

**Senator Conroy asked for information on the numbers of complaints that ASIC received about Mr Henry Kaye and whether any of the complaints deal with Mr Kaye providing tax advice, how ASIC responded to these complaints and whether the Senate Committee could be provided with copies of the correspondence (E 43).**

Prior to May 2001, ASIC received eight complaints in relation to Henry Kaye. Following those complaints, surveillance was conducted but it was determined at that stage that ASIC had no jurisdiction to deal with the issues raised by the complaints. As such, the complaints and information detailed during the surveillance were referred to Victorian Consumer and Business Affairs (CBA) on 9 May 2001.

From May 2001 until the commencement of proceedings in the Federal Court on 4 March 2003, ASIC received 39 complaints in relation to Henry Kaye, primarily relating to the seminars promoted by companies associated with him. During this period, further enquiries were initiated, including the issuing of compulsory notices. Based on the material examined, it appeared that there was no breach of the laws administered or enforced by ASIC. This being the case, there was no basis to commence any investigation. However, by late 2002, Henry Kaye and companies associated with him were targeted for surveillance on whether any activities being undertaken contravened the ASIC or Corporations Act.

As a result of this surveillance work and complaints received in early 2003, ASIC began an investigation and commenced the Federal Court proceedings, which were ultimately the subject of final Court and enforceable undertakings in July 2003. As a result of those undertakings, National Investment Institute Pty Limited agreed to provide refunds to a number of consumers and to cease promoting seminars without obtaining an Australian Financial Services Licence. One of the bases on which ASIC commenced the proceedings was the false representation made that the seminars were "ASIC approved".

Complaints provided by members of the public are subject to confidentiality provisions under section 127 of the ASIC Act. Under the circumstances and in the interests of protecting the principle of confidentiality of the agency's complaints process, copies of these complaints have not been provided.