

Our ref: CRM2017/257

21 December 2016

Mr Phillip Sweeney  
By Email: [foi+request-2797-de897772@righttoknow.org.au](mailto:foi+request-2797-de897772@righttoknow.org.au)

Dear Mr Sweeney,

**Freedom of Information request**

I refer to your application dated 29 November 2016, under the *Freedom of Information Act 1982* (the Act) seeking the following:

*"The documents I seek is a selection of articles in The Canberra Times dated from 1 June 1994 to 30 December 1994 where Ken Jarrett is mentioned and a covering letter informing the Australian Federal Police of this media coverage."*

Attached at Annexure A to this letter is my decision and statement of reasons for that decision.

**Information Publication Scheme (IPS)**

As notified to you on 1 December 2016 and in accordance with section 11C of the Act, it has been decided not publish the documents in respect of your request.

Yours sincerely,



Adam Raszewski  
Acting Team Leader  
Freedom of Information  
Australian Federal Police

## **STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY MR PHILLIP SWEENEY**

I, Adam Raszewski, Acting Team Leader, Freedom of Information Team, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police.

What follows is my decision and reasons for the decision in relation to your application.

### **BACKGROUND**

On 29 November 2016, this office received your application in which you requested:

*"The documents I seek is a selection of articles in The Canberra Times dated from 1 June 1994 to 30 December 1994 where Ken Jarrett is mentioned and a covering letter informing the Australian Federal Police of this media coverage."*

### **SEARCHES**

In relation to this request, the following searches for documents have been undertaken:

- a) a search of all records held by the relevant line areas within the AFP.

### **DECISION**

I have identified one document relevant to your request. I have decided that the document is released to you in its entirety.

### **WAIVER OF CHARGES**

Further, as your request is predominately your personal information, I am using my discretion and waiving any further fees and charges which are normally associated with the processing of applications under the Act.

### **EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED**

In reaching my decision, I have relied on the following documentary evidence:

- ❖ the scope of your application;
- ❖ the contents of the documents listed in the attached schedule;
- ❖ advice from AFP officers with responsibility for matters relating to the documents to which you sought access;
- ❖ *Freedom of Information Act 1982*;

- ❖ Guidance material issued by the Department of Prime Minister and Cabinet; and
- ❖ Guidelines issued by the Office of the Australian Information Commissioner.

## **REVIEW RIGHTS**

If you are dissatisfied with this decision you can apply for internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC review.

### ***REVIEW RIGHTS under Part VI of the Act: Internal Review by the AFP***

Section 53A of the Act gives you the right to apply for an internal review in writing to this Department within 30 days of being notified of this decision.

No particular form is required but it would assist the decision-maker were you to set out in the application, the grounds on which you consider that the decision should be reviewed.

Applications for a review of the decision should be addressed to:

Freedom of Information Team  
Australian Federal Police  
GPO Box 401  
Canberra ACT 2601

### ***REVIEW RIGHTS under Part VII of the Act: Review by the Information Commissioner (IC)***

Alternatively, Section 54L of the Act gives you the right to apply directly to the IC or following an internal review by the AFP. In making your application you will need to provide an address for notices to be sent (this can be an email address) and a copy of the AFP decision. It would also help if you set out the reasons for review in your application.

Section 54S of the Act provides for the timeframes for an IC review submission. For an *access refusal decision* covered by subsection 54L(2), the application must be made within 60 days. For an *access grant decision* covered by subsection 54M(2), the application must be made within 30 days.

Applications for a review of the decision should be addressed to:

Office of the Australian Information Commissioner  
GPO Box 5218  
Sydney NSW 2001

### ***Right to Complain***

Section 70 of the Act provides that a person may complain to the IC about action taken by this Department in relation to your application.

A complaint to the IC may be made in writing and identify the agency against which the complaint is made.

The IC may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

23 November 2016 2<sup>nd</sup> Letter

Your Ref: PROMIS 5981669

12 Highland Way  
Highton, 3216

Attn: Julie Drummond

## **Serious Financial Crime Taskforce**

**C/- Australian Federal Police**

GPO Box 485G

Melbourne, 3001

Dear Ms Drummond

# **Re: Ken Jarrett – Media Coverage**

[Key Words: Ken Jarrett; Elders IXL Limited; John Elliott; National Crime Authority; Elders IXL Superannuation Fund]

I refer to your letter dated 22 August 2016 and my subsequent correspondence.

In your letter dated 22 August 2016, you make the following representation.

Following a review of the information provided by you, which fails to provide any details of offenders, suspects or entities etc, no proof of a Commonwealth offence has been identified. Therefore the matters raised are not within the jurisdiction of the AFP to investigate. The AFP will not take any further action in regards to this matter.

