stolen the money from Chubb ATMs using access keys;
- there were 3 or perhaps 4 hits realising something in the order of \$600,000, \$250,000 of which was the cash provided to him in Melbourne by Daniel Ryan in about March 2002.

2.64 In a telephone conversation on 15 February 2004 between Darren Ryan and his mother, there were exchanges in the following terms:<sup>74</sup>

Darren Ryan: "... he's a disgrace ...

he's spent all this bloke's money and he doesn't care

... the bloke ... is ...Angela's brother ...

Mother: So he's a crook too?

How much does he owe her brother?

Darren Ryan: Three hundred and twenty eight.

Note this is the amount referred to in paragraph 2.32. The conversation then continued.

And Mum, don't ever say ...

I shouldn't have given him the money. I didn't give him any money to spend.

Mother: No, you didn't.

Darren Ryan: I gave him the money to bury under your house.

Mother: it's stolen money.

## EXPLANATIONS FOR THE CASH

### Daniel Ryan's Evidence to the Commission

2.65 In respect of the cash, other than the amount taken by him to Melbourne, Daniel Ryan's evidence was to the following effect:<sup>75</sup>

- (a) at some point about the time his wife's parents separated and before he and his wife themselves separated on 10 June 2001, he realised his marriage was likely to fail;
- (b) he feared being "shafted" at the Family Court;

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<sup>73</sup> Exhibit 128, pp. 31-33

<sup>74</sup> Exhibits 13AC & 14B

<sup>75</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 299-307, 314-317, 324-329, 336

- (c) he took cash from the DNA Distributions account;
  - (d) he kept that cash:
    - initially at his home in a kayak, and
    - later at his parent's home;
  - (e) he stopped taking cash out of DNA when he separated from his wife and moved to his parents house.
- 2.66 After his purchase of the property at Kurnell in May 2002, he had used almost all of the abovementioned cash.<sup>76</sup> The Family Court proceedings in respect of himself and his wife were not finalised until about May 2003.
- 2.67 Daniel Ryan told the Commission in April 2004 that the \$20,000 to \$30,000 in cash used for the purchase of the vessel "Party Games" came from his father. He assumed that his father obtained the money from the sale of his father's own boat.<sup>77</sup>
- 2.68 In respect of the cash he took to Melbourne, Daniel Ryan's evidence was in substance, that:<sup>78</sup>
- (a) his brother, Darren Ryan, gave him cash in the order of \$228,000 to \$250,000;
  - (b) he believed it was the product of Darren's T-shirt business;
  - (c) he told people that he would invest in overseas banks; but instead he took it to Melbourne and gave it to SV1 to invest in land in his name; and
  - (d) he was not suspicious of his brother having \$228,000 to \$250,000 in cash.
- 2.69 He was also unaware of Wayne Dixon having any interest in that money, but he was unable to explain:
- (a) the lawfully recorded conversation between himself and Darren Ryan on 1 February 2004 which had as its premise that the money was, and had from the outset, been Wayne Dixon's;<sup>79</sup> (see paragraph 2.34 above)
  - (b) the rationale for the transaction referred to at paragraphs 2.32 – 2.39 whereby his company Frozen Concepts Pty. Limited purported to pay

<sup>76</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 331, 335-336

<sup>77</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 308-309

<sup>78</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 83-85, 90, 98

<sup>79</sup> Exhibit 12AC; PIC Transcript, DF Ryan, 29 March 2004, pp. 77-94

for the benefit of the business established by Wayne Dixon \$328,000 in respect of the money that Daniel had given to SV1 in Melbourne.<sup>80</sup>

### **Wayne Dixon, Darren Ryan and Angela Dixon's Evidence to the Commission**

2.70 The explanations given by Darren Ryan<sup>81</sup>, Wayne Dixon<sup>82</sup> and Angela Dixon<sup>83</sup> for the \$250,000 which Daniel Ryan took to Melbourne may be summarised as follows:

- (a) Angela Dixon operated a cash business "Sure Shot T Shirt Screen Printers" from about September 1997.
- (b) Darren Ryan worked in the business from about the time of its commencement. Wayne Dixon also worked in the business up until the time he commenced full time employment with Chubb in about 1998.
- (c) Angela Dixon and Darren Ryan saved all the cash from the business and Wayne Dixon left his "wages" with Darren Ryan to "save" for him.

2.71 Darren Ryan gave evidence that:

- he gave Daniel Ryan \$254,000 in cash "to hold";<sup>84</sup>
- Wayne Dixon had an interest in about \$150,000 of that money;<sup>85</sup> and
- Daniel Ryan had dealt with the money without his, that is Darren's permission.<sup>86</sup>

2.72 Darren Ryan asserted that because of the loss of the money which had been given to SV1:<sup>87</sup>

- Daniel Ryan provided him with money (\$58,402.50), used in the purchase of the Caringbah property in 2002; (see paragraph 2.30 above) and
- for the same reason he, Darren, told Wayne Dixon that he could have the rest of the money due from SV1.

2.73 Wayne Dixon gave evidence in support of those propositions.<sup>88</sup> He told the Commission that Darren Ryan had been holding over \$200,000 of which \$150,000 was his.<sup>89</sup>

2.74 According to Angela Dixon the amount saved was \$250,000 and Wayne Dixon's share was \$150,000.<sup>90</sup>

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<sup>80</sup> PIC Transcript, DF Ryan, 29 March 2004, pp.96-106

<sup>81</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan, 30 March 2004, pp. 126-128

<sup>82</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 16-23, 34-36

<sup>83</sup> PIC Transcript, AM Dixon, 5 May 2004, pp. 410, 412-417, 441-452

<sup>84</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan, 30 March 2004, p. 124

<sup>85</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan, 30 March 2004, p. 135

<sup>86</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan, 30 March 2004, pp. 123-124

<sup>87</sup> Exhibit 126 – PIC Private Transcript, DJ Ryan, 30 March 2004, p. 129

<sup>88</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, p. 97

<sup>89</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 22-23

- 2.75 In the Commission's opinion the explanations by Wayne Dixon, Darren Ryan and Angela Dixon are inherently unlikely. Even if a business of the sort described had the capacity to generate the amount of profit suggested it is not credible that the proprietor of a business (Angela Dixon) would give something in the order of 60% of the profit proceeds thereof to an employee, (Wayne Dixon) and that he would allow the employer to retain the whole of his earnings for investment at the employer's discretion. The fact that Wayne Dixon is Angela's brother does not really enhance the credibility of this story.
- 2.76 The demeanour of each of those persons when giving evidence, specifically as to his or her relationship to the cash taken to Melbourne by Daniel Ryan, and generally, was such that the Commission comfortably rejects the evidence of each except where it was corroborated by other independent credible evidence. There is, however, no independent objective evidence to corroborate any aspect of the explanations proffered about the \$250,000.

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<sup>90</sup> PIC Transcript, AM Dixon, 5 May 2004, p. 449





### 3. MATTERS ARISING

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- 3.1 In the course of its investigation into the \$250,000 which Daniel Ryan took to Melbourne, the Commission became aware of a number of other instances of suspected unlawful activity involving Daniel Ryan and his associates.

#### DANIEL RYAN – NON-PAYMENT OF INCOME TAX

- 3.2 Daniel Ryan separated from his wife on 10 June 2001.
- 3.3 Daniel Ryan gave evidence that some period prior to that separation and up to about January 2002 when he purchased the vessel “Party Games”, he drained cash from the DNA Distributions accounts, so as to avoid disclosing the true state of affairs of that business in family law proceedings which he was considering.<sup>91</sup>
- 3.4 To do so effectively he would have had to falsify his income tax returns by either:
- not recording the sums “drained” as income from that business, or
  - disguising the “draining” as expenses of that business.
- 3.5 He testified that “... *he may not* ...” have declared the true income of the DNA Distributions business in his personal income tax returns to the Australian Taxation Office (ATO).<sup>92</sup>
- 3.6 There is evidence to suggest that in later periods Daniel Ryan dealt dishonestly with the income of the business he operated:
- a payment of \$6,600 to a cosmetic surgeon for treatment received by Daniel was drawn from the DNA business account and disguised as a deductible payment to consultants;<sup>93</sup>
  - a payment of \$8,622.97 to a girlfriend was drawn from the DNA business account and disguised, again as a payment to consultants;<sup>94</sup>
  - the deposit payment of \$36,465.00 for the Kurnell property was drawn from the DNA business account and also disguised as a payment to consultants.<sup>95</sup>
- 3.7 To the extent that the draining occurred in the period prior to 30 June 2001, the understatement of income could constitute an offence under the *Taxation Administration Act 1953* (Cth). Alternatively, that amount would be “income” obtained by Daniel Ryan in the year ended 30 June 2002 which should have

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<sup>91</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 299-333

<sup>92</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 358-359

<sup>93</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 354-357, 362-363; Exhibits 51C, 52C & 53C

<sup>94</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 371-376; Exhibits ANF39C, ANF40C, ANF41C & 56C

<sup>95</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 376-380; Exhibits 57, 58B & 59

been declared. Daniel Ryan in his evidence said that he had failed to lodge an income tax return for the year ended 30 June 2002 (or 30 June 2003).<sup>96</sup>

## DANIEL RYAN – NON DISCLOSURE IN FAMILY LAW PROCEEDINGS

3.8 In an “Application” filed in the Family Court on 6 June 2003, Daniel Ryan made a disclosure said to be:

“..of all [his] property, superannuation, liabilities and financial resources ...”.

3.9 The disclosure was verified by an affidavit sworn by Daniel Ryan on 16 May 2003 and filed with the Application.<sup>97</sup>

3.10 As at 16 May 2003:

- (a) Off Duty Enterprises Pty. Limited was an entity in which Ryan held the whole beneficial interest. It had since 20 May 2002 owned a property at Kurnell.<sup>98</sup> Its equity therein was in the order of \$75,000.
- (b) Daniel Ryan had since 14 January 2002 owned a boat “Party Games”. It had been acquired for \$60,000.<sup>99</sup> It was restored and increased in value.

3.11 The Application referred to in paragraph 3.8 above did not disclose Daniel Ryan’s interest in the company, the property or the boat.

## DANIEL RYAN – FALSE STATEMENTS IN RESPECT OF THE FERRARI

3.12 On 20 February 1995 Daniel Ryan acquired from Sydney’s American Imports Pty. Limited, a 1979 Ferrari for \$38,000. Prior to being purchased by Daniel Ryan, the Ferrari had been declared a total loss for insurance purposes. In evidence Daniel Ryan described it as “*written off*” and said that he had spent several years restoring it.<sup>100</sup>

3.13 On about 27 September 2000, in connection with an application for a loan, Daniel Ryan represented the then value of the Ferrari as \$70,000.<sup>101</sup>

3.14 On 6 May 2001 he applied for registration of that vehicle and:

- (a) stated that the greater of:
  - the price he had paid for it, and
  - its market value

was \$12,500.<sup>102</sup>

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<sup>96</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 26

<sup>97</sup> Exhibit 114C

<sup>98</sup> Exhibit 115C

<sup>99</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 267, 308-309

<sup>100</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 323-324, 393-395; PIC Transcript, DF Ryan, 6 May 2004, p. 538

<sup>101</sup> Exhibits 64C & 67C

- (b) attached a letter to the registration application that stated that the Ferrari had been sold to Daniel Ryan by SV1 “*in a totally written off state*” for \$12,500.<sup>103</sup> The letter was signed by Daniel Ryan and had a signature purporting to be that of SV1. SV1 has provided a statement to the Commission to the effect that he recalls being asked by Daniel Ryan to create a letter stating that he had sold the vehicle to Ryan for \$12,500 to assist Ryan to falsely represent the circumstances relating to the purchase of the Ferrari. SV1 stated that he did not create the requested letter and when shown the document attached to the Application for Registration he did not recognise the signature on the letter as his. He recognised the address on the letter as that of a business which had been owned by his brother.
- 3.15 On about 10 April 2002, in connection with a different loan application, Daniel Ryan declared the value of the Ferrari to be \$80,000.<sup>104</sup>
- 3.16 The false declaration at the time he registered the Ferrari saved Daniel Ryan something slightly less than \$1,000, by reducing the stamp duty on the registration of the vehicle (assuming a value of \$70,000) and to that extent he obtained a financial advantage.

