

- 3 NOV 2003

**SUPPLEMENTARY SUBMISSION OF AUSTRALIAN WOOL  
INNOVATION LIMITED TO THE SENATE RURAL AND  
REGIONAL AFFAIRS AND TRANSPORT LEGISLATION  
COMMITTEE**

## Introduction

Australian Wool Innovation Limited ('AWI') lodged a substantial submission with the Committee on 11 August 2003. While affirming the contents of that submission, in light of the submission of Colin Dorber dated 29 September 2003 ('DS') that was recently published by the Committee, AWI wishes to make some concluding remarks by way of this supplementary submission.

A reference in this submission to a numbered 'Tab' is to the corresponding tab in the accompanying folder of documents. AWI formally requests that, due to either their commercial sensitivity or privacy issues relating to certain individuals, the documents in that folder remain confidential.

## General comments

1. Notwithstanding any alleged 'unfavourable media reports and publications' (DS paragraph 3) and claims that he 'was at all times telling the truth' (DS paragraph 33), Mr Dorber by his own admission misled the Committee concerning a number of matters, including:
  - (a) his engagement of the journalist David Everist to attend a luncheon where Mr McLachlan was to speak – in response to a question from Senator Ferris, Mr Dorber claimed that he had said to Mr Everist that he was not telling him what he was to do or say and that he 'did not give him any questions to ask nor did I suggest to him what he might ask'. Mr Dorber now 'acknowledges that he did provide Mr Everist with some suggested questions and issues that would ideally be raised in such a scenario' (DS paragraph 19); and
  - (b) his receipt of director's fees from Shear Express – in response to another question from Senator Ferris, Mr Dorber agreed that he would be worried about his personal credibility if it subsequently appeared that he had been paid fees by Shear Express in circumstances where he had expressed his intention not to take any fees. Mr Dorber now concedes that he did in fact receive the sum of \$24,060.50 representing Shear Express director's fees for a 15-month period (DS paragraph 29).
2. Despite the above, Mr Dorber has complained about 'non-specific allegations of a legal nature' (DS paragraph 6) being made against him while simultaneously submitting that 'a carefully calculated political campaign may well have been brought' against him (DS

paragraph 69). AWI respectfully submits that, on a fair reading of the material in its earlier submission and a proper consideration of the evidence given by witnesses to the Committee during the course of this Inquiry, those allegations cannot be sustained.

### **Specific issues**

#### *Unexplained payments*

3. In paragraph 9 of his submission, Mr Dorber claims that an 'agreement was reached that a donation would be made' to Cromer High School, 'for use as determined by the school', in return for its direct participation in the development of a pilot wool education program. In respect of that matter, AWI:
  - (a) notes that, despite the correspondence exchanged between its lawyers and Mr Dorber's lawyers concerning the donation of \$4,033.20 to Cromer High School (see Tab 3 of AWI's submission dated 11 August 2003 and Tab 1 of this submission), the pilot wool education program and its relationship with the payment by AWI for Shakespearian plays on behalf of Cromer the School has not previously been mentioned by Mr Dorber; and
  - (b) there is no evidence in AWI's records of any agreement of the nature described by Mr Dorber.
  
4. Mr Dorber's characterisation of the payment of \$9,660 to the NSW Sports Council for the Disabled as 'strategic' (DS paragraph 10) is not compelling. It ignores the fact that the payment was for 104 children and family carers to attend *'Movie Mania'* and Mr Dorber does not attempt to make any connection between that and his claim that the payment was 'for the benefit of Australian woolgrowers'. In AWI's submission, it was not.

#### *Projects without contracts*

5. Mr Dorber suggests that it is 'prejudicial' (DS paragraph 14) for AWI to claim that letters of agreement covered 'not all of the uncontracted projects' in which AWI was involved, without listing any projects in that category. Even if letters of agreement were effective in protecting AWI's interests (and AWI has in its earlier submission commented on the problems that it has encountered in that regard), AWI is aware of several instances, in addition to the Farmhand Appeal donation, where there was no written letter of agreement. A project involving WRONZ in respect of high

lightfastness dyeing for wool fabrics commencing in late 2002 is one example. That project was worth approximately \$650,000 but there is no letter of agreement on the project file and no contract was signed until March 2003, despite that fact that WRONZ issued its first invoice to AWI on 1 November 2002 for work already commissioned and carried out.

*Election campaign expenses*

6. Mr Dorber expressly denies that he 'lead a campaign for the re-election of the existing Board' (DS paragraph 18) and states that he 'did not promote the Board members nor undermine other candidates' in respect of the 2002 election. However, he has chosen not to address the issue of his engagement, on behalf of the Board, of i2K Communications to conceive strategies for the promotion of the old Board (see Tab 4 of AWI's submission dated 11 August 2003 and Tab 2 of this submission), nor has he brought to the Committee's attention his regular correspondence in the months leading up to the election with both John Roydhouse, the principal of Rural IT & Web Pty Ltd, and the members of AWI's Wool Advisory Group concerning how the profiles of the current members of the Board with woolgrowers should be enhanced and how those woolgrowers should be discouraged from voting for Mr McLachlan's team.
7. As already noted above, Mr Dorber has acknowledged, in the face of overwhelming evidence, his engagement of David Everist in an effort to undermine Mr McLachlan while Mr Everist was posing as an independent journalist. At Tab 3 is a copy of an email from Mr Dorber to Mr Everist dated 17 October 2002 in which Mr Dorber suggests a number of questions for Mr Everist to ask Mr McLachlan and a copy of Mr Everist's account.

