

The Senate

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Committee of Privileges

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Possible failure by a senator to comply  
with the Senate's resolution relating to  
registration of interests

123<sup>rd</sup> Report

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Senator the Hon. Michael Ronaldson (**Deputy Chair**) (Victoria)

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Senator Steve Hutchins ((New South Wales) (appointed 7 September 2005)

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# TABLE OF CONTENTS

Members of the Committee.....	iii
Introduction.....	1
Background.....	1
Senators’ interests .....	1
Conduct of inquiry .....	3
Consideration of issues .....	5
Conclusion and finding.....	6
Other matters.....	7
<i>Additional allegations</i> .....	7
<i>Possible deficiencies in the registration of interests regime</i> .....	7
<i>Was Senator Lightfoot required to observe a higher standard of compliance because of his position as Deputy Chair of the Senators’ Interests Committee?</i> .....	8
Appendix.....	9-48



# **Possible failure by a senator to comply with the Senate's resolution relating to registration of interests**

## **Introduction**

1.1 On 16 June 2005, on the motion of Senator George Campbell, at the request of the Leader of the Opposition in the Senate (Senator Evans), the Senate referred the following matter to the Committee of Privileges for inquiry and report:

Whether there have been any failures by Senator Lightfoot to comply with the Senate's resolution of 17 March 1994 relating to registration of interests, and, if so, whether any contempt was committed in that regard.<sup>1</sup>

## **Background**

1.2 In March and May 2005 Senator Lightfoot was the subject of publicity relating to a trip he took to Iraq in 2004. Whether he had properly disclosed sponsored travel in relation to the trip was the subject of a proposed reference to this committee in May 2005. The President had given the notice of motion precedence, but it was subsequently withdrawn following an apology from Senator Lightfoot.<sup>2</sup> The Leader of the Opposition in the Senate (Senator Evans) then raised a further matter of privilege with the President under standing order 81, relating to Senator Lightfoot's share trading activities and whether he had properly disclosed details of his registrable interests in accordance with the resolutions of the Senate relating to the registration of interests. It is this second matter that is the subject of this inquiry.<sup>3</sup>

## **Senators' interests**

1.3 This is the first time that the committee has been required to exercise its jurisdiction arising under the resolution relating to the registration of senators' interests. The resolution establishes a regime for all senators to provide statements to the Registrar of Senators' Interests of a range of registrable interests, within 28 days of the meeting of a new Senate after 1 July following an election, and in certain other circumstances. Senators are also required to notify the Registrar within 28 days of any alteration to their registered interests.

1.4 Registrable interests include shareholdings in public and private companies, interests in family or other beneficial trusts, real estate, certain other investments, significant assets or other sources of income, liabilities, gifts, sponsored travel and hospitality, and holding office, or making financial contributions over a certain amount to, any organisation. There is also a catch-all requirement to declare "any

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1 *Journals of the Senate*, 16 June 2005, p. 706.

2 *Journals of the Senate*, 10 May 2005, p. 574 and 11 May 2005, p. 610.

3 See statement of the President granting precedence to a notice of motion to refer the matter to the committee, Appendix, p. 11.

other interests where a conflict of interest with a senator's public duties could foreseeably arise or be seen to arise".<sup>4</sup>

1.5 Senators must also declare the registrable interests, of which they are aware, of their spouse, partner or dependent children. Statements are lodged with the Registrar of Senators' Interests, who is an officer of the Department of the Senate appointed to that role by the President at the commencement of each Parliament.

1.6 A Committee of Senators' Interests, established under standing order 22A determines and supervises the procedures for maintaining the register which is tabled in the Senate at regular intervals, and made available for inspection under certain conditions.

1.7 The Committee of Senators' Interests has published explanatory notes to assist senators to fulfil their obligations under the resolution. The notes contain a number of points about which types of shareholdings are covered by the resolution, preceded by a note to the effect that it is not necessary to declare the actual number or value of shares.<sup>5</sup> As well as setting out the requirements for the registration of interests, the resolution relating to senators' interests, agreed to by the Senate on 17 March 1994, creates contempts as follows:

- (2) Any senator who:
  - (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
  - (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 28 days of the change occurring; or;
  - (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.<sup>6</sup>

1.8 Each of these serious contempts under the resolution involves a question of intention. Before finding a senator guilty of a serious contempt, the committee is required to be satisfied that the senator knowingly failed to provide information, or knowingly provided false or misleading information, to the Registrar of Senators' Interests. The contempt of failing to register an interest or providing false or misleading information is therefore, in theory, more difficult to establish than other contempts that are specified in the resolutions of the Senate of 28 February 1988

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4 *Standing Orders and other orders of the Senate*, November 2004, pp. 144-45.

5 Explanatory Notes for Statement of Registrable Interests, agreed by Committee of Senators' Interests on 19 June 2002; amended 18 June 2003 and 13 October 2003.

6 *Standing Orders and other orders of the Senate*, November 2004, p. 143.



relating to parliamentary privilege. Whereas resolution 3 of the latter resolutions<sup>7</sup> requires the committee to **take into account** whether a person who committed any act which may be held to be a contempt, **knowingly** committed that act (or had any reasonable excuse for the commission of that act), such knowledge is a mandatory element of the contempt established under the senators' interests resolution. In practice, however, there is little difference between a contempt under the privilege resolutions and a contempt under the interests resolution, as the committee has always taken a person's intention into account in making its findings.

## Conduct of inquiry

1.9 Having considered the terms of the senators' interests resolution, the committee approached this inquiry with the view that the need to establish an intention on the part of Senator Lightfoot to contravene the registration requirements was essential to any possible finding of contempt.

1.10 On receiving the reference from the Senate, the committee wrote both to Senator Lightfoot and Senator Evans seeking a response, and providing each with a copy of the terms of reference, the President's statement to the Senate on the matter, Senator Evans' letter to the President raising the matter, and material from the register of senators' interests.

1.11 The specific allegations made against Senator Lightfoot were that he had:

- failed to declare the purchase of shares in certain companies
- failed to declare the sale of shares in other companies
- declared the purchase of shares after the 28 day deadline for notifying alterations of interest had passed
- disclosed the sale of certain shares, but company records indicated that he still held a number of shares in that company.<sup>8</sup>

1.12 Material from the Register of Senators' Interests indicated that Senator Lightfoot had become aware of these anomalies in his statements relating to shareholdings on 23 May 2005. He lodged a fresh notification of alterations of interests with the Registrar on 9 June 2005 correcting the anomalies.<sup>9</sup>

1.13 Senator Lightfoot provided the committee with a response on 2 August 2005 in which he denied knowingly failing to make the required declarations. He attributed anomalies in the register to minor oversights and the practical difficulties of complying with the strict requirements of the resolution:

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7 *Standing Orders and other orders of the Senate*, November 2004, pp. 106-107.

8 Letter, dated 26 May 2005, from the Leader of the Opposition in the Senate (Senator Evans) to the President of the Senate, Appendix, p. 12.

9 Appendix, pp. 15-17.

Whilst I do not resile from the fact that I erred in failing to report a very small proportion of my dealings, and, on occasions, within the appropriate time frame, I would submit that these omissions were minor oversights as opposed to “knowingly” failing to comply.

At no stage did I knowingly fail to advise of my dealings ...<sup>10</sup>

1.14 Senator Lightfoot illustrated the difficulties of complying with the requirements with a hypothetical scenario involving his sale of shares on the first of the month, just before undertaking extensive travel on parliamentary committee business. In Canberra at the end of the month, he obtains information from his broker about the sale, and lodges a notification of alteration of interests a couple of days after the 28 day deadline and, separated from his trading records by the width of the continent, is unaware that he still retains some shares in that company and that he has therefore made a misleading declaration.

1.15 Senator Lightfoot also alleged that inspection of the Register of Senators’ Interests revealed similar anomalies in the statements of other, unnamed, senators and claimed that the allegations may have been made against him maliciously because of legal action he had contemplated against certain newspapers for defamation in articles about his Iraq trip, details of which he attached to his response. He concluded his response with an apology and reiterated that it was never his intention knowingly to mislead or misrepresent his registrable interests to the Senate.

1.16 Senator Evans provided the committee with a response on 10 August 2005. He reiterated the allegations made in correspondence to the President when raising a matter of privilege under standing order 81 which are set out in paragraph 1.11 above. Senator Evans then wrote that he did not propose to assert that Senator Lightfoot knowingly failed to make the required declarations:

In my view, Senator Lightfoot’s failures to properly comply with the Senate’s requirements on disclosure of interests offend all three of the criteria set out in the Senate’s Resolution, at least on a *prima facie* basis. Given that it is extremely difficult to prove the *mens rea* component, I do not propose to assert that he knowingly failed to act in accordance with the Senate’s requirements on its members. However, I have also included details of one example where Senator Lightfoot demonstrates he was aware of the disclosure requirements and willing to comply with those requirements, both in an accurate and timely fashion.<sup>11</sup>

1.17 He suggested that a higher standard of compliance applied to Senator Lightfoot because of his position as Deputy Chair of the Senators’ Interests Committee. A new allegation was then made against Senator Lightfoot in that he

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10 Letter, dated 2 August 2005, from Senator Lightfoot to the Chair of the Committee of Privileges, Appendix, p. 20.