### DANIEL RYAN INTERFERENCE WITH A WITNESS

- 3.17 On 14 April 2004 Wayne Dixon gave evidence to the Commission. At about 09.02 that morning an SMS message was sent to his mobile telephone in the following terms:<sup>105</sup>

“GOOD LUCK THINK STRAIGHT BE STRONG AND VAIGUE [sic]  
REMEMBER I DONT KNOW”

- 3.18 The sending number was that of a telephone service subscribed to by Daniel Ryan.<sup>106</sup>
- 3.19 When questioned about this Daniel Ryan’s evidence was that:<sup>107</sup>
- (a) he thought he had sent an SMS saying “good luck, think straight, be strong”;
  - (b) he accepted that he “must have” sent the message in its entirety;
  - (c) he “must have” known Wayne Dixon was about to give evidence before the Commission;
  - (d) he was unable to give any reason for sending the message;
  - (e) he was unable to suggest any meaning for “be strong and vague” other than as encouragement to Wayne Dixon to be evasive in his testimony.

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<sup>102</sup> Exhibit 89AC

<sup>103</sup> Exhibit 92B

<sup>104</sup> Exhibit 54C

<sup>105</sup> Exhibit 122

<sup>106</sup> PIC Transcript, DF Ryan, 6 May 2004, p. 585

<sup>107</sup> PIC Transcript, DF Ryan, 6 May 2004, pp. 584-589

### 3. MATTERS ARISING

- 3.20 Wayne Dixon's recollection was that he received an SMS message from Daniel Ryan on the evening before he gave evidence to the following effect:<sup>108</sup>  
"... don't be nervous ... it should be all right."
- 3.21 The message as recorded by the Commission appears to be an attempt to interfere with Wayne Dixon giving evidence, and to counsel him as to how to give that evidence. The available inference is that Daniel Ryan was concerned about the evidence which Wayne Dixon might give which would be adverse to him (Daniel Ryan).

### DANIEL RYAN & WAYNE DIXON – FALSE DECLARATIONS IN LOANS APPLIED FOR BY WAYNE DIXON

- 3.22 On 16 December 2002 Wayne Dixon made a loan application to St George Bank. In the application he:<sup>109</sup>
- (a) stated that he was employed full-time at Frozen Concepts Pty. Limited on a gross salary of \$55,000 per annum; and
  - (b) attached a letter to that effect from Frozen Concepts Pty. Limited signed by Daniel Ryan.<sup>110</sup>
- 3.23 On 15 April 2003 a loan of \$270,000 was obtained by Wayne Dixon from the St George Bank.<sup>111</sup>
- 3.24 Wayne Dixon and Daniel Ryan both admitted in evidence that Wayne Dixon had never been employed by Frozen Concepts Pty. Limited.<sup>112</sup> The statements by:
- Dixon in the application form; and
  - Daniel Ryan in the letter;
- were false and made deliberately by each.

### WAYNE DIXON – FURTHER FALSE DECLARATIONS

- 3.25 On 23 June 2003 Wayne Dixon made a further loan application to St George Bank.<sup>113</sup> He:
- (a) stated that he was employed full-time at Frozen Concepts Pty. Limited on a salary of \$55,000; and
  - (b) attached a letter to that effect from Frozen Concepts Pty. Limited signed by SV1.<sup>114</sup>

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<sup>108</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 81-83

<sup>109</sup> Exhibit 83AC

<sup>110</sup> Exhibit 84AC

<sup>111</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, p. 77

<sup>112</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, p. 77; PIC Transcript, WR Dixon, 6 May 2004, p. 520; PIC Transcript, DF Ryan, 6 May 2004, pp. 572-575

<sup>113</sup> Exhibit 86AC

- 3.26 On 28 July 2003 a loan of \$223,366 was obtained by Wayne Dixon.<sup>115</sup>
- 3.27 SV1 said in evidence that Wayne Dixon had never worked for Frozen Concepts Pty. Limited. SV1 agreed that he had written the letter but that the content insofar as it said that Wayne Dixon worked for Frozen Concepts Pty. Limited was untrue. SV1 also said that he was aware that at the time Wayne Dixon worked on the wharves, and that he needed a letter to obtain the loan because he had only been working there for a short period of time.<sup>116</sup> The statement by Dixon in the application form was false and made deliberately as was the statement by SV1 in the letter.
- 3.28 On 22 January 2004 Wayne Dixon completed a loan application to Westpac Bank. He stated in the application form that he was employed full-time at Frozen Concepts Pty. Limited as a sales manager on \$70,000 per annum.<sup>117</sup>
- 3.29 Both Wayne Dixon<sup>118</sup> and Daniel Ryan<sup>119</sup> agreed in evidence that Wayne Dixon had not been employed by Frozen Concepts Pty. Limited. The statement by Wayne Dixon in the application form was false.

### **DARREN RYAN, ANGELA DIXON AND WAYNE DIXON – NON-PAYMENT OF INCOME TAX**

- 3.30 Angela Dixon and Wayne Dixon both told the Commission that no part of the income derived from the Sure Shot T-shirt business was declared as income to the Australian Taxation Office.<sup>120</sup>

### **DARREN RYAN AND SV1 – STRUCTURING**

- 3.31 In a telephone conversation on 23 December 2003 between Darren Ryan and SV1, the latter agreed that in respect of a proposed transfer of \$25,000, that “fifteen” (\$15,000) would be transferred that day, and the remaining “ten” (\$10,000) the next day.<sup>121</sup>
- 3.32 There were a further three telephone conversations between Darren Ryan and SV1 that day, commencing at 13:56:38<sup>122</sup>, 14:49:34<sup>123</sup> and 15:46:19<sup>124</sup> respectively. During the first of these conversations Darren Ryan asked for \$9500 to be placed in his account and \$500 to be deposited in the account of his parents Kevin and Robyn Ryan. In the second call SV1 informed Darren Ryan that he was in the St. George Bank and that the Commonwealth Bank was across the road. He would send “five five” (\$5500) and “nine five”

<sup>114</sup> Exhibit 87B

<sup>115</sup> Exhibit 116

<sup>116</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004, pp. 83-84

<sup>117</sup> Exhibit 124C

<sup>118</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 76-77; PIC Transcript, WR Dixon, 6 May 2004, pp. 520-522

<sup>119</sup> PIC Transcript, DF Ryan, 6 May 2004, pp. 572-575

<sup>120</sup> PIC Transcript, AM Dixon, 5 May 2004, pp. 414-415; Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, p. 20

<sup>121</sup> Exhibit 117

<sup>122</sup> Exhibit 118

<sup>123</sup> Exhibit 119

<sup>124</sup> Exhibit 120

### 3. MATTERS ARISING

(\$9500). Darren Ryan and SV1 agreed that SV1 would deposit the following amounts into the accounts of:

- Darren Ryan     \$ 9,500
- Angela Dixon   \$ 5,500
- Total             \$15,000

3.33 The deposits were made by SV1 within minutes of one another and in the last of the calls Darren Ryan confirmed that he had received the money.

3.34 It is clear that Darren Ryan was in a position to utilise and control the proceeds of those deposits immediately they became available. These deposits may have been deliberately structured to avoid the provisions of the *Financial Transaction Reports Act 1997* (Cth) (FTRA) which apply to cash transactions of \$10,000 or more (“Significant Cash Transactions”).

3.35 For the purposes of s31 of the FTRA a person commits an offence if:

- the person is a party to 2 or more non-reportable cash transactions; and
- having regard to the manner and form in which the transactions were conducted, including, all or any of the following:
  - the value of the cash involved in each transaction;
  - the aggregated value of the transactions;
  - the period of time over which the transactions took place;
  - the interval of time between any of the transactions;
  - the locations at which the transactions took place; and
  - any explanation made by the person as to the manner or form in which the transactions were conducted;
- it would be reasonable to conclude that the person conducted the transactions in that manner or form for the sole or dominant purpose of ensuring, or attempting to ensure, that the cash involved was transferred in a manner and form that would not give rise to a significant cash transaction or would give rise to exempt cash transactions.

3.36 In this case if the person (Darren Ryan) was a party to each and the person (SV1) was a party to each; it would be:

“... reasonable to conclude that the persons [Darren Ryan] and [SV1] conducted the [non reportable] transactions ... for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved ... was transferred in a manner and form that would not give rise to a significant cash transaction.”<sup>125</sup>

### JOHN HANCOCK AND SV1 – STRUCTURING

3.37 There is evidence in the conversations referred to in paragraphs 3.31 and 3.32 above that John Hancock was to be the recipient of at least \$5000 out of the \$15,000 discussed by Darren Ryan and SV1.<sup>126</sup>

3.38 In telephone conversations on 8 January 2004,<sup>127</sup> SV1 advised John Hancock that “ten can show up”. John Hancock then requested cash of \$9,800 (rather

<sup>125</sup> Subsection 31(1) *Financial Transaction Reports Act 1988*

<sup>126</sup> Exhibit 118

than \$10,000) be deposited into his account (thus avoiding a significant cash transaction). \$9,800 was deposited into the account of John Hancock on 8 January 2004.

- 3.39 There is no evidence of the balance of the \$10,000 i.e. \$200, being deposited into Hancock's account. It appears Hancock accepted \$9,800 as the payment, rather than \$10,000.
- 3.40 Accordingly the arrangement in those conversations did not result in "... 2 or more non-reportable transactions ..." for the purposes of s31 FTRA. There was only one transaction. Thus there could not be a s31 FTRA offence by reason of the reduction of the amount to be deposited from \$10,000 to \$9,800, as there was only one transaction.
- 3.41 On 2 February 2004, John Hancock and SV1 agreed on a further deposit of "five" (\$5,000).<sup>127</sup> The \$5,000 was deposited into Hancock's account on 5 February 2004. Although raising suspicion, there is no evidence to suggest that the \$5,000 was in any way connected to the earlier transaction. Accordingly the elements to establish an offence under the FTRA do not appear to be present in respect of Hancock.

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<sup>127</sup> Exhibits 33 & 34

<sup>128</sup> Exhibit 121





## 4. OTHER POLICE MISCONDUCT BY DANIEL RYAN

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- 4.1 At the time of writing this Report, Daniel Ryan is a member of New South Wales Police (currently suspended without pay). Accordingly, in addition to the suspected unlawful activity discussed in the preceding chapters, it is relevant for the Commission to consider conduct by Daniel Ryan which, although not amounting to the commission of possible criminal offences, falls into the category of police misconduct.