*Donation to Farmhand*

8. AWI notes Mr Dorber's call (DS paragraph 25) for the transcript of the meeting of the Board on 6 November 2002. At Tab 4 are the pages of that document that are relevant to the contractual issue. As the Committee will see, contrary to Mr Dorber's recent denial, he told the Board on that day:

*'The AWI contribution to the Farmhand drought relief appeal of \$500,000 was made on contractual terms, and these are the terms of the contract: ...'*

*Shear Express director's fees*

9. Mr Dorber had a legal obligation to return wrongly-paid director's fees to Shear Express, not just a 'moral obligation'. Not only was it contrary to resolutions of the Boards of both AWI and Shear Express that he received those monies, but it was inconsistent with his own public statements. Moreover, as already noted in paragraph 5.32 of AWI's submission dated 11 August 2003, it is inappropriate for Mr Dorber to seek to rely on a deed of release as an excuse for not refunding those monies in circumstances where Shear Express is not a party to that deed. In any event, after his earlier comments to Senator Ferris (see paragraph 1 above), it is difficult to understand how Mr Dorber could have considered retaining those monies.

*Overpayment of directors' fees*

10. AWI denies that 'matters are ongoing between Mr Dorber's legal advisors and those of AWI' (DS paragraph 35) concerning the return by Mr Dorber of advance payments of AWI director's fees. AWI's lawyers wrote to Mr Dorber's lawyers on 21 August 2003, requesting a reply within seven days (see Tab 5) but no response has been received. AWI will be pursuing formal recovery proceedings in the continued absence of any response from Mr Dorber if it is considered by the AWI Board to be in the best interests of AWI's shareholders to do so.

*Terminations of Luke and Holly Dorber*

11. In paragraph 37 of his submission, Mr Dorber claims that the 'status of Holly's employment' described in paragraph 5.37 of AWI's earlier submission is 'simply inaccurate'. As the Committee will be aware through reading the documents at Tab 11 of AWI's earlier submission (also accompanying this submission at Tab 6), the description of Ms Dorber's position as 'casual two days a week' was adopted by Mr Dorber himself in an e-mail to Mr McLachlan dated 12 November 2002. The implication in paragraph 86 of Mr Dorber's submission that she was engaged by AWI as a full-time employee at the time of her termination cannot be reconciled with that correspondence, nor can it be reconciled with AWI's official payroll records up to date of her termination on 25 November 2002.

*Lease of York Street premises*

12. As noted in paragraph 5.43 of AWI's earlier submission, a 'thorough review of company documentation' (DS paragraph 43) has revealed neither a written report from AWI's

Operations Manager concerning this issue nor an e-mail to directors to the effect stated by Mr Dorber. There is simply no documentary evidence that AWI's Operations Manager told Mr Dorber 'that the real estate agent for the lessee had confirmed in writing that it was to take the lease' and the Operations Manager has no recollection of such a conversation now.

*Number of employees*

13. There is nothing 'underhanded' (DS paragraph 48) in the way that AWI has quoted Mr Dorber in respect of his representations concerning the number of AWI's employees. Regardless of what Mr Dorber may have also said, he stated to the Committee that AWI 'had permanent full-time staff of 27 as at last year's AGM', a statement he had also made to Claire Braund in correspondence on 21 September 2002. As AWI explained in paragraph 5.46 of its earlier submission, leaving aside contract staff, AWI had 44 full-time employees at the time of its Annual General Meeting in 2002 (see Tab 7).

*Establishment of AWI web site*

14. Mr Dorber has not made any comments concerning the matters discussed in paragraphs 5.54 to 5.56 of AWI's earlier submissions and AWI accordingly invites the Committee to draw the appropriate inferences.

*Peter Anderson & Co Pty Limited ('PAC')*

15. Contrary to the statements in Mr Dorber's submission (DS paragraph 52), the PwC report does not 'show' that Mr Anderson's monthly payments of \$10,000 were 'transparent' and 'above board'. On the contrary, PwC's comment was that the payments to PAC beyond that agreed in the contract (that is, the initial contract value of \$11,000) are 'poorly substantiated' and that it 'is not possible to determine the value of services provided'. As evidenced by the documents at Tab 17 of AWI's earlier submission (and Tab 8 of this submission), PAC has continued to resist AWI's attempts to explore this matter further.

*Chris Rowley*


16. Mr Dorber apparently believes (DS paragraph 81) that his actions in relation to the termination of Mr Rowley were entirely appropriate, notwithstanding the fact that the information given by him to the Board as to the nature of that termination was inaccurate and that Mr Rowley received a substantial termination payment to which he

would not have been entitled had he in fact resigned. It is not to the point for Mr Dorber to state that the Board was informed by Mr Rowley of the circumstances with respect to his resignation prior to Mr Dorber having a formal opportunity to notify the Board himself at a Board meeting: by that time it was too late for the Board to unwind an action to which it would never have given its consent and which it believes was not in the best interests of AWI.

*\$500,000 payment to film producer*

17. The comments in Mr Dorber's submission concerning this issue (DS paragraph 88) also miss the point. The concern of AWI here is not whether the funding of the project was consistent with the SFA or whether it was hidden from the Board. Regardless of the tender process (which did not relate to the contract with the sole trader but was the means of determining which sub-contractor the sole trader would engage), the fact that there was a written contract and that the initial payment was made by AWI on execution of the contract, the sum of \$500,000 was advanced by AWI without any form of security over that sum to protect AWI in circumstances where the recipient had no material asset backing.

**AUSTRALIAN WOOL INNOVATION LIMITED**

Per: 

Brian van Rooyen  
Deputy Chairman