11 Letter, dated 10 August 2005, from the Leader of the Opposition in the Senate (Senator Evans) to the Committee of Privileges, Appendix, p. 38.

declared that a particular company directorship held by him had been re-activated, a concept which Senator Evans submitted was not possible under Australian law, and which therefore represented another instance of Senator Lightfoot providing misleading information to the Registrar of Senators' Interests and further reason for finding Senator Lightfoot guilty of a serious contempt of the Senate.

1.18 In accordance with the committee's usual practice (and in accordance with paragraphs 12 to 14 of Resolution 1 of the resolutions relating to parliamentary privilege),<sup>12</sup> where parties to an inquiry make further allegations or adverse comment, the committee provided each party with a copy of the other's response and sought any further comment.

1.19 Senator Lightfoot's second response, provided to the committee on 16 August 2005, noted that Senator Evans was now not asserting an intentional failure on Senator Lightfoot's part to comply with the resolution, and argued that the details of share trading declarations put forward by Senator Evans as evidence of Senator Lightfoot's offences against the resolution in fact supported Senator Lightfoot's intention to comply with it.<sup>13</sup> The list of anomalies showed that Senator Lightfoot had disclosed either the sale or the purchase of all the shares in question, which he would not have done had he intended to conceal his holdings in those companies or to provide misleading information to the Registrar. Senator Evans' submission of an example of accurate and timely disclosures by Senator Lightfoot was, according to Senator Lightfoot, evidence only of Senator Lightfoot's willingness and desire to comply with the resolution.

1.20 Furthermore, Senator Lightfoot argued that his position as Deputy Chair of the Senators' Interests Committee was also evidence of his motivation and desire to comply with the resolution. Senator Lightfoot then provided an explanation of what he had meant by his reference to the re-activation of a company directorship and his attempt to correct an earlier error.

1.21 The committee received a second response from Senator Evans on 6 September 2005 in which he noted that Senator Lightfoot had not disputed any of the information presented by Senator Evans and reiterated his belief that the Deputy Chair of the supervisory committee should set a better example. He also made further comments about the company directorship issue, raised in his first response to the committee.<sup>14</sup>

1.22 In accordance with the usual practice of this committee to publish all correspondence relevant to an inquiry, copies of all responses are included at the end

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12 *Standing Orders and other orders of the Senate*, November 2004, p. 104.

13 Letter, dated 16 August 2005, from Senator Lightfoot to the Chair of the Committee of Privileges, Appendix, pp. 41-42.

14 Letter, dated 6 September 2005, from the Leader of the Opposition in the Senate (Senator Evans) to the Chair of the Committee of Privileges, Appendix, pp. 47-48.

of this report in the appendix. While the further responses provided by Senators Lightfoot and Evans did not add to the committee's understanding of the issues, the committee considered that it was essential to provide both Senator Lightfoot and Senator Evans with the opportunity to respond to new allegations raised by each senator in his initial response. The committee has frequently operated by this method in the past and has found it an efficient way to comply with the requirements of natural justice and, at the same time, to obviate the need for public hearings in many cases by gathering sufficient material to make findings on the papers. Such was the case with this inquiry.

### Consideration of issues

1.23 Cases involving allegations of contempt by one senator against another are unusual territory for this committee, and may raise the difficult prospect for the committee of having to prefer one senator's account over another's. In this case, however, none of the facts are in dispute. There is no requirement for the committee to assess different versions of events. Senator Evans has put certain facts before the committee and Senator Lightfoot has not disputed them. Any differences between the two parties concern the interpretation of those facts and what should follow from those interpretations. For the committee, the only issue is whether there is any evidence that Senator Lightfoot **knowingly** failed to notify any alteration of interests within 28 days or **knowingly** provided false or misleading information to the Registrar.

1.24 All of the material before the committee suggests that there is no basis for the committee to conclude that Senator Lightfoot knowingly failed to comply with the resolution:

- In declining to assert that Senator Lightfoot **knowingly** failed to comply with the resolution, Senator Evans has not put forward any evidence of Senator Lightfoot's guilty intention. Nor has the committee been otherwise able to find any such evidence.
- Senator Lightfoot has denied that he knowingly failed to comply and, instead, has asserted that he erred in making faulty declarations, as other senators have apparently done.
- When made aware of anomalies in the register on 23 May 2005, Senator Lightfoot sought advice from his financial advisers and lodged a notification of alteration of interests on 9 June 2005 correcting the anomalies.
- The fact that Senator Lightfoot had declared either the purchase or sale of the shares in question does suggest a lack of intention to conceal shareholdings in those particular companies.
- Senator Lightfoot has provided explanations for late notifications and for declaring that he had disposed of his shareholding in a particular company when he in fact still owned a parcel of shares in that company.

It appears to this committee that Senator Lightfoot's failures to comply with the requirements of the resolution were a result of unfortunate errors and some administrative inefficiencies on his part.

### **Conclusion and finding**

1.25 The committee **concludes** that while there were failures by Senator Lightfoot to comply with the Senate's resolution of 17 March 1994 relating to registration of interests (which Senator Lightfoot has admitted, corrected, and apologised for), there is no evidence that Senator Lightfoot intended not to comply with those requirements and, therefore, no contempt should be found.

### **Other matters**

#### *Additional allegations*

1.26 In the course of the inquiry, both Senator Lightfoot and Senator Evans raised new allegations with the committee. Senator Lightfoot alleged that there was a malicious basis to the raising of the matter of privilege, related to preliminary steps for legal action for defamation that he had initiated against certain newspapers. He also alleged that inspection of the Register of Senators' Interests revealed failures to comply with the resolution by other (unnamed) senators.<sup>15</sup> Senator Evans alleged a further offence by Senator Lightfoot in the provision of misleading information to the Registrar in relation to a re-activated company directorship, a concept not apparently valid under Australian law.<sup>16</sup>

1.27 The committee has not investigated these additional allegations because they are clearly outside the terms of reference given to it by the Senate. By providing each party with the opportunity to respond to the new allegations raised by the other, and by publishing those responses at the end of this report, the committee believes it has fulfilled the requirements of the Privilege Resolutions in relation to such matters, and of natural justice generally, and has no further comment to make on any of the matters raised.

#### *Possible deficiencies in the registration of interests regime*

1.28 In both of his responses to the committee, Senator Lightfoot suggested that the regime for registering interests is flawed by a lack of discretion, especially in relation to the 28 day deadline.

1.29 The committee notes that the functions of determining and supervising arrangements for the maintenance of the Register of Senators' Interests are the

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15 Letter, dated 2 August 2005, from Senator Lightfoot to the Chair of the Committee of Privileges, Appendix, pp. 21-23.

16 Letter, dated 10 August 2005, from the Leader of the Opposition in the Senate (Senator Evans) to the Chair of the Committee of Privileges, Appendix, pp. 38-39.

responsibility of the Committee of Senators' Interests, established under standing order 22A. Additionally, the committee notes that the Senate referred the following matter to the Procedure Committee on 20 June 2005, for inquiry and report:

The adequacy and appropriateness of the Register of Senators' Interests in relation to the issue of share market activity by senators, their spouses or partners and dependants having regard to:

- (a) whether the requirements under Resolution 1 of the resolutions relating to the registration and declaration of interests, agreed to on 17 March 1994, adequately reflect changing practices in the nature of Australian shareholdings and the growth of share trading;
  - (b) the appropriateness of the advice requirements in Resolution 1 in relating to changes in the nature of shareholding interests where share trading occurs on a frequent basis; and
  - (c) any related matters.
- (2) That the Procedure Committee may seek advice from, and take into account the views of, the Standing Committee of Senators' Interests.<sup>17</sup>

1.30 With the Procedure Committee examining a specific reference on the mechanisms for registering shareholdings and the Senators' Interests Committee having a supervisory function in relation to the interests regime, this committee is of the view that these existing avenues are sufficient to deal with Senator Lightfoot's concerns and therefore makes no further comment on this matter.

***Was Senator Lightfoot required to observe a higher standard of compliance because of his position as Deputy Chair of the Senators' Interests Committee?***

1.31 In both of his responses to the committee, Senator Evans suggested that a higher standard of compliance should apply to Senator Lightfoot because of his position as Deputy Chair of the Committee of Senators' Interests. While having an initial, superficial attraction, this suggestion must be dismissed. All senators are equal under the Constitution and, in most respects,<sup>18</sup> under the standing and other orders of the Senate. The obligation to register their interests applies equally to all senators and none should be required to meet a higher standard of compliance than any other. Accordingly, the committee makes no further comment on this matter.

John Faulkner  
**Chair**

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17 *Journals of the Senate*, 20 June 2005, p. 740.

18 Presiding Officers and ministers have some additional responsibilities, powers and functions under the standing orders.