### SECONDARY EMPLOYMENT

- 4.2 It is a requirement of New South Wales Police that any employment engaged in by an officer in addition to his police duties requires prior approval.<sup>129</sup> Daniel Ryan in his evidence to the Commission acknowledged that he was aware of that requirement in relation to each of the businesses he conducted.<sup>130</sup>
- 4.3 On 28 February 2004 the Commission served on Daniel Ryan a Notice pursuant to section 25 of the *Police Integrity Commission Act 1996* requiring him to produce a statement of information.<sup>131</sup> Question 4 in that Notice required Daniel Ryan to provide a statement containing details of all applications made to and approvals/refusals received from the NSW Police for him to undertake secondary employment.
- 4.4 Daniel Ryan stated in his response to the s25 Notice, and in his evidence, that he had sought secondary employment approval only once, while he was stationed at Sydney Airport and had “... *never heard anything* ...” and “... *assumed it went through* ...”<sup>132</sup> He said the application was in relation to the “*wholesale of soft serve ice-cream and granita*” which he undertook from 1998 to the present.
- 4.5 Daniel Ryan further stated in his response to the Notice, and in his evidence that he:<sup>133</sup>
- (a) worked as a bus driver from about 1994 to sometime in 2001, earning from 1998 onwards about \$150 gross per week. The employer was a company controlled by his parents-in-law.
  - (b) worked as a Frosty Boy driver from mid – 1996 to 1998 earning about \$200 gross per week.
  - (c) was the proprietor of, and worked in the business of DNA Distributions from about late 1998, perhaps as early as late 1996 when he was stationed at Botany, and later the Frozen Concepts business.<sup>134</sup>

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<sup>129</sup> Section 88, *Police Act 1990*

<sup>130</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 39

<sup>131</sup> Exhibit 3B

<sup>132</sup> Exhibit 2B; PIC Transcript, DF Ryan, 29 March 2004, pp. 39-40

<sup>133</sup> Exhibit 2B

<sup>134</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 40-43

#### 4. OTHER POLICE MISCONDUCT BY DANIEL RYAN

- 4.6 The Commission made inquiries of NSW Police and was advised that there were no applications on file from Daniel Ryan for secondary employment approval.
- 4.7 Even assuming the truth of his assertion that secondary employment approval had been sought, Daniel Ryan never had any reasonable basis for believing that such “approval” had ever been granted.
- 4.8 In any event, that application, if made, was prior to the evolution of DNA Distributions into the Frozen Concepts business. Thus there is no basis for supposing that any such application could have comprehended the DNA Distributions/Frozen Concepts business as he undertook it after 1998, in particular its involvement in the production and sale of alcoholic products from at least January 2001.<sup>135</sup>
- 4.9 Daniel Ryan understood that secondary employment approval was required for him to operate Frozen Concepts Pty. Limited, and that because it involved alcohol it was considered a “high risk” industry by NSW Police. On 4 February 2004 at 15:47<sup>136</sup> Daniel Ryan had a telephone conversation with an officer of the Police Credit Union during which the following exchange took place:

Credit Union: Now in relation to the business that you’ve got there, do you derive an income from that?

Ryan: No

Credit Union: Okay

Ryan: te – technically no I don’t

Credit Union: Right, okay

Ryan: ‘Cause um, if I do that then it’s secondary employment, you gotta go through all that shit, so I don’t.

Credit Union: Right. So there’s nothing official in other words?

Ryan: Exactly right.

Credit Union: Okay.

Ryan: - Laughs - Mate that, especially ‘cause it’s, it involves alcohol and all that, it’s just not worth it.

Credit Union: Right, okay. No worries. All right then leave it with me.

- 4.10 It should also be noted that the Frozen Concepts business enterprise was understood by Daniel Ryan<sup>137</sup> to require a licence under the *Liquor Act 1982* (NSW). His evidence was that no licence was applied for until the business

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<sup>135</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 48

<sup>136</sup> Exhibit 6B; PIC Transcript, DF Ryan, 29 March 2004, pp. 49-52

<sup>137</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 45-46

had been operating for several years,<sup>138</sup> because he “never got around” to seeking one.<sup>139</sup>

## CONDUCT IN THE WATER POLICE

- 4.11 On 3 December 2003 Daniel Ryan spoke with the owner of a boat presumed to have sunk. In the course of that conversation there was an exchange to the following effect:<sup>140</sup>

Ryan: ... was it insured ...?

Owner: No ...

Ryan: ... I was just gonna say we could've, um, delayed and reported it in a month or so ... You know.

Owner: Yeah, um ... I couldn't ... get insurance on it

Ryan: Ah shit ...

- 4.12 On its face the suggestion made by Ryan would appear to be encouraging the owner to take out insurance and then make an insurance claim on a false basis.

- 4.13 In his evidence to the Commission, Daniel Ryan was unable to provide any honest reason why a report to any insurer, if there had been one, ought to have been delayed by a “month or so”.<sup>141</sup>

- 4.14 The inference to be drawn is that Ryan was:

- (a) encouraging the owner to delay recovery and thus ensure an insurance payout; and
- (b) willing to assist the owner to do so.

- 4.15 On 7 February 2004 there was a telephone conversation between Daniel Ryan and his brother Darren which included the following exchange:<sup>142</sup>

Daniel Ryan: Now Darren, tomorrow, what do you want me to go see [person's name]

Darren Ryan: ... you haven't gotta do anything. You just gotta ... stand next to him [while] I ... get him to do something for me.

Daniel Ryan: Oh yeah ... I got a fair idea ...

Darren Ryan: ... make sure you got your uniform on though

Daniel Ryan: Yeah.

<sup>138</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 47-49

<sup>139</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 49

<sup>140</sup> Exhibits 7AC & 8B

<sup>141</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 53-57

<sup>142</sup> Exhibits 9AC & 10B

#### 4. OTHER POLICE MISCONDUCT BY DANIEL RYAN

- 4.16 On its face Daniel Ryan was being requested, and agreed, to use his position to intimidate someone dealing with his brother, conduct which, Daniel Ryan conceded in evidence, would be wrong.<sup>143</sup>
- 4.17 Later that day at Paddy's Market, Sydney, they met with a third person. Daniel Ryan was in Water Police overalls. He had driven to the meeting in a police vehicle, without completing the log book. Surveillance conducted by the Commission showed that he was accompanied in the vehicle by his brother Darren. In evidence he admitted he had no financial or business connection with the person he met. He was on duty at the time of that private meeting.<sup>144</sup>
- 4.18 In his evidence to the Commission,<sup>145</sup> Daniel Ryan was unable to provide any legitimate reason why he might have attended the meeting in uniform.

#### MISCELLANEOUS DISHONESTY

- 4.19 On 26 November 2003 there was a telephone conversation between Daniel Ryan and a business associate in which Daniel Ryan said:<sup>146</sup>
- “I can go and refabricate another letter. Will or won't I ...”
- 4.20 The terms of the proposed fabrication were then discussed.
- 4.21 In his evidence<sup>147</sup>, Daniel Ryan:
- (a) said the letter being discussed was to be one from the Australian Customs Service in connection with the Frozen Concepts business;<sup>148</sup>
  - (b) asserted that the reference to “another” fabricated letter was to a draft of the letter being discussed. This is not consistent with the conversation itself, which makes no reference to an earlier draft;
  - (c) agreed he was “contemplating” using the fabricated letter to obtain a commercial advantage for himself and understood doing so would be dishonest; and
  - (d) denied the letter had been sent.
- 4.22 Whether or not the letter was used, the conduct went beyond merely “contemplating” dishonesty. The conversation implies that there was an earlier fabricated letter that had been used.
- 4.23 In another telephone call on 10 February 2004 between Daniel Ryan and the business associate, the following exchange occurred:<sup>149</sup>

Associate: Hey ... have you been able to knock off one of those notebook computers?

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<sup>143</sup> PIC Transcript, DF Ryan, 29 March 2004, p. 71

<sup>144</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 73-76

<sup>145</sup> PIC Transcript, DF Ryan, 29 March 2004, pp. 72-76

<sup>146</sup> Exhibits 60AC & 61B

<sup>147</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 380-382, 385-393

<sup>148</sup> Exhibit 63

<sup>149</sup> Exhibits 96AC & 97AC

Daniel Ryan: .... I do believe I have.

- 4.24 The exchange implies prior discussion about stealing a notebook computer, i.e. deliberate rather than impetuous dishonesty, which had been acted on. In his evidence Daniel Ryan suggested that it was just “bullshit to him”, i.e. he was just stringing the business associate along.<sup>150</sup> The terms of the prior conversation with the business associate on 26 November 2003, referred to in paragraph 4.19 above, tends to make it unlikely that it was just “bullshit”. In his evidence to the Commission, Daniel Ryan was unable to provide any explanation of those comments which was consistent with him acting honestly.<sup>151</sup>
- 4.25 In the course of his evidence Daniel Ryan was examined about two faxes, each purportedly from a “Wayne Hatison CPA” dated:
- 29 April 2002, and
  - 2 May 2002.<sup>152</sup>
- 4.26 The name Wayne Hatison is a pseudonym used by SV1. In his evidence SV1 said that he created the documents at the request of Daniel Ryan<sup>153</sup> to assist in a property purchase.
- 4.27 On 3 April 2002 Daniel Ryan exchanged contracts for the purchase of the property at Kurnell in the name of his business Off Duty Enterprises. On 10 April 2002 he submitted a loan application in respect of that purchase.<sup>154</sup>
- 4.28 The faxes from “Wayne Hatison CPA” bear the salutation “*to whom it may concern*” and state, among other things, that each of:
- Off Duties (sic) Enterprises Pty Limited;
  - DNA Distributions; and
  - Frozen Concepts,
- had “no borrowings”.
- 4.29 In respect of DNA Distributions and Frozen Concepts those businesses were conducted by Daniel Ryan personally and he had on 2 October 2000 borrowed from the Commonwealth Bank \$100,000 for business purposes.<sup>155</sup> No debt to the Commonwealth Bank was disclosed in the loan application for the Kurnell property in April 2002. That debt was still outstanding at the time that loan application was made.
- 4.30 In his evidence<sup>156</sup> Daniel Ryan:
- acknowledged that he knew the letterhead address on the faxes was that of SV1;

<sup>150</sup> PIC Transcript, DF Ryan, 6 May 2004, p. 570

<sup>151</sup> PIC Transcript, DF Ryan, 6 May 2004, pp. 567-571

<sup>152</sup> Exhibits 55B & 50B ; PIC Transcript, DF Ryan, 2 April 2004, pp. 364-368

<sup>153</sup> Exhibit 127 – PIC Private Transcript, SV1, 15 March 2004 pp. 91-92

<sup>154</sup> Exhibit 54B

<sup>155</sup> Exhibits 64C, 67C & 132

<sup>156</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 354, 363-368

#### 4. OTHER POLICE MISCONDUCT BY DANIEL RYAN

- could not recall any use by him of those faxes;
- denied any association or involvement with the production of them.

##### 4.31 In respect of the faxes:

- (a) the terms of each are incapable of advantaging SV1;
- (b) the dates coincide with Daniel Ryan seeking finance;
- (c) the contents:
  - (i) appear relevant to the obtaining of finance by Daniel Ryan;
  - (ii) are false:- there is no Wayne Hatison, and there were borrowings.

##### 4.32 The inference to be drawn is that Daniel Ryan colluded with SV1 to produce “fabrications” in order to obtain a benefit.

