

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates, 16 & 17 February 2005

Question: Add 16

Topic: ACCC – Dudley Quinlivan Case

Hansard Page: E23/24

Senator Lundy asked:

So, with respect to the Quinlivan case, you do not believe it is a case of the laws that you administer being strengthened but rather a stuff-up on that particular litigation?

How much did it cost? If you could provide those figures, I would appreciate it?

Answer:

Central to the proceedings with this case, which were commenced in November 2001, was the issue of market value. In particular, the representations made to purchasers regarding the market value of properties were fundamental to proving both the misleading and deceptive conduct and unconscionable conduct contraventions. The Commission was the only party in the proceedings to call expert evidence on the issue of market value, and this expert evidence was substantially cross-examined. Both at first instance and on appeal, the expert evidence put forward by the Commission in relation to market value was not accepted. Hence is it neither a case of strengthening the laws, nor a "stuff up" in this particular litigation, but a case in which the evidence tendered to prove an essential element of the case was not ultimately accepted by the Court.

The legal costs associated with the case are \$3.712m, with one claim for costs still to be assessed.