## APPENDIX

DOCUMENT	PAGE(S)
Extract from Senate <i>Hansard</i> , 15 June 2005, Statement by Senator the Hon. Paul Calvert, President of the Senate	11
Tabled paper: — Letter to Senator the Hon. Paul Calvert, President of the Senate, dated 26 May 2005, from the Leader of the Opposition in the Senate (Senator Chris Evans)	12-13
Attachments:	
• Summary table	14
• Letter, dated 8 June 2005, to the Registrar of Senators' Interests, from Senator Ross Lightfoot	15-16
• Senator Ross Lightfoot's notification of alteration of interests (Form A), dated 8 June 2005	17
Extract from <i>Journals of the Senate</i> No. 28, 16 June 2005	18
Letter, dated 2 August 2005, from Senator Ross Lightfoot to the Chair of the Committee of Privileges	19-36
Letter, dated 10 August 2005, from the Leader of the Government in the Senate (Senator Chris Evans) to the Chair of the Committee of Privileges	37-40
Letter, dated 16 August 2005, from Senator Ross Lightfoot to the Chair of the Committee of Privileges	41-46
Letter, dated 6 September 2005, from the Leader of the Government in the Senate (Senator Chris Evans) to the Chair of the Committee of Privileges	47-48





**PRIVILEGE**

The **PRESIDENT** (3.37 pm)—Senator Evans, by letter dated 26 May 2005, has raised with me a matter of privilege under standing order 81. The matter relates to the alleged failure of Senator Lightfoot to include in his declaration of interests certain share ownerships and transactions. Senator Evans lists these matters in an attachment to his letter. I am not in a position to tell whether there may have been a failure to disclose interests, because I do not know whether the share ownerships and transactions listed by Senator Evans are accurately listed. The criteria I am required to consider, in determining whether a motion to refer the matter to the Privileges Committee should have precedence, go basically to the seriousness of the matter.

As my statement to the Senate of 12 May indicated, the determination is virtually made for me in relation to declarations of interests by the resolution of the Senate which declares that a knowing failure to register an interest shall be a serious contempt. I therefore determine that a motion to refer this matter to the Privileges Committee may have precedence. As in the previous instance, it will be for the Senate to determine whether the matter should be referred to the committee. I table the letter from Senator Evans. A notice of motion may now be given.

**Senator SHERRY** (Tasmania) (3.39 pm)—On behalf of Senator Evans, I give notice that on the next day of sitting he shall move:

That the following matter be referred to the Committee of Privileges:

Whether there have been any failures by Senator Lightfoot to comply with the Senate's resolution of 17 March 1994 relating to registration of interests, and, if so, whether any contempt was committed in that regard.

---

**CHAMBER**



# Senator Chris Evans

Leader of the Opposition in the Senate  
Shadow Minister for Social Security  
Labor Senator for Western Australia

RECEIVED  
26 MAY 2005  
PRESIDENTS OFFICE

Senator the Hon Paul Calvert  
President of the Senate  
Parliament House  
CANBERRA ACT 2600

THE SENATE  
16 JUN 2005  
*PK*  
TABLED  
PAPER

RECEIVED  
- 7 JUN 2005  
CLERKS OFFICE

Dear Mr President

## MATTER OF PRIVILEGE – DECLARATION OF INTERESTS – SENATOR LIGHTFOOT

I raise a matter of privilege under Standing Order 81.

You will recall that I wrote to you on 17 March 2005 regarding my concerns on the adequacy of Senator Lightfoot's declaration of interests, particularly in relation to his sponsored trip to Iraq in July last year, and his failure to declare that to the Registrar of Senators' Interests until 17 March 2005. As you are also aware, you agreed that a motion relating to that issue should have precedence, I gave notice of a relevant motion, and only withdrew that motion on 11 May 2005 when Senator Lightfoot apologised to the Senate for his failure to declare that sponsored travel.

I now wish to bring to your attention a number of further instances of Senator Lightfoot's failure to properly declare details of his personal financial interests to the Registrar of Senators' Interests as required under the Standing orders of the Senate. These failures entail:

- at least four instances of his failure to declare the purchase of shares,
- two further instances of a failure to declare the purchase of shares within the required 28 day period,
- four further instances of a failure to declare the sale of shares, and
- one further instance of a disclosure of sale of shares where the companies share register indicates that shares are still owned by Senator Lightfoot's private company.

I attach a summary table which sets out the details of these numerous failures, with the above-noted failures in bold. I note that all of these share tradings have been undertaken by one of Senator Lightfoot's private companies, namely Lightfoot Brothers (Midland) Pty Ltd, ACN 008 761 993. The ASIC database indicates that Senator Lightfoot has maintained, and continues to do so today, a position of one of the three directors of this company, and holding 50% of the shares of the company in his own name, with the remainder held by another of Senator Lightfoot's companies, namely Markros Pty Ltd.

I also draw your attention to numerous entries in Senator Lightfoot's disclosure of interests which indicate that Senator Lightfoot is aware of, and able to comply with, the disclosure requirements of the Standing Orders, and I have included in the attached table details of Senator Lightfoot's disclosures of purchases and disposals of shares in Woodside to illustrate this point. Senator Lightfoot demonstrates an awareness of the disclosure requirements in relation to these Woodside trades, as I would expect of the Senator who holds the position of Deputy Chair of the Committee of Senators' Interests.

You would be aware that paragraph 1(2) of the Senate's resolution provides:

Any senator who:

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 28 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.

I therefore request that you give precedence to a motion to refer this matter to the Privileges Committee, in accordance with this provision and Standing Order 81.

Yours sincerely



Chris Evans

26 May 2005

*Have got checks advised  
for  
3/6/05*

<u>SHARE</u>	<u>BOUGHT</u>	<u>DISCLOSED</u>	<u>SOLD</u>	<u>DISCLOSED</u>
Amicor	14/2/04	Not	4/3/05	17/3/05
Ceramic Fuels	12/7/04	Not	10/3/05	17/3/05
WMC (1500)	13/12/04	8/2/05	14/2/05	Not
Cue Energy	N/K	Not	N/K	21/1/02
Macq Airports	2/4/03	6/6/03	5/7/04	Not
QBE Insur	25/8/03	10/9/03	10/3/04	Not
Telstra	19/6/01	27/11/04	10/3/05	Not
Aztec	N/K	Not	N/K	17/3/05
Clinical Cell Culture	22/2/02	28/2/02	?	17/3/05 (1)

(1) CCC share register indicates 50,000 still owned

The following disclosures indicates a knowledge by Sen. Lightfoot of the need for disclosure and within the timeframes set down by the Senate.

<u>SHARE</u>	<u>BOUGHT</u>	<u>DISCLOSED</u>	<u>SOLD</u>	<u>DISCLOSED</u>
Woodside	8/2/02	28/2/02	20/3/02	16/4/02
Woodside	18/11/04	27/11/04	16/3/05	17/3/05



PARLIAMENT OF AUSTRALIA

Senator for Western Australia  
**ROSS LIGHTFOOT**

The Registrar  
Senators' Interests  
Parliament House  
CANBERRA ACT 2600

8<sup>th</sup> June 2005

My dear Registrar

On 23<sup>rd</sup> May, it was brought to my attention that my Register of Senators' Interests reflected a number of anomalies in that I had not disclosed the purchase of several parcels of shares, yet notified you of the sale of the same, and also omitted to disclose the sale of a quantity of shares that had been registered.

Given this deficiency, I have sought professional advice from both my accountants and stockbroker in regard to implementing a procedure to ensure that future trading activities will be accurately reflected in my Register of Senators' Interests and in a timely fashion.

It was never my intention to not disclose these holdings, as can be seen from the fact that I disclosed the sale of shares, (Amcor, Ceramic Fuels, WMC) that I had inadvertently omitted to register and that, in some instances, (Macquarie Airports, QBE, Telstra and Aztec) I failed to disclose that I no longer held shares that I had, in fact, registered.

In the case of Clinical Cell Culture, when endeavouring to comply with the reporting measures, a quick inquiry with my stockbroker as to my sales during the month of March 2005, included Clinical Cell Culture but did not reflect that only a portion of the company's holding had been disposed of. It was therefore mistakenly reported as a deletion when, in fact, I had retained a portion of the stock.

I have, at all times acted in good faith and any lapses have been entirely inadvertent.

Although my files are still with the accountant, attached is a new form reflecting what I understand to be an accurate accounting of current holdings.

ELECTORATE OFFICE  
40 Cedric Street,  
STIRLING WA 6021  
Telephone: (08) 9344 8900  
Toll Free: 1800 800 334  
Facsimile: (08) 9344 8300

CANBERRA OFFICE  
Parliament House  
CANBERRA ACT 2600  
Telephone: (02) 6277 3626  
Facsimile: (02) 6277 5825

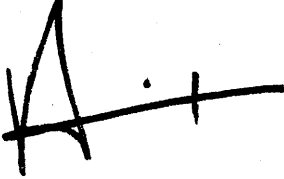
**REGISTRY OF**  
**- 9 JUN 2005**  
**SENATORS' INTERESTS**

You will note that there have been several additions as well as deletions during the last several weeks. Should information provided by my accountant or stockbroker identify any other relevant issue, I shall advise you forthwith.

With all best wishes

I remain

yours ever,

A handwritten signature in black ink, appearing to be 'Ross Lightfoot', written over a horizontal line.