## 5. AFFECTED PERSONS

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- 5.1 A person against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation, is an "affected person" for the purposes of a Report to Parliament by the Commission.<sup>157</sup>
- 5.2 Subsection 97(2) of the *Police Integrity Commission Act 1996* (the Act) requires the Commission to include in a Report to Parliament a statement, in respect of each affected person as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:
- (a) the prosecution of a person for a specified criminal offence,
  - (b) the taking of action against the person for a specified disciplinary offence,<sup>158</sup>
  - (c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
  - (d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.
- 5.3 In addition the Commission may form opinions as to whether police misconduct, or other misconduct, has occurred: subsection 16(1)(a) of the Act. These opinions help to inform whether any recommendations should be made or opinions expressed as to whether consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences.
- 5.4 The expression "police misconduct" is not specifically defined by the Act. It nevertheless includes the following types of conduct (see section 5 of the Act):
- a) police corruption,
  - b) the commission of a criminal offence by a police officer,
  - b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the *Police Act 1990*,
  - c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,

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<sup>157</sup> Subsection 97(3), *Police Integrity Commission Act 1996*

<sup>158</sup> The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commissioner to recommend or state whether consideration should be given to the prosecution of a person for a specified "disciplinary offence" (subsections 16(1)(b), 97(2)(b) of the Act) has no effective application to police officers. This is so even for police misconduct that occurred before this date.

## 5. AFFECTED PERSONS

- d) any other matters about which a complaint can be made under the *Police Act 1990*.

5.5 It follows that “police misconduct” may encompass not only serious criminal activity such as perverting the course of justice but also minor disciplinary breaches by police, the sanction for which may, for example, be nothing more than additional training and development.

5.6 The substantial allegations made in this investigation are as follows:

- (a) that during November and December 2001 Daniel Ryan, his brother Darren Ryan and Wayne Dixon were each involved in the theft of money from Automatic Teller Machines in the Sydney metropolitan area;
- (b) that in March 2002 Daniel Ryan transported to Melbourne \$250,000 which he knew or ought to have known was the proceeds of illegal activity;
- (c) that in March 2002 Daniel Ryan without the consent of the owner, gave the \$250,000 to SV1 to be invested in the purchase of land;
- (d) that between March 2002 and March 2004, SV1 used the \$250,000, which did not belong to him, for his own purposes and did not invest it as instructed by Daniel Ryan;
- (e) that in December 2004 Darren Ryan, SV1 and John Hancock were involved in the structuring of financial transactions so as to avoid the provisions of the *Financial Transaction Reports Act 1988*;
- (f) that between the years ending 30 June 1998 and 30 June 2003 Daniel Ryan, Darren Ryan, Wayne Dixon and Angela Dixon each understated their income to the Australian Taxation Office or failed to submit the appropriate taxation returns;
- (g) that in May 2003 Daniel Ryan gave false evidence to the Family Court of Australia in that he failed to disclose his true financial position in an affidavit filed in proceedings in that Court;
- (h) that between December 2002 and June 2003 Daniel Ryan, SV1 and Wayne Dixon were each involved in the making of false statements to assist Wayne Dixon in obtaining a financial advantage;
- (i) that in May 2001 Daniel Ryan made false statements to obtain a financial advantage in respect of the stamp duty on the registration of his Ferrari;
- (j) that On 14 April 2004 Daniel Ryan sent an SMS message to Wayne Dixon with a view to having Wayne Dixon give false and misleading evidence to the Commission;
- (k) that in April and May 2002 Daniel Ryan colluded with SV1 to fabricate two letters purportedly from an Accountant to the effect that his businesses had no borrowings;



- (l) that Daniel Ryan conducted a business trading in alcoholic beverages without a licence; and
- (m) that Daniel Ryan was involved in police misconduct, in that:
  - i. he failed to report an offence (“the inside job”) when he knew one had been committed and he knew who had been involved in the commission of the offence;
  - ii. he used his position as a police officer to assist his brother in a manner contrary to his duty as a police officer;
  - iii. he encouraged the owner of a vessel to consider the submission of a false insurance claim;
  - iv. he planned with a business associate to fabricate a letter from the Australian Customs Service to be used in connection with his business Frozen Concepts Pty. Limited;
  - v. he discussed with a business associate the theft of a notebook computer; and
  - vi. he failed to obtain secondary employment approval from NSW Police to work firstly in the transport industry and secondly to operate businesses, including one involving the sale of liquor.

5.7 Based on these substantial allegations the Commission is of the opinion that each of the following is an affected person:

- Daniel Ryan
- Darren Ryan
- Wayne Dixon
- Angela Dixon
- SV1
- John Hancock

5.8 Each affected person gave his or her evidence after a declaration had been made under section 41 of the Act. Therefore pursuant to section 40 of the Act the evidence each person gave is not admissible against him or her in subsequent criminal or civil proceedings, except for proceedings for an offence against the Act (and in the case of police officers, managerial action against them by NSW Police).

## DANIEL RYAN

5.9 Daniel Ryan is an affected person because he is the subject of the substantial allegations that he:

- (a) together with Darren Ryan and Wayne Dixon was involved in the theft of money from Automatic Teller Machines in the Sydney metropolitan area in November and December 2001;

## 5. AFFECTED PERSONS

- (b) in March 2002 transported to Melbourne and gave to SV1, \$250,000 in cash which was not his and which he knew or should have known was the proceeds of illegal activity;
  - (c) gave false evidence to the Family Court by failing to disclose the full extent of his financial position in an affidavit filed in that court;
  - (d) published a statement which he knew to be false and misleading to assist Wayne Dixon to obtain money or a financial advantage;
  - (e) made a statement which he knew to be false and misleading to obtain a financial advantage for himself in respect to the registration of his Ferrari;
  - (f) understated his income for the period prior to 30 June 2001 and failed to submit tax returns for the years ending 30 June 2002 and 2003;
  - (g) conducted a business trading in alcoholic beverages without a licence;
  - (h) failed to obtain approval to engage in secondary employment when he knew it was necessary to do so;
  - (i) misused his position as an officer of the NSW Police to assist his brother Darren Ryan;
  - (j) entered into an agreement with a business partner to steal a notebook computer;
  - (k) planned with an associate to fabricate a letter from the Australian Customs Service to assist him in his business Frozen Concepts Pty. Limited;
  - (l) encouraged the owner of a vessel to consider deferring the reporting of its sinking in order to facilitate an insurance claim;
  - (m) sent an SMS message to Wayne Dixon on 14 April 2004 with a view to having Wayne Dixon give false and misleading evidence to the Commission; and
  - (n) colluded with SV1 to fabricate two letters ostensibly written by an accountant to assist him in obtaining finance.
- 5.10 Daniel Ryan is a serving NSW police officer. The Commission considers that Daniel Ryan engaged in police misconduct in relation pursuant to subsection 16(1)(a) of the Act.
- 5.11 Daniel Ryan's evidence to the Commission is not admissible against him (see paragraph 5.8 above). However the evidence of SV1, Wayne Dixon and Darren Ryan, together with the transcripts and recordings of lawfully intercepted telephone conversations between Daniel Ryan and others including Darren Ryan, Wayne Dixon, SV1 and Robyn Ryan (Daniel's mother) are admissible against him.
- 5.12 Daniel Ryan admitted that he took the \$250,000 to Melbourne. What is in doubt is the source of the money.
- 5.13 There is evidence available from SV1 and the lawfully recorded telephone conversations to the effect that the money was the proceeds of thefts from

Automatic Teller Machines in the Sydney metropolitan area. However both Darren Ryan and Wayne Dixon gave evidence that they concocted the statements made by them to that effect and that they had made those statements to put pressure on SV1 to return the money to Wayne Dixon.

- 5.14 There is also evidence available that Daniel Ryan knew that Wayne Dixon had been involved in a criminal offence as he said to his brother Darren in a telephone conversation on 1 February 2004<sup>159</sup> that he would report Wayne Dixon to the Police as being involved in the “*inside job*”.
- 5.15 Daniel Ryan also made a number of deposits into the bank account of his business DNA Distributions Pty. Limited shortly after the robberies and up until May 2002. He also made a number of withdrawals both in cash and by cheque to purchase a boat and a property.
- 5.16 Each of Darren Ryan, Wayne Dixon and Angela Dixon gave evidence that the \$250,000 was the proceeds of their T-shirt printing business and that approximately \$150,000 belonged to Wayne Dixon. Daniel Ryan also gave evidence that he believed that the money was from the T-shirt business. Similarly Wayne Dixon said in his evidence, when questioned about his knowledge of the source of the money, that he had worked with Darren Ryan in the business selling T-shirts at the markets and that he had left his share of the money with Darren.
- 5.17 In the Commission’s assessment the contemporaneity of:
  - (i) Daniel Ryan’s cash deposits;
  - (ii) the scale of his expenditure;
  - (iii) the \$250,000 going to Melbourne, and
  - (iv) the absence of any credible alternative source for that cash and expenditure,

suggests that all of the money may have been proceeds of thefts from ATMs.

- 5.18 The Commission is also of the opinion that:
  - (i) The money that went to Melbourne in 2002 was all from Wayne Dixon;
  - (ii) Wayne Dixon had obtained it by means of thefts from ATMs;
  - (iii) Wayne Dixon had not been in possession of it for very long before he parted with it, apparently by giving it to Darren Ryan, who gave it to Daniel Ryan;
  - (iv) Daniel Ryan knew it had been dishonestly obtained by Wayne Dixon in an “*inside job*” and to some extent may have been involved in the actual thefts;

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<sup>159</sup> Exhibits 11AC & 12

## 5. AFFECTED PERSONS

- (v) Wayne Dixon gave the money to Darren Ryan because he believed it would be invested overseas by Daniel Ryan in bearer bonds;
  - (vi) it was for that reason Wayne Dixon did not know that the money in fact went to Melbourne and was handed to SV1 for the purpose of Daniel Ryan purchasing land; and
  - (vii) the \$328,000 transaction (evidenced by the endorsement on the cheque) is evidence of Daniel Ryan being under an obligation to Wayne Dixon for a bearer bonds transaction.
- 5.19 The statement by Wayne Dixon that his admission to SV1 that he had stolen money from ATMs was not true may, in view of the telephone conversations in 2.51 to 2.64 above, be rejected as a lie; ie, it could be concluded the admission of theft from ATMs was the truth of the matter.
- 5.20 The evidence of Wayne Dixon's connection to the \$250,000 that went to Melbourne circumstantially fits a time frame consistent with the thefts.
- 5.21 However, there is no evidence as to the nature of the conduct of:
- (a) Wayne Dixon and his involvement in the "inside job": it is not known whether he provided information to others or in fact took part in the thefts himself;
  - (b) Darren Ryan, beyond his receipt of money that he knew had been dishonestly obtained from ATMs;
  - (c) Daniel Ryan, beyond receipt of money that he knew was dishonestly obtained from ATMs, except that it should be noted that Daniel Ryan appears to have dealt with whatever he obtained as his own and used it for his own purposes.
- 5.22 The evidence obtained by the Commission does not lend itself to the formulation of a charge of conduct constituting a specific offence by Daniel Ryan concerning the theft from the ATMs referred to in paragraph 2.1 above or any other ATM.
- 5.23 Furthermore it is the Commission's opinion that there is insufficient evidence available to establish that the money was the proceeds of the thefts from the ATMs in November and December 2001. Consequently there is also insufficient evidence to support the allegation, based on the telephone intercepts, that Daniel Ryan knew details of the offence, who had participated in it and that he failed to report the information he had about the "*inside job*" to NSW Police.
- 5.24 Due to the state of the evidence the Commission is **not** of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for any criminal offence in relation to (a) and (b) in paragraph 5.9. The Commission has however referred the evidence to the NSW Police to assist with further inquiries.