This representation is completely false as I have confirmed in subsequent correspondence.

One of the key "offenders" in this superannuation fraud is the former Finance Director of Elders IXL Ltd, Ken Jarrett.

Mr Jarrett and his associates were the subject of three major investigations by the former National Crime Authority (NCA) and Mr Jarrett subsequently pleaded guilty to one charge of failing to act

honestly as an officer of Elders IXL Limited between April 1986 and June 1990 before Justice Coldrey in the Supreme Court of Victoria.

The signature of Ken Jarrett appears on a purported "**Deed**" associated with the **Elders IXL Superannuation Fund** which is dated 26 August 1986.

Therefore this "**Deed**" is a "*red flag*" document which is easily proven to be fraudulent and therefore void and ineffective.

Please refer to the attached **AFP** Freedom of Information decision letter dated 1 April 2015.

However from 26 August 1986 a number of purported corporate trustees have relied on a set of purported "**Rules**" attached to the "**Jarrett Deed**" as the basis of making benefit payments.

The provisions of the original Trust Deed executed on the 23 December 1913 and valid amending Deeds executed before 26 August 1986 have been ignored and these Deeds have been criminally concealed not only from the members and beneficiaries of the occupational pension scheme but also from the Regulator **APRA** during the fund registration process in 2006.

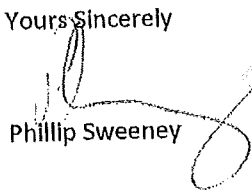
These genuine Deeds were also not discovered during proceedings in the **Supreme Court of Victoria** when they were material evidence.

The genuine Deeds have also been concealed from **ASIC** and the **Superannuation Complaints Tribunal**.

Please find attached a document titled "**Ken Jarrett – Media**".

How can the **Australian Federal Police** simply ignore such a well known white-collar criminal with a previous conviction for dishonest conduct and who has been described on the front page of **The Canberra Times** as a "*self-confessed fraudster and liar*"?

Yours Sincerely

  
Phillip Sweeney

Attachments:

Ken Jarrett Media  
AFP Freedom of Information decision letter dated 1 April 2015

Our ref: 2015/372

1 April 2015

Mr Phillip Sweeney

By Email: [foi-request-1015-bc5f82aa@righttoknow.org.au](mailto:foi-request-1015-bc5f82aa@righttoknow.org.au)

Dear Mr Sweeney,

**Freedom of Information request**

I refer to your email dated 11 March 2015 under the *Freedom of Information Act 1982* (the Act) seeking the following:

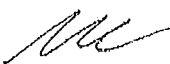
*"The document I seek is a document which states on its face "How the Commissioner of the Australian Federal Police can prove the fraud".*

Attached at Annexure A to this letter is my decision and statement of reasons for that decision. A "Schedule of Documents" identified as falling into the scope of your request is at Annexure B.

**Information Publication Scheme (IPS)**

As notified to you on 18 March 2015 and in accordance with section 11C of the Act, it has been decided to publish the documents in full in respect of your request. Publication of the documents and any relevant documents will be made on the AFP website at <http://www.afp.gov.au/about-the-afp/information-publication-scheme/routinely-requested-information.aspx> between 5 and 10 days after notification of this decision.

Yours sincerely



Nathan Scudder  
Coordinator  
Information Access  
Operations Support  
Australian Federal Police

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY  
PHILLIP SWEENEY**

I, Nathan Scudder, Coordinator, Freedom of Information, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police.

What follows is my decision and reasons for the decision in relation to your application.

**BACKGROUND**

On 11 March 2015, this office received your email in which you requested:

*"The document I seek is a document which states on its face "How the Commissioner of the Australian Federal Police can prove the fraud".*

**SEARCHES**

In relation to this request, a search was conducted of the AFP's investigation case management system PROMIS for records relating to your request.

**DECISION**

I have identified one document relevant to your request. A schedule of the documents and details of my decision in relation to the document is at Annexure B.

I have decided that the documents itemised at Annexure B are released to you in its entirety.

**WAIVER OF CHARGES**

Further, given that the request has totalled only 13 pages and was not a complex request to process, I am waiving any further fees and charges which are normally associated with the processing of applications under the Act.

**EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED**

In reaching my decision, I have relied on the following documentary evidence:

- ❖ the scope of your application;
- ❖ the contents of the documents listed in the attached schedule;
- ❖ *Freedom of Information Act 1982*;
- ❖ Guidelines issued by the Department of Prime Minister and Cabinet; and
- ❖ Guidelines issued by the Office of the Australian Information Commissioner.



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If you are dissatisfied with this decision you can apply for Internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC review.