Senator for Western Australia  
ROSS LIGHTFOOT

# THE SENATE

## REGISTER OF SENATORS' INTERESTS

### NOTIFICATION OF ALTERATION OF INTERESTS DECLARED

#### FORM A – SENATORS

Name: Senator Ross Lightfoot

State/Territory: Western Australia

The following alteration of interests is notified:

**ADDITION**

Item	Details
Shares – previously registered	Southlands Boulevard Shipping Centre Property Trust MYOB (Registered as Solution 6 - subsequent merger) Clinical Cell Culture CopperCo Global Petroleum Hardman Resources Onesteel
Shares – newly acquired	Mirvac GRP Stapled (30/05/05) Paladin (01/06/05) Paperlinx ( 30/05/05) Santos (09/05/05) Australand Stapled (06/06/05)

**DELETION**

Item	Details
Shares	Babcock & Brown (27/05/05) BHP (03/06/05) Paladin (09/05/05)

**REGISTRY OF**  
- 9 JUN 2005  
**SENATORS' INTERESTS**

Signature 

Date 09/06/05

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## JOURNALS OF THE SENATE

No. 28

THURSDAY, 16 JUNE 2005

### 5 PRIVILEGES—STANDING COMMITTEE—REFERENCE

Senator George Campbell, at the request of the Leader of the Opposition in the Senate (Senator Evans) and pursuant to notice of motion not objected to as a formal motion, moved matter of privilege notice of motion no. 1—That the following matter be referred to the Committee of Privileges:

Whether there have been any failures by Senator Lightfoot to comply with the Senate's resolution of 17 March 1994 relating to registration of interests, and, if so, whether any contempt was committed in that regard.

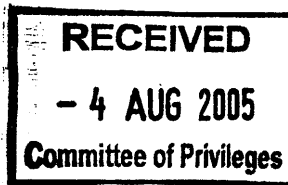
Question put and passed.





PARLIAMENT OF AUSTRALIA

Senator for Western Australia  
**ROSS LIGHTFOOT**



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## **PRIVATE AND CONFIDENTIAL**

Senator the Hon. John Faulkner  
Chairman  
Committee of Privileges  
Parliament House  
CANBERRA ACT 2600

2<sup>nd</sup> August 2005

Dear Senator Faulkner

Thank you for your letter of 16<sup>th</sup> June 2005 in which you invite me to respond to the following matter that was referred to the Committee of Privileges on the date of your correspondence:

*Whether there have been any failures by Senator Lightfoot to comply with the Senate's resolution of 17 March 1994 relating to registration of interests, and, if so, whether any contempt was committed in that regard.*

This opportunity to respond to the Committee is appreciated.

On May 23<sup>rd</sup> of this year, it was brought to my attention that my Register of Senators' Interests reflected a number of anomalies in my disclosures to the Registrar: I will address the source of that information at a later stage.

At present, the Senate's Resolutions relating to registration of Senators' Interests, (Registration of Senators' Interests (2)) provides that any Senator shall be guilty of a serious contempt of the Senate if that Senator:

- (a) knowingly fails to provide a statement of registrable interest to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify of any alteration of those interests to the Registrar within 28 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators Interests.

As the President has said in statements giving precedence to motions referring matters to your Committee in the past, the wording of this Order gives no discretion to the President. Neither

does it, I would submit, give much room for the Senate itself to debate or consider non-conformities.

Whilst I do not resile from the fact that I erred in failing to report a very small proportion of my dealings, and, on occasions, within the appropriate time frame, I would submit that these omissions were minor oversights as opposed to "knowingly" failing to comply.

At no stage did I knowingly fail to advise of my dealings and this is amply demonstrated in an attached summary of correspondence to the President of the Senate by Senator Chris Evans, dated 26<sup>th</sup> May, 2005 in which he raises a matter of privilege under Standing Order 81. For ease of reference I have designated this document Attachment 1.

Attachment 1 demonstrates that in each instance, the Registrar was either advised of either the sale or the purchase of the shares in question and clearly shows that it was never my intention not to disclose these holdings. The document details sales of Amcor, Ceramic Fuels and WMC, that I had inadvertently omitted to register as being disclosed upon their sale; and in some instances (Macquarie Airports, QBE, Telstra and Aztec) that I had in fact registered their purchase but omitted to advise when they were sold.

In the matter of the deletion from my register of Clinical Cell Culture, when endeavouring to comply with the reporting measures, a quick inquiry with my stockbroker as to my sales during the month of March 2005, included Clinical Cell Culture but did not reflect that only a portion of the company's holding had been disposed of. I therefore mistakenly reported them as being deleted when, in fact, I retained a portion of the stock, at that time.

Had my purpose been to *knowingly* fail to disclose these transactions, I would not have registered either the sale or the purchase of those shares. In fact, without the disclosures that were submitted, it would have been virtually impossible to have tracked the undisclosed purchase or sale of those commodities by the person or persons who subsequently did so.

I have a keen and long-held interest in share-trading. My records relating to my transactions are now contained in three thick files, each weighing at least 2 kilograms. Given my frequent absences from home and my inability to carry my records with me, the motion by Senator Evans to refer this matter to the Committee of Privileges appears to highlight a flaw in the rules governing this matter.

Imagine, if you would, the following scenario which, although contrived, is not un-typical of the circumstances which govern this matter:

It is 1<sup>st</sup> May and I am about to board a flight for Christmas Island for a Committee inspection when my broker telephones to advise me of a development affecting a long-held parcel of shares (say XYZ) which causes me to instruct him to dispose of them at the current market price. At the end of that same month, I am in Canberra so I request a faxed record of my transactions in order to update my record of Senators' Interests. According to the record of transaction I sold 75,000 XYZ on the first of May so I amend my record to reflect these changes by deleting XYZ and lodge the declaration on the 2<sup>nd</sup> June.

Not only have I failed to lodge my declaration within the nominated timeframe of 28 days, but, not having carted to Canberra with me, my 2 kilo Share Register Volume R-Z, upon my return to Perth I subsequently learn that my original holding was 100,000 XYZ's. The market had

dropped significantly before my broker could sell the final 25,000, he could not contact me for three days and then just forgot about informing me. Have I knowingly provided misleading information to the Registrar of Senator's Interests?

In an effort to establish a system to prevent errors such as this occurring again, I sought professional advice from my accountant, a senior partner at PriceWaterhouseCoopers, and from my stockbroker but was advised in both instances that, despite care and diligence, there is no apparent method of ensuring a fail-safe mechanism for accurate reporting within the allowable timeframe.

It is clearly apparent that I am not the only person to have experienced this inability to conform with the continuing Order of the Senator in relation to registration of Senators' Interests as is reflected by Senator Robert Hill's motion of 16<sup>th</sup> June, marked as Attachment 2 in which he moved:

- (1) That the following matter be referred to the Register of Senators Interests in relation to the issue of share market activity by senators, their spouses or partners and dependants having regard to:
  - (a) whether the requirements under Resolution 1 of the resolutions relating to the registration and declaration of interests, agreed to on 17 March 1994, adequately reflect changing practices in the nature of Australian shareholdings and the growth of share trading;
  - (b) the appropriateness of the advice requirements in Resolution 1 in relation to changes in the nature of shareholding interests where share trading occurs on a frequent basis; and
  - (c) any related matters.
  
- (2) That the Procedure Committee may seek advice from, and take into account the views of, the Standing Committee of Senators' Interests.

This motion was subsequently put by Senator Ellison and the Question agreed to, without debate on 20 June 2005 (Attachment 3).

The lack of debate on this motion is not surprising as a relatively cursory perusal of the Register of Senators' Interests highlights many instances of inability to conform by others such as the declarations where one Senator's parcel of Commonwealth Bank shares simply disappear between March 2002 and the lodgement of their next declaration in December of 2004.

Other Senators appear to have significant difficulties in adhering to the 28 day limitation for reporting and have lodged "collective updates" many months after events for which one Senator received overseas airfares and accommodation as well as free tickets and hospitality to a number of internationally recognised sporting events in Australia.

In some instances, compliance with the rules appears to be rather *ad hoc* and "in principle" rather than "in accordance" as per the Senator who declared that he had "Sold ... (a vehicle) and donated proceeds to charity". This, despite the fact that motor vehicles for personal use are not declarable (Resolutions relating to Senators' Interests 9) but donations (over \$300) should identify the charity that received the funds as set out in Resolutions relating to Senators' Interests 3 (m).

There are also Senators who lodged declarations several years ago and have recorded no updates or alterations since – such as one declaration lodged in November of 2000.

Are these documented transgressions, oversights and omissions mere reflections of the erratic and transient lifestyles of elected members, or, are they evidence of serious contempt of the Senate? I would contend that it was far from the intention of these Senators, and many others, to *knowingly* fail to comply with the resolutions.

I would submit that minor administrative oversights, of which I am guilty, do not in fact constitute a serious and *knowing* contempt of the Senate by any fair and objective measure and would further offer that an opportunity for Senators to update their interests every three or even six months would be an option that should be pursued if the pure intent of the rules – which is to ensure that there should be no conflict of interest - is to be upheld.

Unfortunately, and again, whilst not resiling from my deficiencies in this matter as acknowledged in my correspondence to the Registrar of Senators' Interests of 8<sup>th</sup> June 2005 (Attachment 4), and given the obvious failings of a number of Senators to also comply, I would respectfully request that the Committee also take into account the possibility that I have been maliciously singled out for pursuit in regard to my share trading activities.

My reason for requesting this consideration is as follows:

On 26<sup>th</sup> April 2005, following published defamatory articles, alleging that I had committed a criminal offence during a study tour to Iraq, my solicitors Tottle Partners issued Letters of Demand (Attachment 5) to two News Limited publications, namely *The Daily Telegraph* and *The Advertiser*.