5.25 There is evidence available that Daniel Ryan created a letter that contained the statement that Wayne Dixon worked for Frozen Concepts Pty. Limited at a salary of \$55,000 per annum, which he knew to be false, to assist Wayne Dixon in obtaining a loan. That evidence is contained in the documents obtained by the Commission from the financial institution to which Wayne Dixon applied for the loan. In addition Wayne Dixon said in evidence that Daniel Ryan may have written a letter for him to assist in obtaining a loan. Evidence has been given by SV1, Wayne Dixon and Daniel Ryan that Wayne Dixon did not work for Frozen Concepts Pty. Limited.

5.26 Section 178BB of the *Crimes Act 1900* (NSW) is in the following terms:

*(1) Whosoever, with intent to obtain for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever, makes or publishes, or concurs in making or publishing, any statement (whether or not in writing) which he or she knows to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular shall be liable to imprisonment for 5 years.*

5.27 The applications for the three loans made by Wayne Dixon each contained a statement that he worked for Frozen Concepts Pty. Limited. The first, which was made to the St George Bank, had a letter attached dated 10 November 2002, signed by Daniel Ryan stating that Dixon worked for Frozen Concepts at a salary of \$55,000 per annum.

5.28 On the same file was a file note to the effect that a bank officer had spoken to Daniel Ryan in a telephone conversation and that Daniel Ryan had confirmed that Wayne Dixon worked for Frozen Concepts Pty. Limited.

5.29 The second application, also to the St George Bank, had a letter attached signed by SV1 which also stated that Wayne Dixon was employed by Frozen Concepts Pty. Limited, a company operated by Daniel Ryan at the salary of \$55,000 per annum.

5.30 Both loan applications contained a handwritten statement that Wayne Dixon was employed by Frozen Concepts Pty. Limited at the annual salary of \$55,000 and each application was signed by Wayne Dixon. The third application made to Westpac Banking Corporation also contained a handwritten statement to the effect that Wayne Dixon was employed by Frozen Concepts Pty. Limited, at a salary of \$70,000 and was signed by Wayne Dixon.

5.31 The statement in each of the applications was one which the authors knew to be false. They would have known that the employment and salary earned by a borrower is a particular which is material to a lender as it is an indication of the borrower's capacity to repay the loan. If the information is false to the detriment of the lender then the borrower has obtained money or valuable thing or a financial advantage by making a false statement.

5.32 The evidence against Daniel Ryan consists of the letter signed by him, the file note record of his confirmation to the bank of the detail of the employment of Wayne Dixon, the evidence of SV1 that Wayne Dixon did not work for

Frozen Concepts Pty. Limited and the evidence of Wayne Dixon that he did not work for the company.

- 5.33 The Commission is of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for the offence of making or publishing, any statement (whether or not in writing) which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it is true or is false or misleading in a material particular, with intent to obtain for another person, Wayne Dixon, money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.
- 5.34 In relation to the registration of his Ferrari, Daniel Ryan gave evidence that he had bought the vehicle “*written off*” in February 1995 for \$38,000 and that he spent some time and money restoring it.<sup>160</sup> The vehicle was registered in April 2001 and the value was stated as being \$12,500. Attached to the application for registration was a letter allegedly signed by SV1 stating that he had sold the vehicle to Daniel Ryan for \$12,500. The registration application obtained by the Commission and tendered as exhibit 89AC, contains the statement that the vehicle was valued at \$12,500.
- 5.35 SV1 has provided evidence that he was asked by Daniel Ryan to create a letter to the effect that he had sold the vehicle to Ryan for \$12,500 to assist Ryan to represent false circumstances relating to his purchase of the Ferrari. SV1 stated that he did not create the letter and when shown the document attached to the application for registration he did not recognise the signature on the letter as his. He also recognised the address on the letter as that of a business which had been owned by his brother.
- 5.36 Daniel Ryan knew this statement about the value of the Ferrari was untrue. Daniel Ryan gave evidence that between February 1995 and May 2001 he spent time and money restoring the vehicle. In September 2000 Daniel Ryan submitted an application for a loan in which he described the value of the Ferrari as \$70,000.
- 5.37 The falsity in the application resulted in Daniel Ryan gaining a financial advantage of approximately \$1,000 by virtue of the reduced stamp duty on the registration.
- 5.38 The Commission is of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for the offence of making or publishing, any statement which he knew to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular, with intent to obtain for himself any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.
- 5.39 During his evidence Daniel Ryan stated that he had secreted money in his home and later at his parents’ house that had been withdrawn from company accounts. He gave as the reason that he feared being “shafted” at the Family

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<sup>160</sup> PIC Transcript, DF Ryan, 2 April 2004, pp. 322-324, 393-395; PIC Transcript, DF Ryan, 6 May 2004, p. 538

Court in proceedings that he was anticipating at the time. That money was not declared in the property settlement in the Family Court proceedings. That evidence given to the Commission is not available to be used against Daniel Ryan.

- 5.40 The Commission has however obtained a copy of the affidavit of Daniel Ryan filed in the Family Court proceedings. That document shows that he failed to inform the Court of his interest in businesses and the ownership of the Kurnell property by Off Duty Enterprises Pty. Limited, a company of which he was the sole proprietor, and the ownership of the vessel “Party Games”.
- 5.41 The Commission is of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for the offence of intentionally giving false evidence in a judicial proceeding touching any matter material in the proceedings contrary to the provisions of section 35 of the *Crimes Act 1914* (Commonwealth).
- 5.42 In evidence to the Commission Daniel Ryan stated that he had not declared income to the Australian Taxation Office for a number of years. Nor had he submitted taxation returns either personal or company for a number of years. The understatement of income is an offence against the *Taxation Administration Act 1953*.
- 5.43 The oral evidence from Daniel Ryan cannot be used against him. The documents obtained by the Commission showing deposits and withdrawals from companies and businesses owned and operated by Daniel Ryan are available for use against Daniel Ryan but are insufficient on their own to establish the commission of an offence against the *Taxation Administration Act 1953*.
- 5.44 The Commission is **not** of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for any criminal offence in relation to the failure to lodge taxation returns and the understatement of income.
- 5.45 However the Commission has arranged for the information in its possession to be disseminated to the Australian Taxation Office in accordance with the provisions of section 18 of the Act.
- 5.46 Daniel Ryan sent an SMS message to Wayne Dixon on 14 April 2004, prior to Dixon giving evidence at the Commission, wishing him “GOOD LUCK” and urging him to “THINK STRAIGHT BE STRONG AND VAIGUE [sic]” and to “REMEMBER I DON’T KNOW”. The transcript of the full text of the message which is quoted above was tendered as exhibit 122.
- 5.47 Section 109 of the Act provides that a person who attempts to procure or cause the giving of false testimony at a hearing of the Commission is guilty of an indictable offence punishable by 200 penalty units or 5 years imprisonment or both. The Commission is of the view that the message should be viewed as an attempt by Daniel Ryan to procure or cause Wayne Dixon to give false testimony at a hearing of the Commission, contrary to the provisions of s109 of the Act.
- 5.48 There is conflicting evidence from Daniel Ryan and Wayne Dixon as to the content of the message sent by Daniel Ryan and received by Wayne Dixon.

However, the available inference of the message intercepted by the Commission is that Daniel Ryan was concerned about the evidence which Wayne Dixon might give which would be adverse to him (Daniel Ryan). The words which can be viewed as an attempt to influence Wayne Dixon are [be] “*vaigue remember I don’t know*”. The Commission is of the view that this is sufficient evidence to support a prosecution.

5.49 The Commission is of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for a criminal offence in relation to s109 of the *Police Integrity Commission Act 1996*.

5.50 Subsection 122 (1) of the *Liquor Act 1982* is in the following terms:

(1) A person who is not the agent or servant of a person authorised to sell liquor under this Act shall not sell liquor, or cause or suffer liquor to be sold, unless:

- (a) he or she is authorised under this Act to sell the liquor, or
- (b) he or she does so on the defined premises of a registered club on behalf of, and with the authority of, the club.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

5.51 Section 145 of the *Liquor Act 1982* provides that proceedings in respect of offences under section 122 may be instituted within the period of 3 years after the act or omission giving rise to the offence. The evidence available to the Commission suggests that Daniel Ryan conducted the business of selling liquor without authorisation to do so. The information obtained by the Commission relating to this matter was disseminated to the Department of Gaming and Racing, which is responsible for licensing matters, in April 2005 with a view to that Department taking what action it deemed appropriate.

5.52 The Commission is of the opinion that consideration **should** be given to the prosecution of Daniel Ryan for the criminal offence of selling or causing or suffering liquor to be sold while he was not authorised under the *Liquor Act 1982* to do so.

5.53 Daniel Ryan was suspended without pay in April 2004 but is still a NSW Police officer. Consequently the Commission also considered evidence of police misconduct.

5.54 Daniel Ryan worked in the transport and liquor industries without obtaining approval to engage in secondary employment. Section 88 of the *Police Act 1990* (NSW) states that “*A non-executive officer must not engage in any paid employment outside the duties of the position without the approval of the Commissioner*”. Employment is defined in the Police Service Policy and Guidelines as:

- (a) any situation which flows from the existence of a contract of service, or
- (b) can be the pursuit of any form of activity without it being a master-servant relationship, but



- (c) does not include remuneration obtained by passive means, e.g. family trusts, investments, capital gains; providing the circumstances do not fall within the scope of ( a ) or ( b ),
- (d) any situation in which an officer is self-employed.

5.55 Paid employment is defined as:

- employment where the employee directly receives a financial benefit; or
- employment which has the purpose or effect of generating profit, gain or a benefit of any kind in favour of the employee or any other person or company.

The word paid is descriptive of the work itself and not its financial benefits.

5.56 The liquor industry is defined as:

- any employment undertaken where the employer or the premises is licensed under the Liquor Act, or premises registered under the Registered Clubs Act or the employment is carried out on those premises.

5.57 The transport industry is defined as:

- any employment in connection with the industry or industries and/or occupations and/or vocations of the transport on land or by water or by air of persons and/or passengers and/or goods, wares, merchandise or any other material whatsoever by or on vehicles or animals or by motor, steam, electric or other mechanically propelled contrivances; drivers, assistants and conductors of same and including the loading and unloading on to and/or from any vehicles.

5.58 Daniel Ryan asserted in his response to the Notice to provide a statement of information and in his evidence, that he had sought secondary employment approval only once and then had "... never heard anything ..." and "... assumed it went through..."<sup>161</sup>

5.59 Evidence is available to show that Daniel Ryan:

- (a) worked as a bus driver from about 1994 to 2001, earning from 1998 onwards about \$150 gross per week. The employer was a company controlled by his parents-in-law;
- (b) worked as a Frosty Boy driver from mid-1996 to 1998 earning about \$200 gross per week; and
- (c) was the proprietor of, and worked in, the business of DNA Distributions from about late 1998, perhaps as early as late 1996 when he was stationed at Botany and later the Frozen Concepts business.

5.60 It appears that in relation to at least three of the positions he held, Daniel Ryan did not have secondary employment approval. The absence of approval is compounded in the instance of the manufacture of the alcoholic beverages by Frozen Concepts Pty. Limited in that Daniel Ryan also did not have a licence to manufacture and sell the beverages.

<sup>161</sup> Exhibits 2B & 3B; PIC Transcript, DF Ryan, 29 March 2004, pp. 39-40

## 5. AFFECTED PERSONS

- 5.61 In a lawfully intercepted telephone conversation on 1 February 2004, Daniel Ryan informed his brother Darren that he would tell the police who had done the “inside job”. The fact that Daniel Ryan failed to take any such step suggests that he has failed to perform his duty as a police officer.
- 5.62 Daniel Ryan used his position as a police officer to assist his brother in a manner contrary to his duty as a police officer. He left his place of work in a police vehicle while he was on duty to assist his brother Darren at a meeting with one of Darren’s associates. In his evidence to the Commission Daniel admitted that he was working on the day and wearing his uniform. There is telephone intercept material in which Darren asked Daniel to attend a meeting as he had to get the person to do something for him. He asked Daniel to wear his uniform and Daniel agreed to do so. It is reasonable to infer that Daniel Ryan was asked to wear his uniform because of the effect that this would have on the person that Darren was to meet.
- 5.63 Daniel Ryan encouraged an owner of a vessel to consider a false insurance claim. In evidence contained in an intercepted telephone call on 3 December 2003 Daniel Ryan suggested to the owner that he could have submitted a late report about the sinking of the vessel.
- 5.64 Daniel Ryan discussed with a business associate the taking of a notebook computer from an undisclosed victim (probably NSW Police). During a lawfully recorded telephone conversation on 10 February 2004 Daniel Ryan was asked whether he had been able to “knock off” a notebook computer, to which he replied he believed he had.
- 5.65 Daniel Ryan colluded with SV1 to concoct two letters under the name of Wayne Hatison CPA. These letters stated that Off Duty Enterprises Pty Limited, DNA Distributions and Frozen Concepts Pty Limited had no borrowings. Wayne Hatison does not exist and SV1 has said that he created the letters at the request of Daniel Ryan. Daniel Ryan said that he had never used the letters and that he had not participated in the production of them. The letters are incapable of assisting SV1 and it appears unlikely that SV1 would have created them without a request being made for him to do so.
- 5.66 In a telephone conversation with another business associate on 26 November 2003, Daniel Ryan indicated that he would fabricate another letter. In his evidence Daniel Ryan said that he was speaking about a letter from the Australian Customs Service about his business Frozen Concepts Pty. Limited. He denied that the letter had been sent and stated that the reference to a previous letter was to a draft. He agreed that he had contemplated creating a fabricated letter to gain a commercial advantage. There is no evidence available which suggests that the document was ever created. Nevertheless the conduct went beyond merely contemplating some dishonesty.
- 5.67 The Commission is of the opinion that the matters disclosed above reveal such an extreme lack of integrity and honesty that consideration **should** be given to the taking of action against Daniel Ryan under section 181D of the *Police Act 1990* with a view to terminating his services as a police officer. The Commission understands that NSW Police has already commenced such action.

## DARREN RYAN

- 5.68 Darren Ryan is an affected person because he is the subject of the substantial allegations that he:
- (a) Together with Wayne Dixon and Daniel Ryan was involved in the thefts of money from the Automatic Teller Machines in the Sydney Metropolitan area between November and December 2001;
  - (b) Did not declare income to the Australian Taxation Office;
  - (c) Took part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of s31 of the *Financial Transaction Reports Act 1988*.
- 5.69 The Commission is of the opinion that Darren Ryan engaged in “other misconduct” pursuant to s16(1)(a) of the Act.
- 5.70 The evidence available from the lawfully intercepted telephone conversations is that Darren Ryan informed SV1 that the money had come from thefts from Automatic Teller Machines. However in his evidence Darren Ryan told the Commission that he only told this to SV1 to put pressure on him to return the \$250,000 to Wayne Dixon. Wayne Dixon also gave evidence to the same effect.
- 5.71 SV1 said that while he had been told that the source of the \$250,000 was from Automatic Teller Machines he also knew that Daniel Ryan had lent money to his former father-in-law and that he had received compensation as the result of an accident. He also said that he was aware that Darren Ryan had a business selling T-shirts at the markets – the suggestion being that the money may have come from any one of those sources.
- 5.72 The statement by Darren Ryan in the telephone call of 6 February 2004 that the money that Daniel Ryan took to Melbourne and handed to SV1 was from ATMs, if accepted, is evidence that his knowledge was that the money was dishonestly obtained from ATMs, but it is not evidence that permits that money to be linked to conduct by him in respect of any particular ATM. It is not admissible to show that anyone other than himself and SV1 thereafter knew that the money had been dishonestly obtained from ATMs.
- 5.73 The statement by Darren Ryan does not disclose either the nature, if any, of Darren Ryan’s involvement in the activity by which the money was obtained or the basis for Darren Ryan’s knowledge that the money came from ATMs, ie, even on the basis of Darren Ryan’s admission to SV1, see 2.58 above, there is insufficient evidence to permit the formulation of any specific charge against him in relation to the thefts in 2.1 above.
- 5.74 Wayne Dixon agreed in his evidence on 14 April 2004,<sup>162</sup> that he told SV1 that Darren Ryan was also involved in the thefts, however such evidence is

<sup>162</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, pp. 96 & 104 - 106

not in admissible form and is arguably not admissible against Darren Ryan. The Commission also notes the difficulty in relying on the evidence of a participant from a criminal enterprise in a prosecution against another participant in the same enterprise.

5.75 There is evidence from SV1 which is to the effect that:

- (a) He had been told by Darren Ryan and Wayne Dixon that they had stolen the money from Chubb ATMs by using access keys;
- (b) that there were 3 or perhaps 4 hits realising something in the order of \$600,000; and
- (c) that the \$250,000 provided to him in Melbourne by Daniel Ryan in about March 2002 was part of that \$600,000.

5.76 If that evidence was given by SV1 with sufficient specificity, the effect of the various intercepted telephone conversations would most likely be that SV1 would be corroborated, ie:

- (a) the explanations of Darren Ryan and Wayne Dixon that stories of theft were made up; and
- (b) the explanation of Daniel Ryan that he believed the money was the product of T-shirt business if repeated outside the Commission,

would all be disbelieved.

5.77 In the Commission's opinion that result is likely notwithstanding that SV1 was not told any details as to:

- (a) when, where or which ATM was involved;
- (b) the precise means or methods for the thefts, or
- (c) that in some respects his recall of the sequence of the admissions made to him is inaccurate.

5.78 However, it would be necessary to lead circumstantial evidence that the thefts in 2.1 were the only thefts from Chubb with the characteristics described in 5.73 at about the time of Daniel Ryan's cash transactions.

5.79 The evidence does not permit the consideration of a charge of conduct constituting a specific offence, ie the identification of actual conduct by Darren Ryan concerning the theft from the ATMs referred to in 2.1 above or any other ATMs.

5.80 Due to the lack of evidence to support a prima facie case the Commission is **not** of the opinion that consideration **should** be given to the prosecution of Darren Ryan for any criminal offence in relation to 5.68 (a) above.

5.81 During his evidence to the Commission Darren Ryan provided an explanation for the source of the \$250,000 given to SV1 by his brother Daniel. He said it

was proceeds from a T-shirt business. He claimed that \$100,000 of the amount was his and \$150,000 was the salary belonging to Wayne Dixon all of which was accumulated by over a period of about 18 months.

- 5.82 Angela Dixon, Darren's wife said in her evidence that they had not submitted taxation returns regarding the T-shirt business.<sup>163</sup>
- 5.83 SV1 also said in evidence to the Commission that he was aware that Darren Ryan had a business selling T-shirts at the markets. He did not say that he thought that the money could be sourced to that activity. Nevertheless the suggestion is still available.
- 5.84 The oral evidence of Darren Ryan as to the source of the funds cannot be used against him. Wayne Dixon and Angela Dixon both corroborated the evidence that the monies were sourced from the T-shirt business. Similarly Daniel Ryan also gave evidence that he thought that the \$250,000 was sourced from the T-shirt business.
- 5.85 The evidence of Wayne Dixon and Angela Dixon is corroborative of Darren Ryan's evidence that the \$250,000 was income from the T-shirt business which they had not declared to the Australian Taxation Office. A successful prosecution for taxation offences would depend on these parties giving evidence against each other. The likelihood of securing a conviction in the circumstances where reliance is required to be placed on the evidence of persons, against whom there is evidence of similar offences arising from the same circumstances, is low.
- 5.86 Nevertheless the Commission is of the opinion that consideration **should** be given to the prosecution of Darren Ryan for an offence in relation to the understatement of income.
- 5.87 With that in mind the Commission has arranged for the information in its possession to be disseminated to the Australian Taxation Office in accordance with the provisions of section 18 of the *Police Integrity Commission Act 1996*.
- 5.88 Evidence is available to show that Darren Ryan entered into an agreement with SV1 to receive \$15,000 in amounts that would not be reported in accordance with the provisions of the *Financial Transaction Reports Act 1988*.
- 5.89 The evidence consists of lawfully intercepted telephone conversations between Darren Ryan and SV1 on 23 December 2003 and documentation obtained from the financial institutions concerned.
- 5.90 The Commission is of the opinion that consideration **should** be given to the prosecution of Darren Ryan for taking part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of section 31 of the *Financial Transaction Reports Act 1988*.

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<sup>163</sup> PIC Transcript, AM Dixon, 5 May 2004, pp. 421-424

## WAYNE DIXON

- 5.91 Wayne Dixon is an affected person because he is the subject of the substantial allegations that he:
- (a) was involved in the theft of money from Automatic Teller Machines in the Sydney Metropolitan area between November and December 2001;
  - (b) made false statements in order to obtain for himself a financial advantage contrary to the provisions of section 178BB of the *Crimes Act 1900* (NSW); and
  - (c) did not declare income to the Australian Taxation Office.
- 5.92 The Commission is of the opinion that Wayne Dixon engaged in “other misconduct” pursuant to s16(1)(a) of the Act.
- 5.93 Wayne Dixon worked for Chubb Security during the period in which the thefts from the ATMs occurred. During the hearing lawfully intercepted telephone calls between SV1, Darren Ryan and Wayne Dixon were played. In a call between Darren Ryan and SV1 on 6 February 2004, Darren Ryan confirmed that the money came from thefts from ATMs.
- 5.94 Wayne Dixon also gave evidence that he had himself told SV1 that the source of the money was ATMs.
- 5.95 When examined about this both Darren Ryan and Wayne Dixon claimed that they only said this to SV1 to put pressure on him to return the money. They claimed that the basis of the plan was to impress on him that there were other people, who were criminals, with an interest in the money and that they wanted it returned.
- 5.96 Wayne Dixon, Darren Ryan and Angela Dixon all gave evidence concerning the source of the money. They all claimed that it was the income from the T-shirt business in which they worked. The proportions were \$150,000 belonging to Wayne Dixon and \$100,000 to both Darren Ryan and Angela Dixon. Both Angela Dixon and Darren Ryan were the principals in the business and Wayne Dixon was an employee. The Commission is of the opinion that the explanation given by the three witnesses is highly unlikely.
- 5.97 However the available evidence does not establish to the required degree that Wayne Dixon was involved in the thefts from the ATMs. Consequently the Commission is **not** of the opinion that consideration **should** be given to the prosecution of Wayne Dixon for any criminal offence in relation to the thefts from the Automatic Teller Machines.
- 5.98 Wayne Dixon applied to two financial institutions for three loans in relation to the purchase or refinancing of two residential premises. For the first loan he utilised a letter signed by Daniel Ryan stating that he was an employee of Frozen Concepts Pty. Limited earning \$55,000 per annum. Wayne Dixon also made the same statement in the application form signed by himself.