On 23<sup>rd</sup> May 2005, my office received a telephone call and an e-mail from Samantha Maiden, a journalist with News Limited's, *The Australian*, requesting information on aspects of my share trading. This request, by the author's own written admission, "*follows checks by the Australian*" (Attachment 6). This e-mail was quickly followed by a faxed table of some of my transactions which carried the date and the journalist's initials (Attachment 7). Further telephone calls of a demanding nature were made by the journalist to which she did not receive a response.

On 26<sup>th</sup> May 2005, only three days later, Senator Chris Evans wrote to the President of the Senate raising a matter of privilege in regard to my declaration of interests. (Attachment 1)

A quick comparison of Attachment 1, the summary table attached to Senator Chris Evans' correspondence and Attachment 7, the document faxed from News Limited, show clearly that they are the same document with minor alterations and from which the journalist's initials and the date have been erased.

How Senator Evans came by the document, I do not know, and I make clear to the Committee that I do not contend that Senator Evans is aware of the history behind the origin of the journalist's document, or even that he is necessarily aware of the document's source.

I do know that *The Australian* appears to have expended considerable time and expense in examining my declarations to the Register of Senators' Interests and by pursuing each incomplete entry in an obvious effort to discredit me.

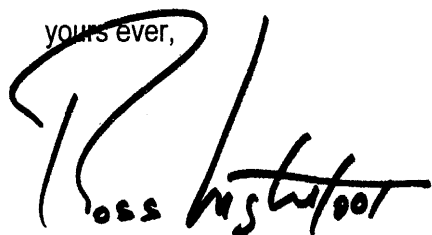
Therefore, I contend that the motion to refer this matter to the Privileges Committee was one, wittingly or unwittingly, based and borne from malice and revenge from persons outside the Parliament, rather than genuine concern at a knowing conflict of interest for which no evidence exists.

Unfortunately, it has been the lack of discretion in the rules governing the Declarations of Senators' Interests that has allowed this matter to have occupied the valuable time of the Senate and its honourable members. Minor oversights, of which many honourable Senators are guilty, as demonstrated, therefore have assumed the proportions of a giant and grave contempt of the Senate.

Again, allow me to apologise for any oversights and omissions and I give the Committee every assurance that it was never my intention to knowingly mislead or misrepresent my registrable interests to the Senate.

I remain,

yours ever,

A handwritten signature in black ink, appearing to read "Ross Lightfoot". The signature is written in a cursive, flowing style with a large initial "R".

SENATOR FOR WESTERN AUSTRALIA

**Ross Lightfoot**

# Attachment 1

<u>SHARE</u>	<u>BOUGHT</u>	<u>DISCLOSED</u>	<u>SOLD</u>	<u>DISCLOSED</u>
Ancor	14/2/04	Not	4/3/05	17/3/05
Ceramic Fuels	12/7/04	Not	10/3/05	17/3/05
WMC (1500)	13/12/04	8/2/05	14/2/05	Not
Cue Energy	N/K	Not	N/K	21/1/02
Macq Airports	2/4/03	6/6/03	5/7/04	Not
QBE Insur	25/8/03	10/9/03	10/3/04	Not
Telstra	19/6/01	27/11/04	10/3/05	Not
Aztec	N/K	Not	N/K	17/3/05
Clinical Cell Culture	22/2/02	28/2/02	?	17/3/05 (1)

(1) CCC share register indicates 50,000 still owned

The following disclosures indicates a knowledge by Sen. Lightfoot of the need for disclosure and within the timeframes set down by the Senate.

<u>SHARE</u>	<u>BOUGHT</u>	<u>DISCLOSED</u>	<u>SOLD</u>	<u>DISCLOSED</u>
Woodside	8/2/02	28/2/02	20/3/02	16/4/02
Woodside	18/11/04	27/11/04	16/3/05	17/3/05



# Senator Chris Evans

Leader of the Opposition in the Senate  
Shadow Minister for Social Security  
Labor Senator for Western Australia

RECEIVED  
26 MAY 2005  
PRESIDENTS OFFICE

Senator the Hon Paul Calvert  
President of the Senate  
Parliament House  
CANBERRA ACT 2600

THE SENATE  
16 JUN 2005  
TABLED  
PAPER

RECEIVED  
- 7 JUN 2005  
CLERKS OFFICE

Dear Mr President

## MATTER OF PRIVILEGE – DECLARATION OF INTERESTS – SENATOR LIGHTFOOT

I raise a matter of privilege under Standing Order 81.

You will recall that I wrote to you on 17 March 2005 regarding my concerns on the adequacy of Senator Lightfoot's declaration of interests, particularly in relation to his sponsored trip to Iraq in July last year, and his failure to declare that to the Registrar of Senators' Interests until 17 March 2005. As you are also aware, you agreed that a motion relating to that issue should have precedence, I gave notice of a relevant motion, and only withdrew that motion on 11 May 2005 when Senator Lightfoot apologised to the Senate for his failure to declare that sponsored travel.

I now wish to bring to your attention a number of further instances of Senator Lightfoot's failure to properly declare details of his personal financial interests to the Registrar of Senators' Interests as required under the Standing orders of the Senate. These failures entail:

- at least four instances of his failure to declare the purchase of shares,
- two further instances of a failure to declare the purchase of shares within the required 28 day period,
- four further instances of a failure to declare the sale of shares, and
- one further instance of a disclosure of sale of shares where the companies share register indicates that shares are still owned by Senator Lightfoot's private company.

I attach a summary table which sets out the details of these numerous failures, with the above-noted failures in bold. I note that all of these share tradings have been undertaken by one of Senator Lightfoot's private companies, namely Lightfoot Brothers (Midland) Pty Ltd, ACN 008 761 993. The ASIC database indicates that Senator Lightfoot has maintained, and continues to do so today, a position of one of the three directors of this company, and holding 50% of the shares of the company in his own name, with the remainder held by another of Senator Lightfoot's companies, namely Markros Pty Ltd.

I also draw your attention to numerous entries in Senator Lightfoot's disclosure of interests which indicate that Senator Lightfoot is aware of, and able to comply with, the disclosure requirements of the Standing Orders, and I have included in the attached table details of Senator Lightfoot's disclosures of purchases and disposals of shares in Woodside to illustrate this point. Senator Lightfoot demonstrates an awareness of the disclosure requirements in relation to these Woodside trades, as I would expect of the Senator who holds the position of Deputy Chair of the Committee of Senators' Interests.

You would be aware that paragraph 1(2) of the Senate's resolution provides:

Any senator who:

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 28 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.

I therefore request that you give precedence to a motion to refer this matter to the Privileges Committee, in accordance with this provision and Standing Order 81.

Yours sincerely



Chris Evans

*Please get the above advice  
to  
3/6/05*

26 May 2005



# Attachment 2



Senate H.

## NOTICES Presentation 16<sup>th</sup> June 2005

**Senator Hill** (South Australia – Leader of the Government in the Senate)  
(3.33pm) – by leave – I give notice that on the next day of sitting I shall move:

- (1) That the following matter be referred to the Procedure Committee for inquiry and report:  
The adequacy and appropriateness of the Register of Senators' Interests in relation to the issue of share market activity by senators, their spouses or partners and dependants having regard to:
  - a) whether the requirements under Resolution 1 of the resolutions relating to the registration and declaration of interests, agreed to on 17 March 1994, adequately reflect changing practices in the nature of Australian shareholdings and the growth of share trading;
  - b) the appropriateness of the advice requirements in Resolution 1 in relation to changes in the nature of shareholding interests where share trading occurs on a frequent basis; and
  - c) any related matters.
- (2) That the Procedure Committee may seek advice from, and take into account the views of, the Standing Committee of Senators' Interests.

# Attachment 3



Senate I.

## COMMITTEES Procedure Committee: Reference 20<sup>th</sup> June 2005

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (3.39 pm)—I move:

- (1) That the following matter be referred to the Procedure Committee for inquiry and report:

The adequacy and appropriateness of the Register of Senators' Interests in relation to the issue of share market activity by senators, their spouses or partners and dependants having regard to:

- a) whether the requirements under Resolution 1 of the resolutions relating to the registration and declaration of interests, agreed to on 17 March 1994, adequately reflect changing practices in the nature of Australian shareholdings and the growth of share trading;
  - b) the appropriateness of the advice requirements in Resolution 1 in relation to changes in the nature of shareholding interests where share trading occurs on a frequent basis; and
  - c) any related matters.
- (2) That the Procedure Committee may seek advice from, and take into account the views of, the Standing Committee of Senators' Interests.

Question agreed to.



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Toll Free: 1800 800 334

PARLIAMENT OF AUSTRALIA

Senator for Western Australia  
**ROSS LIGHTFOOT**

## Attachment 4

The Registrar  
Senators' Interests  
Parliament House  
CANBERRA ACT 2600

8th June 2005

**COPY**

My dear Registrar

On 23<sup>rd</sup> May, it was brought to my attention that my Register of Senators' Interests reflected a number of anomalies in that I had not disclosed the purchase of several parcels of shares, yet notified you of the sale of the same, and also omitted to disclose the sale of a quantity of shares that had been registered.

Given this deficiency, I have sought professional advice from both my accountants and stockbroker in regard to implementing a procedure to ensure that future trading activities will be accurately reflected in my Register of Senators' Interests and in a timely fashion.

It was never my intention to not disclose these holdings, as can be seen from the fact that I disclosed the sale of shares, (Amcor, Ceramic Fuels, WMC) that I had inadvertently omitted to register and that, in some instances, (Macquarie Airports, QBE, Telstra and Aztec) I failed to disclose that I no longer held shares that I had, in fact, registered.

In the case of Clinical Cell Culture, when endeavouring to comply with the reporting measures, a quick inquiry with my stockbroker as to my sales during the month of March 2005, included Clinical Cell Culture but did not reflect that only a portion of the company's holding had been disposed of. It was therefore mistakenly reported as a deletion when, in fact, I had retained a portion of the stock.

I have, at all times acted in good faith and any lapses have been entirely inadvertent.

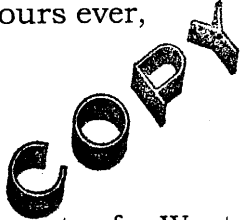
Although my files are still with the accountant, attached is a new form reflecting what I understand to be an accurate accounting of current holdings.

You will note that there have been several additions as well as deletions during the last several weeks. Should information provided by my accountant or stockbroker identify any other relevant issue, I shall advise you forthwith.

With all best wishes

I remain

yours ever,



Senator for Western Australia  
ROSS LIGHTFOOT

Our Ref: AVO:PT:20050187  
Email: avanonselen@tottle.com

# Attachment 5

26 April 2005



tottlepartners

**BY EXPRESS POST  
PRIVATE & CONFIDENTIAL**  
The Editor in Chief  
The Daily Telegraph  
2 Holt Street  
SYDNEY NSW 2010

## NOT FOR PUBLICATION

Dear Sir

**Senator Ross Lightfoot**

We act for Senator Ross Lightfoot.

We are instructed that:

1. Nationwide News Pty Limited is the proprietor and publisher of The Daily Telegraph.
2. The Daily Telegraph is available nationally at newsagents throughout Australia and on line at <http://dailytelegraph.news.com.au/index.sjp>.
3. On 17 March 2005, an article by Nick Butterly entitled '*SMOKING GUN Liberal MP's smuggled oil company's \$25,000 into Iraq and armed myself with handguns*' was published on pages 1 and 4 of The Daily Telegraph. The article gives rise to the imputation that our client committed a criminal offence by smuggling A\$25,000 out of Australia.
4. On 17 March 2005, an article by Malcolm Farr entitled '*Baldfaced bagman*' was published on page 4 of The Daily Telegraph. This article gives rise to the imputation that our client acted as a bagman, collecting or distributing money for an illicit purpose.
5. The publication of the articles has harmed our client's reputation and has caused him substantial damage.

### LAWYERS

### OFFICES

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### FACSIMILE

08 9217 6710

### EMAIL

mail@tottle.com

### WEB

www.tottle.com

Unless, by no later than close of business on Wednesday, 4 May 2005, The Daily Telegraph agrees to:

- (a) publish, in equal prominence as the original articles, a complete and full retraction of the imputations arising from the articles in terms to be settled between the parties;
- (b) provide a proposal to compensate our client in respect to the damage you have caused to our client; and
- (c) provide reasonable reimbursement of our client's legal costs of an amount to be agreed,

then our client will commence legal proceedings against the proprietor and publisher of The Daily Telegraph, Nationwide News Pty Limited, for defamation.

Yours faithfully



TOTTLE PARTNERS

Our Ref: AVO:PT:20050187  
Email: avanonselen@tottle.com

26 April 2005

**BY EXPRESS POST  
PRIVATE & CONFIDENTIAL**  
The Editor in Chief  
The Advertiser  
121 King William Street  
ADELAIDE SA 5000



tottlepartner

**NOT FOR PUBLICATION**

Dear Sir

**Senator Ross Lightfoot**

We act for Senator Ross Lightfoot.

We are instructed that:

1. Advertiser Newspapers Pty Limited is the proprietor and publisher of The Advertiser.
2. The Advertiser is available nationally at newsagents throughout Australia and on line at <http://www.theadvertiser.news.com.au>.
3. On 17 March 2005, an article by Nick Butterly entitled '*Exclusive: How Senator smuggled \$25,000 into Iraq for Australian oil company BAGMAN*' was published on pages 1 and 4 in The Advertiser.
4. The article gives rise to the following imputations in respect to our client:
  - (a) that he committed a criminal offence by smuggling A\$25,000 out of Australia;
  - (b) acted as a bagman collecting or distributing money for illicit purposes.
5. The publication of the article has harmed our client's reputation and has caused him substantial damage.

**LAWYERS**

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mail@tottle.com


**WEB**  
www.tottle.com

Unless, by no later than close of business on Wednesday, 4 May 2005, The Advertiser agrees to:

- (a) publish, in equal prominence as the original article, a complete and full retraction of the imputations arising from the article in terms to be settled between the parties;
- (b) provide a proposal to compensate our client in respect to the damage you have caused to our client; and
- (c) provide reasonable reimbursement of our client's legal costs of an amount to be agreed,

then our client will commence legal proceedings against the proprietor and publisher of The Advertiser, Advertiser Newspapers Pty Limited, for defamation.

Yours faithfully



TOTTLE PARTNERS



## Fergusson-Stewart, Anne (Sen R. Lightfoot)

---

**From:** Maiden, Samantha [maidens@theaustralian.com.au]  
**Sent:** Monday, 23 May 2005 12:59 PM  
**To:** Fergusson-Stewart, Anne (Sen R. Lightfoot)  
**Subject:** Samantha Maiden - The Australian (02) 6270 7042 mobile: 0427 068 670

Shares include Amcor - bought 14/2/04, not disclosed but disclosed as sold on 17/3/05 after it was sold on 4/3/05.

Ceramic Fuels - bought 12/7/04, not disclosed but disclosed as sold on 17/3/05 after it was sold on 0/3/05

WMC (1500) bought 13/12/04, disclosed 8/2/05 and sold 14/2/05. Sale not disclosed.

Cue Energy - not disclosed, disclosed as sold on 21/1/02

Dear Anne,

Was wondering if you could tell me if the following information is correct. The information follows checks by the Australian. A copy of your returns will be faxed as discussed. Opposition is saying: "Now we have evidence of a series of non-disclosures of share trades, a number of which were at the time of, and in companies at the heart of, the takeover battle for Western Mining Corporation.

Macq Airports bought 2/4/03. Disclosed 6/6/03. Sold 5/7/04. Not disclosed.

QBE insurance 25/8/03/ Sold 10/3/05. Not disclosed.

Telstra bought 19/6/01. Disclosed 27/11/04. Sold 10/03/05/ Not disclosed.

Aztec not disclosed when purchased. Disclosed 17/3/05/

BHP (2090) bought 15/3/5. Sold ?

Clinical Cell culture bought 22/2/02. Disclosed as sold 17/3/05 ? When sold ?

Senator Lightfoot's fax: 08 9344 8300

***This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments which does not relate to the official business of the sending company must be taken not to have been sent or endorsed by that company or any of its related entities. No warranty is made that the e-mail or attachment(s) are free from computer virus or other defect.***

## Attachment 7

<u>Share</u>	<u>Bought</u>	<u>Disclosed</u>	<u>Sold</u>	<u>Disclosed</u>
Ancor	14/2/04	Not	4/3/05	17/3/05
Ceramic Fuels	12/7/04	Not	10/3/05	17/3/05
WMC (1500)	13/12/04	8/2/05	14/2/05	Not
Cue Energy	N/K	Not	N/K	21/1/02
Macq Airports	2/4/03	6/6/03	5/7/04	Not
QBE Insur	25/8/03	10/9/03	10/3/04	Not
Telstra	19/6/01	27/11/04	10.3.05	Not
Aztec	N/K	Not	N/K	17/3/05
BHP (2090)	15/3/05	17/3/05	NA	NA
Clinical Cell Culture	22/2/02	28/2/02	?	17/3/05 (1)

(1) CCC share register indicates 50,000 still owned

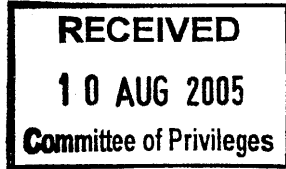
The following disclosures indicates a knowledge by Sen. Lightfoot of the need for disclosure and within the timeframes set down by the Senate.

<u>Share</u>	<u>Bought</u>	<u>Disclosed</u>	<u>Sold</u>	<u>Disclosed</u>
Woodside	8/2/02	28/2/02	20/3/02	16/4/02
Woodside	18/11/04	27/11/04	16/3/05	17/3/05



## Senator Chris Evans

Leader of the Opposition in the Senate  
Shadow Minister for Indigenous Affairs  
Shadow Minister for Family and Community Services  
Labor Senator for Western Australia



Senator the Hon John Faulkner  
Chair  
Senate Committee of Privileges  
Parliament House  
CANBERRA ACT 2600

Dear Senator Faulkner

Thank you for your letter of 16 June 2005 regarding the motion I moved to refer certain matters relating to Senator Lightfoot to the Committee of Privileges.