- 5.99 For the second loan application, to the same financial institution, Wayne Dixon relied on a letter signed by SV1 which also stated that he was an employee of Frozen Concepts Pty. Limited earning \$55,000 per annum. SV1 gave evidence to the effect that he had written the letter to assist Wayne Dixon in obtaining a loan. He also confirmed that Wayne Dixon did not work for Frozen Concepts Pty. Limited. Daniel Ryan also gave evidence that Wayne Dixon did not work for his business Frozen Concepts Pty. Limited. This evidence is available for use against Wayne Dixon.
- 5.100 In a third loan application to a different financial institution, Wayne Dixon made a statement in the application form that he worked for Frozen Concepts Pty. Limited at an annual salary of \$70,000.
- 5.101 The Commission has obtained documents from the two financial institutions concerned and that evidence is available for use against Wayne Dixon.
- 5.102 The Commission is of the opinion that consideration **should** be given to the prosecution of Wayne Dixon for the offence of making or publishing, a statement (whether or not in writing) which he knew to be false or misleading in a material particular or which was false or misleading in a material particular and was made with reckless disregard as to whether it was true or was false or misleading in a material particular, with intent to obtain for himself any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900*.
- 5.103 In his evidence to the Commission, Wayne Dixon claimed that only \$150,000 of the money taken to Melbourne by Daniel Ryan belonged to him. He claimed that he had earned the money working for the T-shirt business run by his sister, Angela, and Darren Ryan. Wayne Dixon admitted in evidence that he did not declare this income to the Australian Taxation Office. This evidence is not available to be used against him. The only other witnesses who are capable of giving evidence concerning the evidence are Darren Ryan and Angela Dixon.
- 5.104 The evidence of Angela Dixon and Darren Ryan is corroborative of Wayne Dixon's evidence that the \$250,000 was income from the T-shirt business which had not been declared to the Australian Taxation Office. The Commission notes the difficulty in securing a conviction in circumstances where reliance is to be placed on the evidence of persons, against whom there is evidence of similar offences arising from the same circumstances.
- 5.105 Nevertheless the Commission is of the opinion that consideration **should** be given to the prosecution of Wayne Dixon for the understatement of income to the Australian Taxation Office.
- 5.106 The Commission has arranged for the information in its possession to be disseminated to the Australian Taxation Office in accordance with the provisions of section 18 of the Act.

## ANGELA DIXON

- 5.107 Angela Dixon is an affected person because she is the subject of the substantial allegation that she:

- (a) did not declare income to the Australian Taxation Office.
- 5.108 The Commission is of the opinion that Angela Dixon engaged in “other misconduct” pursuant to s16(1)(a) of the Act.
- 5.109 Angela Dixon gave evidence that she owned a business called Sure Shot T-shirt Screen Printers. She said that the money taken to Melbourne by Daniel Ryan belonged to her, her husband Darren Ryan and her brother Wayne Dixon. Both Wayne Dixon and Darren Ryan also gave evidence to that effect.
- 5.110 In her evidence, Angela Dixon admitted that she did not lodge a tax return in relation to the income from the T-shirt business. That evidence cannot be used against her. The other evidence available against Angela Dixon is that of Wayne Dixon and Darren Ryan.
- 5.111 The evidence of Wayne Dixon and Darren Ryan is corroborative of Angela Dixon’s evidence that the \$250,000 was income from the T-shirt business which they had not declared to the Australian Taxation Office. The Commission notes the difficulty in securing a conviction in circumstances where reliance is to be placed on the evidence of persons, against whom there is evidence of similar offences arising from the same circumstances.
- 5.112 Nevertheless the Commission is of the opinion that consideration **should** be given to the prosecution of Angela Dixon for the understatement of income to the Australian Taxation Office.
- The Commission has arranged for the information in its possession to be disseminated to the Australian Taxation Office in accordance with the provisions of section 18 of the Act.

## SV1

- 5.113 SV1 is an affected person because he is the subject of the substantial allegations that he:
- (a) used moneys not belonging to him for his own purposes and thus committed the offence of larceny by bailee contrary to the provisions of section 125 of the *Crimes Act 1900* (NSW);
  - (b) assisted Wayne Dixon to obtain money from a financial institution by publishing a statement which he knew to be false and misleading;
  - (c) made a false statement which he knew to be false and misleading to assist Daniel Ryan to obtain a financial advantage in respect to the registration of the Ferrari; and
  - (d) took part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of section 31 of the *Financial Transaction Reports Act 1988*.



- 5.114 The Commission is of the opinion that SV1 engaged in “other misconduct” pursuant to s16(1)(a) of the Act.
- 5.115 In respect of the offence of larceny as a bailee, evidence has been given by both Daniel Ryan and SV1, and it is an accepted fact, that Daniel Ryan took \$250,000 to Melbourne and gave it to SV1. It was Daniel Ryan’s intention to invest the money in the purchase of land at Torquay. Daniel Ryan took \$2,000 from the \$250,000 and used it to pay holding deposits on the land. SV1 has given evidence that he used the money given to him by Daniel Ryan for his own purposes and to pay debts incurred by Daniel Ryan through Frozen Concepts.
- 5.116 However the evidence of SV1 is not admissible against him in any criminal proceedings. The available evidence is that of Daniel Ryan. The Commission notes the difficulty in securing a conviction in circumstances where reliance is to be placed on the evidence of persons, against whom there is evidence of similar offences arising from the same circumstances.
- 5.117 Nevertheless the Commission is of the opinion that consideration **should** be given to the prosecution of SV1 for the offence of larceny as a bailee contrary to the provisions of section 125 of the *Crimes Act 1900*.
- 5.118 In respect of the offence of assisting Wayne Dixon to obtain money by publishing a statement which he knew to be false and misleading, SV1 gave evidence that he produced the letter saying that Wayne Dixon worked for Frozen Concepts Pty. Limited at a salary of \$55,000 per annum because Dixon was putting pressure on him. SV1 admitted that the content of the document was untrue. This evidence is not available to be used against SV1, however the document itself is available to be used against SV1.
- 5.119 Wayne Dixon also gave evidence that SV1 wrote a letter for him saying that he worked for Frozen Concepts to enable him to obtain a loan.<sup>164</sup> This evidence is admissible against SV1.
- 5.120 The Commission is of the opinion that consideration **should** be given to the prosecution of SV1 for the offence of making or publishing, any statement which he knew to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular, with intent to obtain for another person any money or valuable thing or any financial advantage of any kind whatsoever, contrary to the provisions of subsection 178BB(1) of the *Crimes Act 1900*.
- 5.121 In respect of the allegation that SV1 made a statement which he knew to be false and misleading to assist Daniel Ryan to obtain a financial advantage in relation to the registration of the Ferrari, SV1’s evidence to the Commission is that he recalled being asked by Daniel Ryan to provide a letter to assist him in defrauding some party, however, he had no recollection of completing the task. SV1, having seen the letter attached to the application for registration allegedly bearing his signature, has told the Commission that he does not recognise it as his signature. The evidence is that Daniel Ryan purchased the

<sup>164</sup> Exhibit 81B – PIC Private Transcript, WR Dixon, 14 April 2004, p. 76

## 5. AFFECTED PERSONS

Ferrari in February 1995 for \$38,000. The vehicle was registered in April 2001 and the value was stated as being \$12,500.

- 5.122 Daniel Ryan gave evidence that between February 1995 and May 2001 he spent time and money restoring the vehicle. In September 2000 Daniel Ryan submitted an application for a loan in which he described the value of the Ferrari as being \$70,000.
- 5.123 If the statement of SV1 is accepted the falsity in the letter is both the value of the vehicle and the signature of SV1. The falsities in the letter resulted in Daniel Ryan gaining a financial advantage of approximately \$1,000 because the stamp duty on the registration was lower than it might have been had Daniel Ryan declared the true value of the Ferrari.
- 5.124 The Commission is **not** of the opinion that consideration **should** be given to the prosecution of SV1 for an offence contrary to the provisions of subsection 178BB (1) of the *Crimes Act 1900* in relation to the Ferrari.
- 5.125 In respect of the allegation that SV1 took part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of s31 of the *Financial Transaction Reports Act 1988*, evidence is available to show that SV1 entered into an agreement with Darren Ryan to deposit \$15,000 in amounts that would not be reported in accordance with the provisions of the *Financial Transaction Reports Act 1988*.
- 5.126 The evidence consists of lawfully intercepted telephone conversations between SV1 and Darren Ryan on 23 December 2003 and documentation obtained from the financial institutions concerned.
- 5.127 The Commission is of the opinion that consideration **should** be given to the prosecution of SV1 for taking part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of s.31 of the *Financial Transaction Reports Act 1988*.

## JOHN HANCOCK

- 5.128 Hancock is an affected person because he is the subject of the substantial allegation that he:
- (a) Took part in financial transactions which were conducted for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved was transferred in a manner and form that would not give rise to a significant cash transaction, contrary to the provisions of s31 of the *Financial Transaction Reports Act 1988*.
- 5.129 The evidence available to the Commission including lawfully intercepted telephone conversations and banking documents show that John Hancock took part in transactions which taken together exceeded \$10,000 and if

completed in one transaction would have been reportable in accordance with the provisions of the *Financial Transaction Reports Act 1988*.

- 5.130 In conversations on 8 January 2004, SV1 advised Hancock that “ten can show up”.<sup>165</sup> Hancock requested cash of \$9,800 (rather than \$10,000) be deposited in his account. \$9,800 was deposited into the account of Hancock on 8 January 2004. There is no evidence of the balance of the \$10,000 being deposited. There is no evidence available to show that the additional \$200 was ever deposited into an account of Hancock. Consequently it appears Hancock accepted \$9,800 as the payment for his involvement in the recovery of the \$250,000 from SV1.
- 5.131 On 2 February 2004, Hancock and SV1 agreed on a further deposit of \$5,000, which was deposited into Hancock’s account on 5 February 2004. There is nothing in the material available to the Commission to suggest that either, the \$5,000 was part of the payment of \$9,800 on 8 January 2004 or that it was a step in a different series of currency transactions. There is no evidence in the conversations on 8 January 2004 and 2 February 2004 that there was any plan or scheme linking those deposits.
- 5.132 In those circumstances, it would not be:
- “... reasonable to conclude that the person [John Hancock] conducted the [not reportable] transactions ... for the sole or dominant purpose of ensuring or attempting to ensure that the currency involved ... was transferred in a manner and form that would not give rise to a significant cash transaction.”
- 5.133 The Commission is therefore **not** of the opinion that consideration **should** be given to the prosecution of Hancock for taking part in financial transactions contrary to the provisions of section 31 of the *Financial Transaction Reports Act 1988*.