I note that, for the purpose of undertaking this reference, the Committee has available my letter to the President of the Senate, Senator Calvert, of 26 May 2005, in which I sought precedence for the motion to refer the matter to your Committee.

My letter raised a matter of privilege under Standing Order 81 and paragraph 1(2) of the Senate's Resolution on Pecuniary Interests, which provides:

*Any senator who:*

- (a) *knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;*
- (b) *knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 28 days of the change occurring; or*
- (c) *knowingly provides false or misleading information to the Registrar of Senators' Interests;*

*shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.*

As my letter sets out, I brought to the Senate's attention a number of failures by Senator Lightfoot to abide by the letter and the spirit of the requirements on all Senators to accurately, and in a timely fashion, disclose all pecuniary interests,

including in publicly listed companies. For ease of reference, I enclose the summary table which sets out these numerous failures:

- Four instances of his failure to declare the purchase of shares (namely Amcor, Ceramic Fuels, Cue Energy and Aztec);
- Two instances of a failure to declare the purchase of shares within the required 28 day period (namely WMC and Macquarie Airports);
- Four instances of a failure to declare the sale of shares (namely WMC, Macquarie Airports, QBE Insurance, and Telstra); and
- One instance of a disclosure of sale of shares where the company's share register indicates that shares are still owned by Senator Lightfoot's private company (namely Clinical Cell Culture).

As you would be aware, information on the purchase, holding and disposal of shares in publicly listed companies in Australia is available only through personal inspection of the register itself, usually held on the companies' behalf by a share registry service provider in the city of the company's registration or head office. It is therefore not possible to provide the Committee with documentary proof of these holdings and dates, except in circumstances where the Committee were to request this information directly from the registries. I am happy to provide registry details for the above companies, if the Committee requires it. However, Senator Lightfoot has at no time disputed the facts I have set out above.

In my view, Senator Lightfoot's failures to properly comply with the Senate's requirements on disclosure of interests offend all three of the criteria set out in the Senate's Resolution, at least on a *prima facie* basis. Given that it is extremely difficult to prove the *mens rea* component, I do not propose to assert that he knowingly failed to act in accordance with the Senate's requirements on its members. However, I have also included details of one example where Senator Lightfoot demonstrates he was aware of the disclosure requirements and willing to comply with those requirements, both in an accurate and timely fashion.

I note that, in his letter to the Registrar of Senators Interests dated 8 June 2005, Senator Lightfoot does not dispute the facts of the case I have set out, that is, the details of his failures to disclose. Senator Lightfoot in fact only defends his position by claiming that he has "acted in good faith and any lapses have been entirely inadvertent". I note that this is the same defence used by Senator Lightfoot on 11 May 2005 when he apologized to the Senate for his failure to disclose sponsored travel to Iraq.

I am also strongly of the view that a Senator who serves on the Senate's Committee of Senators' Interests ought to be acutely aware of requirements for disclosure, and all the more so for the Senator who serves as the Deputy Chair of that Committee, a position Senator Lightfoot currently holds. Senators holding such a position on this Committee ought to clearly understand the need to set an example in relation to accurate and timely disclosure of pecuniary interests, and Senator Lightfoot's numerous failures are conspicuous for this reason.

On a related matter, I draw the Committee's attention to Senator Lightfoot's disclosure on the Register of Interests dated 13 May 2005, where he purports to add the following item: "Lightfoot Brothers Midland Pty Ltd – Directorship re-activated". As

a company director of long-standing, Senator Lightfoot knows or ought to know that Australian Corporations Law does not provide for the de-activation or re-activation of directorship, except by resignation or appointment.

Lightfoot Brothers Midland Pty Ltd (ACN 008 761 993) is the private company by which Senator Lightfoot trades in the shares of many companies, including those listed above and which he failed to disclose. For the Committee's information, I enclose an Historical Company Extract from the ASIC database which clearly shows that Senator Lightfoot has been a Director of this company continuously since 1972, has been the Company Secretary continuously since 1991, and is the beneficial holder of the companies shares both in his own name and through a related private company, Markros Pty Ltd.

I am not in a position to impute any motive for the purported disclosure of re-activation of a company directorship which is impossible under Australian law, nor am I in a position to explain the basis for Senator Lightfoot's disclosure when ASIC records clearly show that he has not resigned his directorship nor been re-appointed. In fact, ASIC documents also show that he was lodging documents as Director and Company Secretary during the time that he supposedly was not an active Director. It is, however, difficult to see how this misleading disclosure to the Registrar of Senators' Interests can be anything other than done in full knowledge that the statement was inaccurate and not in accordance with Australian Corporations Law.

For the reasons set out above, including the additional matter of the misleading disclosure of a "re-activated directorship", I believe that Senator Lightfoot is guilty of a serious contempt of the Senate, and that he should be dealt with by the Senate accordingly.

Yours sincerely



CHRIS EVANS

10 August 2005

Enclosure:

1. Summary Table.

<b>Share</b>	<b>Bought</b>	<b>Disclosed</b>	<b>Sold</b>	<b>Disclosed</b>
Amcor	14/2/04	Not	4/3/05	17/3/05
Ceramic Fuels	12/7/04	Not	10/3/05	17/3/05
WMC (1500)	13/12/04	8/2/05	14/2/05	Not
Cue Energy	N/K	Not	N/K	21/1/02
Macq Airports	2/4/03	6/6/03	5/7/04	Not
QBE Insur	25/8/03	10/9/03	10/3/04	Not
Telstra	19/6/01	27/11/04	10.3.05	Not
Aztec	N/K	Not	N/K	17/3/05
Clinical Cell Culture	22/2/02	28/2/02	?	17/3/05 (1)

(1) CCC share register indicates 50,000 still owned

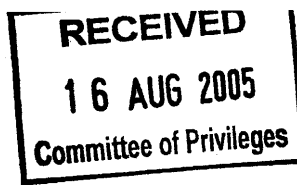
The following disclosures indicate knowledge by Sen. Lightfoot of the need for disclosure and within the timeframes set down by the Senate.

<b>Share</b>	<b>Bought</b>	<b>Disclosed</b>	<b>Sold</b>	<b>Disclosed</b>
Woodside	8/2/02	28/2/02	20/3/02	16/4/02
Woodside	18/11/04	27/11/04	16/3/05	17/3/05



PARLIAMENT OF AUSTRALIA

Senator for Western Australia  
**ROSS LIGHTFOOT**



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## PRIVATE AND CONFIDENTIAL

Senator the Hon John Faulkner  
Chair  
Committee of Privileges  
Parliament House  
CANBERRA ACT 2600

16<sup>th</sup> August 2005

Dear Senator Faulkner

Thankyou for your letter of 11<sup>th</sup> August 2005 and the attached copy of correspondence from Senator Chris Evans, dated 10<sup>th</sup> August 2005, to which the committee has invited my response.

As Senator Evans quite correctly points out, *"..... information on the purchase, holding and disposal of shares in publicly listed companies' in Australia is available only through personal inspection of the register itself, usually held on the companies' behalf by a share registry service provider in the city of the company's registration or head office."*

Senator Evans goes on to offer to provide registry details for my company's share holdings in companies where he alleges that I have failed to disclose a pecuniary interest. However, the fact is that Senator Evans **could not have accessed these details had I not declared either the sale or purchase of each of these holdings** to the Register of Senators' Interests.

Senator Evans provides further evidence of my desire and willingness to comply by indicating that I did register the purchase and sale of Woodside shares and, I fail to understand how he can claim that I intentionally complied in this instance but intentionally failed to comply in other instances! It is clear that my intention was, and is, to comply on all occasions.

In each of the instances where Senator Evans has raised a concern, I reported either the purchase or sale of each commodity and totally reject any inference that it was not my intention to report both. I find the complaint regarding the Woodside transactions, according to the requirements, rather puzzling.

The matter of my declaration of the sale of Clinical Cell Culture (CCE) was addressed in both my correspondence to the Registrar on the 8<sup>th</sup> of June and in my submission of 2<sup>nd</sup> August. When updating my Register whilst in Canberra, but not having my files to hand, a call to my stockbroker

provided the information that I had sold CCE shares during the time since my previous declaration. I therefore declared that I had sold CCE shares, not recalling that I originally owned more shares than had been disposed of.

It is my view that Senator Evans' contributions, in fact, support my claim that it could not have been my intention to conceal these holdings from the Registrar.

Furthermore, I totally endorse Senator Evans' viewpoint that, as a Senator serving on the Senate's Committee of Senators' Interests, I should make every attempt to comply with the requirements and, indeed tender my very standing on this committee, as Deputy Chairman, as evidence of my motivation and genuine desire to comply with the requirements.

I would like to thank Senator Evans for bringing to my attention, a further demonstration of my willingness and desire to comply with the requirements.

Following the original advice of anomalies in reporting, I obtained a full copy of my declaration to the Registrar of Senators' Interests dated 16<sup>th</sup> September 2002 with a view to verifying its accuracy. I was distressed to note that, under Section 4: Registered Directorships of Companies, under the listing for Lightfoot Brothers Midland Pty Ltd, in the column entitled "Activities of company", a clerical error reflected that the company was "*Dormant*". A copy is attached for your information.