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<sup>165</sup> Exhibits 33 & 34



## 6. PROCEDURAL MATTERS

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### SECONDARY EMPLOYMENT

- 6.1 As discussed in Chapter 5, Daniel Ryan carried on a number of businesses and income generating activities which were not related to his police work. He did not make the necessary declarations or applications for approval in relation to those activities.
- 6.2 It was not until the Commission made inquiries of Ryan about approval for his secondary employment in the liquor industry that he submitted an application for approval to his supervisor at the Water Police. That application was approved by the supervisor and the Commander without further inquiry, contrary to the requirements of the Secondary Employment Guidelines.<sup>166</sup>
- 6.3 Because the activity was in the liquor industry it should have been treated as “high risk”. The Guidelines required Ryan to demonstrate that a conflict did not exist. Thereafter the manager was required to satisfy himself that there was no conflict before the application was reviewed by the region commander (or equivalent), the Professional Standards Command and, finally, the Executive Director, Human Resource Services. This was not done. Ryan’s supervisor, without making any inquiries, accepted Ryan’s claim that he had previously obtained approval, and assessed that there was no conflict of interest as Ryan was a wholesaler to the liquor industry and did not sell direct to the public.
- 6.4 The Commission undertook a project to further investigate the issue of unauthorised secondary employment amongst officers of the Water Police. At the time of the project there were 84 officers attached to the Water Police and only 4 officers recorded as having current approval.
- 6.5 Searches at the Department of Fair Trading (DFT) revealed that there were a number of officers who had registered businesses with the DFT but who did not have secondary employment approval. Five (5) of the businesses in question were associated with the marine/boating industry. None of the officers associated with those businesses had current approval at the time enquiries were made with the DFT. The Secondary Employment Policy and Guidelines require particular attention to be paid when an officer undertakes secondary employment in an area which may give rise to a conflict of interest. The Guidelines state “an example of a conflict of interest includes employment in an industry where an officer has statutory powers and obligations”.<sup>167</sup> Officers of the Water Police engaging in work in the marine/boating industry represents an example of such a conflict of interest.
- 6.6 The Commission sought statements of information from selected Water Police officers. When asked how many officers in the Command were engaging in secondary employment one officer replied “*too many to recall*.”

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<sup>166</sup> NSW Police Service Secondary Employment Policy and Guidelines, October 2001

<sup>167</sup> *ibid*

*The question should say who wasn't doing a second job. More were than were not."*

- 6.7 A number of officers told the Commission they believed they had permission to engage in secondary employment but their files contained no evidence of such approval. There were other officers who had received initial approval and believed that they had obtained the necessary renewal, however the Commission could find no evidence of renewal applications on their files. The lack of knowledge about the requirements of the policy admitted to by some officers was startling.
- 6.8 The Commission is concerned that when the requirements of the secondary employment policy are not adhered to, the ability of supervisors to effectively manage their officers is compromised, leading to inappropriate activity and risk and, potentially, problems in other areas, as seen in the case of Daniel Ryan.
- 6.9 The Commission will refer the results of its project to the Commissioner of Police and request that further inquiries be made, with a view to ensuring the requirements of the policy are being observed by both officers and supervisors.

## APPENDICES

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### APPENDIX 1 - ROLE AND FUNCTIONS OF THE COMMISSION

The Commission was established under the *Police Integrity Commission Act 1996* (the Act) on the recommendation of the Royal Commission into the New South Wales Police Service. The principal functions of the Commission, set out in section 13 of the Act, are:

- (a) to prevent serious police misconduct and other police misconduct,
- (b) to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct,
- (c) to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct, as it thinks fit,
- (d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Police Royal Commission as provided by this Act.

As far as practicable, the Commission is required to turn its attention principally to serious police misconduct (subsection 13(2)).

#### POLICE MISCONDUCT

The expressions “police misconduct” and “serious police misconduct” are not specifically defined by the Act. They nevertheless include the following types of conduct (see subsection 5(2)):

- (a) police corruption,
- (b) the commission of a criminal offence by a police officer,
- (b1) misconduct in respect of which Commissioner of Police may take action under Part 9 of the *Police Act 1990*,
- (c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,
- (d) any other matters about which a complaint can be made under the *Police Act 1990*.

It follows that “police misconduct” may encompass not only serious criminal activity such as perverting the course of justice but also minor disciplinary breaches by police, the sanction for which may, for example, be nothing more than additional training and development.

## INVESTIGATIONS

In matters where the Commission determines to carry out an investigation (whether or not in the nature of a preliminary investigation), it has a wide range of powers at its disposal in order to acquire information. For example, the Commission may:

- require public officials and public authorities to produce statements of information (section 25);
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26);
- enter public premises (section 29);
- obtain search warrants (section 45);
- obtain warrants under the *Telecommunications (Interception) Act 1979*;
- obtain warrants under the *Listening Devices Act 1984* (section 50); and
- require persons to attend and give evidence before a hearing of the Commission, either in public or in private (section 38).

## REPORTS TO PARLIAMENT

### When does the Commission Submit a Report to Parliament Regarding an Investigation?

In circumstances where the Commission has conducted a public hearing for the purposes of an investigation, the Commission must prepare a report to Parliament in respect of the matter to which the public hearing related (subsection 96(2)). The Commission may also prepare a report to Parliament in relation to any other matter that has been, or is, the subject of an investigation (subsection 96(1)). A report to Parliament must be furnished to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred (subsections 96(3), (4) and (5)).

### Components of a Report to Parliament Regarding an Investigation

A report to Parliament in relation to an investigation will generally contain a number of components. Under subsection 97(1) of the Act the Commission is authorised to include statements as to any of its assessments, opinions and recommendations, and the reasons for any of its assessments, opinions and recommendations. The Commission must then, in respect of each “affected person”, make a statement as to whether or not consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences and, in the case of police officers, certain other forms of disciplinary action (subsection 97(2)). An “affected person” is a person “against whom, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with the investigation concerned” (subsection 97(3)).



## The Commission's Approach to the Assessment of Information and Evidence

In forming the assessments, opinions and recommendations referred to above, the Commission may not make a finding or form an opinion that a specified person is guilty of, or has committed, is committing, or is about to commit a criminal or disciplinary offence (subsection 16(2)(a)). The Commission may form opinions as to whether police misconduct or other misconduct may have occurred, is or may be occurring, is or may be about to occur, or is likely to occur (subsection 16(1)(a)). However it is important to bear in mind that the Commission is an investigative agency, it is not a court or tribunal in the sense that it may determine whether a person has committed a criminal or disciplinary offence. Accordingly the Act deems permissible opinions concerning police misconduct or other misconduct not to be findings or opinions that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (subsection 16(3)). That said, the Commission recognises, bearing in mind the definition of police misconduct may include conduct that amounts to criminal and disciplinary offences, that such an opinion may in some circumstances take on the appearance of a finding of a court or tribunal. The Commission's approach is, as far as possible, to avoid the expression of opinions that may be characterised as findings by a court.

The standard of proof applied by the Commission to the formation of an opinion as to whether a person has engaged in police misconduct or other misconduct is the balance of probabilities. Such an opinion will be reached having regard to the principles in *Briginshaw v Briginshaw* (1938) 60 CLR 336, that is, the more serious the matters under consideration, the more stringent will be the requisite degree of satisfaction.

## Recommendations and Opinions that Consideration be given to the Prosecution of a Person for a Criminal or Disciplinary Offence

If, in the Commission's opinion, the available evidence is sufficient to establish a prima facie case in respect of a criminal or disciplinary offence then, except in one very limited circumstance discussed below, it is the Commission's approach to recommend that consideration should be given to the prosecution of a person for a specified criminal or disciplinary offence.<sup>168</sup> Such a recommendation will be made to the relevant prosecutorial authority, for example, the New South Wales Director of Public Prosecutions. The Commission will not have regard to considerations, such as whether there is a reasonable prospect of conviction, or public policy considerations when deciding whether to make such a recommendation. These, and other discretionary considerations, are appropriately matters for the relevant prosecutorial authority. That said, the Commission may make findings or express opinions as to the veracity of evidence received from individual witnesses.

<sup>168</sup> The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commission to recommend or state whether consideration should be given to the prosecution of a person for a specified "disciplinary offence" (subsections 16(1)(b), 97(2)(b)) have no effective application to police officers. This is so even for police misconduct that occurred before this date. Those powers and obligations may however have application to other public officials.

The circumstances in which the Commission may, in the exercise of its discretion, decline to furnish or defer furnishing a brief of evidence to the relevant prosecutorial authority are:

- where it is considered that to do so is likely to be counterproductive to the Commission’s pursuit of its principal statutory functions; or
- where the relevant person has already been considered for or has been prosecuted in relation to the same, or substantially the same, subject matter and evidence, and it would be unnecessary or duplicitous for the Commission to make a recommendation that consideration should be given to additional prosecutions.

### Statements Regarding “Affected Persons”

Subsection 97(2) of the Act requires that:

The report must include, in respect of each “affected person”, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

- (a) the prosecution of a person for a specified criminal offence,
- (b) the taking of action against the person for a specified disciplinary,
- (c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
- (d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.

### Recommendations and Opinions Regarding Disciplinary Action Against Police

“Reviewable action” within the meaning of section 173 of the *Police Act 1990* refers to forms of disciplinary action that would ordinarily apply to more serious breaches of discipline. The available forms of reviewable action are:

- a reduction in a police officer’s rank or grade;
- a reduction in a police officer’s seniority;
- a deferral of a police officer’s salary increment; and
- any other action (other than dismissal or the imposition of a fine) that the Commissioner of Police considers appropriate.

Owing to the seriousness of these forms of disciplinary action, a police officer may appeal the imposition of any of these penalties to the Industrial Relations Commission of New South Wales.

In addition to the requirement to include in a report to Parliament a statement of the Commission’s opinions regarding those against whom substantial allegations have been made, the Commission has discretion to recommend that consideration be given

to other disciplinary action. This includes “non-reviewable action” within the meaning of section 173 of the *Police Act 1990*. Non-reviewable action is disciplinary action available against police officers for less serious breaches of discipline. There is no avenue of appeal to the Industrial Relations Commission against the imposition of a form of non-reviewable action. The available forms of non-reviewable action are:

- coaching;
- mentoring;
- training and development;
- increased professional, administrative or educational supervision;
- counselling;
- reprimand;
- warning;
- retraining;
- personal development;
- performance enhancement agreements;
- non-disciplinary transfer;
- change of shift (but only if the change results in no financial loss and is imposed for a limited period and is subject to review);
- restricted duties; and
- recording of adverse findings.

### **Other Types of Recommendations and Opinions**

If the Commission considers it appropriate in the circumstances, a report to Parliament may also include recommendations for the taking of other action. Such recommendations may, for example, relate to the need for law reform or for changes to policies and procedures affecting the way in which police or other persons carry out their respective duties and responsibilities.

**APPENDIX 2 – WITNESS LIST**

| <b>NAME</b>            | <b>DATE OF APPEARANCE</b>                |
|------------------------|------------------------------------------|
| Dixon, Angela Margaret | 5 May 2004                               |
| Dixon, Wayne Roger     | 14 April 2004*, 5 May 2004 & 6 May 2004  |
| Hancock, John William  | 31 March 2004                            |
| Ryan, Daniel Francis   | 29 March 2004, 2 April 2004 & 6 May 2004 |
| Ryan, Darren John      | 30 March 2004** & 5 May 2004             |
| SV 1***                | 15 March 2004                            |

\* The evidence of Wayne Dixon heard on 14 April 2004 was heard in private. An edited transcript was tendered as public exhibit 81B

\*\* The evidence of Darren Ryan heard on 30 March 2004 was heard in private. An edited transcript was tendered as public exhibit 126.

\*\*\* The evidence of SV1 was heard in private. An edited transcript was tendered as public exhibit 127.