I am uncertain as to how this error occurred, however, having discovered this entry, and not knowingly wishing the Register to incorrectly reflect that Lightfoot Brothers Midland Pty Ltd was a trading entity of which I am the Director, I attempted to address this error in my declaration on 13<sup>th</sup> May 2005.

Senator Evans has ostensibly declined to reflect on my possible motives for the above declaration, but stated that my disclosure was "misleading" when in fact I was merely attempting to rectify the misleading notion that Lightfoot Brothers Midland was not trading.

This further alleged example that I am guilty of a serious contempt of the Senate only serves to demonstrate my earlier observation that minor oversights, of which many honourable Senators are guilty, have assumed the proportions of giant and grave contempt of the Senate. Nothing could be further from the truth in this case.

At all times I have attempted to comply with the rules of the reporting requirements. In view of the extent of the pursuit of various aspects of my declarations, and the considerable trouble, time and expense that has been applied to doing so, and having researched the declarations of a number of other Senators, perhaps all Senators could, in the future, be well advised to seek legal advice before making any declaration to the Registrar.

Despite some obvious reluctance for Senator Evans to accept my assurance that these administrative oversights were just that, I note that he does not suggest any motive for his allegations. Senator Evans states that he does not assert that I knowingly failed to act in accordance with the requirements. Therefore, given that I could have no possible reason for failing to provide information or for providing misleading information, or have deliberately, or with a guilty



mind, provided or failed to provide information, I trust that my explanation will now be accepted at face value.

Your correspondence to me of 11<sup>th</sup> August 2005 does not make any reference to the committee's consideration of my submission of 2<sup>nd</sup> August 2005 and, in particular to my contention that I have been maliciously singled out for pursuit in regard to this matter.

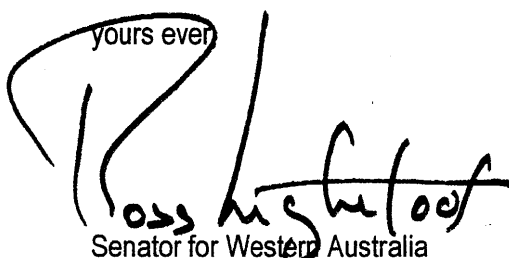
Should the committee not, as yet, have considered this segment of my submission your early contemplation of this aspect of my original response would be appreciated.

Nor does your correspondence make reference to the various other examples of apparent failures to comply with the requirements of the Register of Senators' Interests which I notified you of on 2<sup>nd</sup> August 2005, which again, has some relevancy to the case in point. I reiterate to the committee that I cited these examples of apparent failure by other Senators not to comply with a full acceptance that their omission was also, in all likelihood, unknowing. The key ingredient as to whether a Senator has breached the resolution, and therefore acted in contempt of the Senate, must be that he or she knowingly acted in breach of the rules. Administrative errors, corrected once brought to my attention, however embarrassing and regrettable, do not constitute knowingly ignoring the rules.

Should Senator Evans have any further concerns in regard to this matter, I would be pleased to address them with him, at a private meeting, if this was appropriate and convenient.

May I respectfully submit that this further matter raised in your correspondence, is again a reflection of the difficulties encountered when attempting to comply with the rules and, highlights the lack of discretion in the rules and any opportunity for the Senate to consider non-conformities. Again, I assert that an increase in the time-frame for reporting would help to ensure that declarations could be prepared in due consultation with statements of transactions and other documents relevant to Senators' financial activities.

I remain,

yours ever  
  
Senator for Western Australia  
ROSS LIGHTFOOT

FORM A

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

REGISTER OF SENATORS' INTERESTS

STATEMENT OF REGISTRABLE INTERESTS

FORM A - SENATORS

REGISTRY OF  
16 SEP 2002  
SENATORS' INTERESTS

Notes

- (1) Please read the accompanying Explanatory Notes before completing the return.
- (2) You must sign and date both this form, and Form B if required, which together constitute your Statement of registrable interests. If there is insufficient space on the form, you may attach additional pages. Please date, and either sign or initial, each page of any attachment.

Surname: LIGHTFOOT Other Names: PHILIP ROSS.

State/Territory: WESTERN AUSTRALIA

Completed forms may be sent to the Registrar of Senators' Interests, Parliament House,  
Canberra ACT 2600

1. SHAREHOLDINGS IN PUBLIC AND PRIVATE COMPANIES (INCLUDING HOLDING COMPANIES) INDICATING THE NAME OF THE COMPANY OR COMPANIES

Name of company - (including holding and subsidiary companies if applicable)	
Self	MARKROS PTY. LTD., EUREKA MINERALS PTY LTD
	PRL NOMINEES PTY LTD
	LIGHTFOOT BROS. MIDLAND PTY. LTD
	SOUTHLANDS BOULEVARD SHOPPING CENTRE PROPERTY TRUST
	ERG LTD., MEDICAL MONITORS LTD, ECAT DEVELOPMENT CAPITAL LTD
	NIAGARA MINING LTD, SOLUTION 6 LTD, ONE STEEL LTD.

2. FAMILY AND BUSINESS TRUSTS AND NOMINEE COMPANIES -

(i) in which a beneficial interest is held, indicating the name of the trust and the nature of its operation and beneficial interest

Name of trust/nominee company		Nature of its operation	Beneficial interest
Self	ROSS LIGHTFOOT	DORMANT	DISCRETIONARY
	FAMILY TRUST		
	(PRL NOMINEES PTY LTD)		

(ii) in which the Senator, the Senator's spouse or partner, or a child who is wholly or mainly dependent on the Senator for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the Senator, the Senator's spouse or partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust

Name of trust/nominee company		Nature of its operation	Beneficiary of the trust
Self	N/A		

3. REAL ESTATE, INCLUDING THE LOCATION (SUBURB OR AREA ONLY) AND THE PURPOSE FOR WHICH IT IS OWNED

	Location	Purpose for which owned
Self	FLOREAT	RESIDENCE
	BRADDON	CANBERRA APARTMENT JOINTLY OWNED WITH SPOUSE

4. REGISTERED DIRECTORSHIPS OF COMPANIES

	Name of company	Activities of company
Self	MARKROS PTY LTD	HOLDING COMPANY (DORMANT)
	PRL NOMINEES PTY LTD	TRUSTEE FOR ROBS LIGHTFOOT FAMILY TRUST
	LIGHTFOOT BROS. MIDLAND PTY-LTD.	DORMANT
	EUREKA MINERALS PTY LTD.	DORMANT

5. PARTNERSHIPS, INDICATING THE NATURE OF THE INTERESTS AND THE ACTIVITIES OF THE PARTNERSHIP

	Name	Nature of interest	Activities of partnership
Self	NIL		

6. LIABILITIES, INDICATING THE NATURE OF THE LIABILITY AND THE CREDITOR CONCERNED

	Nature of liability	Creditor
Self	MORTGAGE - FLOREAT	POLICE + NURSES CREDIT SOCIETY
	MORTGAGE - CANBERRA	JOINT COMMONWEALTH BANK A/C WITH SPOUSE



RECEIVED  
- 7 SEP 2005  
Committee of Privileges

## Senator Chris Evans

Leader of the Opposition in the Senate  
Shadow Minister for Indigenous Affairs  
Shadow Minister for Family and Community Services  
Labor Senator for Western Australia

Senator the Hon John Faulkner  
Chair  
Senate Committee of Privileges  
Parliament House  
CANBERRA ACT 2600

Dear Senator Faulkner

Thank you for your letter of 11 August 2005 requesting any additional comments I might wish to make on Senator Lightfoot's recent correspondence to the Senate Committee of Privileges on the adequacy of his declaration of interests.

As my letter of 10 August 2005 sets out, I summarized a number of apparent failures by Senator Lightfoot to abide by the letter and the spirit of the requirements on all Senators to accurately, and in a timely fashion, disclose all pecuniary interests, including in publicly listed companies. This followed an earlier occasion when Senator Lightfoot failed to declare detail of a sponsored trip to Iraq in July 2004.

I note that Senator Lightfoot does not dispute the information as presented but continues to assert that 'it was never his intention to knowingly mislead or misrepresent' his registrable interests to the Senate.

As I previously indicated, I am strongly of the view that a Senator who serves on the Senate's Committee of Senators' Interests ought to be acutely aware of disclosure requirements. I am also of the view that a Senator who serves as the Deputy Chair of that Committee ought to be familiar with all the responsibilities that each Senator is required to accept in disclosure matters. Senator Lightfoot is the Deputy Chair of the Committee and should have intimate knowledge of the Senate's disclosure requirements.

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I would expect that Senator Lightfoot who admits to meticulous and extensive share trading activities would carry out his disclosure responsibilities in an equally meticulous manner. That he hasn't, undermines the *raison d'être* of the Senate's pecuniary interests disclosure requirements.

I also note that Senator Lightfoot has so far not addressed the matter of directorship responsibilities to which I previously alerted the Committee.

I reiterate that I am not in a position to impute any motive for the purported disclosure of re-activation of a company directorship which is impossible under Australian law. Nor am I in a position to explain the basis for Senator Lightfoot's disclosure when ASIC records clearly show that he had not resigned his company directorship and had not been subsequently re-appointed. ASIC documents show that he was lodging documents as Director and Company Secretary during the time that he was purportedly not an active Director.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Evans', with a stylized, cursive script.

CHRIS EVANS

6 September 2005