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No particular form is required but it would assist the decision-maker were you to set out in the application, the grounds on which you consider that the decision should be reviewed.

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Freedom of Information  
Operations Support  
Australian Federal Police  
GPO Box 401  
Canberra ACT 2601

### ***REVIEW RIGHTS under Part VII of the Act: Review by the Information Commissioner (IC)***

Alternatively, Section 54L of the Act gives you the right to apply directly to the IC or following an internal review by the AFP. In making your application you will need to provide an address for notices to be sent (this can be an email address) and a copy of the AFP decision. It would also help if you set out the reasons for review in your application.

Section 54S of the Act provides for the timeframes for an IC review submission. For an *access refusal decision* covered by subsection 54L(2), the application must be made within 60 days. For an *access grant decision* covered by subsection 54M(2), the application must be made within 30 days.

Applications for a review of the decision should be addressed to:

Office of the Australian Information Commissioner  
GPO Box 2999  
Canberra ACT 2601

### ***Right to Complain***

Section 70 of the Act provides that a person may complain to the IC about action taken by this Department in relation to your application.

A complaint to the IC may be made in writing and identify the agency against which the complaint is made.

The IC may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

THIS DOCUMENT IS DECLASSIFIED  
AND RELEASED BY  
THE AUSTRALIAN FEDERAL POLICE  
UNDER THE  
FREEDOM OF INFORMATION ACT 1982

SCHEDULE OF DECISION – CRM 2015/372  
RELEASE OF DOCUMENTS – PHILLIP SWEENEY

Document No	Folio No	Date	Author	Description	Exemption	Reason
1	1-13	9/12/14	Victims' Action Group – The Provident Funds Fraud	Press Release	Released in full	This document is released to the applicant in full as he provided the document to the AFP.

Authorised Decision Maker:

Nathan Scudder  
Coordinator  
Freedom of Information  
Operations Support  
Australian Federal Police

Date of Decision:

1 April 2015

SCHEDULE OF DECISION – CRM 2015/372

# Ken Jarrett

Ken Jarrett had pleaded guilty to one charge of failing to act honestly as an officer of Elders IXL between April 1986, and June 1990 before Justice Coldrey in the Supreme Court of Victoria.

A purported amending Deed dated 26 August 1986 bears the signature of only one Director of Elders IXL Ltd with the Deed executed by the company instead of by a majority of the natural person Directors.

THIS DEED is dated the 26th day of August 1986 \$10  
BETWEEN ELDERS IXL LIMITED the registered office of which is situated at 27 Currie Street Adelaide in the State of South Australia (hereinafter called "the Principal Employer")  
AND ELDERS SUPERANNUATION LTD. the registered office of which is situated at 351 Collins Street Melbourne in the State of Victoria (hereinafter called "the Trustee")

- 1 -

THE COMMON SEAL of ELDERS IXL LIMITED was hereto affixed in accordance with its Articles of Association in the presence of:

:Director

:Secretary

THE COMMON SEAL of ELDERS SUPERANNUATION LTD. was hereto affixed in accordance with its Articles of Association in the presence of:

:Director

:Secretary



# Elliott aide to assist prosecution

By PETER GREGORY

A former Elders executive who admitted his involvement in sham foreign-exchange transactions worth \$66.5 million would give evidence against former Elders chief John Elliott, a Supreme Court judge was told yesterday.

Brind Wolnarski, QC, prosecuting, said Elliott and Peter Scanlon, a former Elders director, were the instigators and architects of payments of Elders money to companies associated with the former head of the New Zealand group Equitcorp, Allan Hawkins.

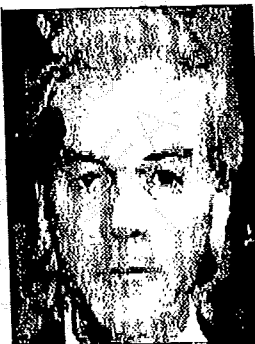
Kenneth Charles Jarrett, 50, had provided material that gave further substance to the Crown case regarding the transactions and provided evidence that was not readily available regarding convertible bonds worth \$105 million that were issued by an Elders off-shore entity in 1984.

It was put on Jarrett's behalf that until Jarrett made statements about the bonds, the authorities were up against a brick wall where they were concerned.

"The Elliott camp were doing everything they could in Switzerland to make sure that brick wall was never going to be dismantled," he said.

Jarrett, the former head of Elders Finance, had agreed to cooperate with the authorities and give evidence as required in court hearings regarding the foreign-exchange transactions and related matters. Jarrett's counsel, Hartog Berkeley, QC, said Jarrett had spoken to two co-accused, one of whom was almost certain to do as he had.

He said there was a strong possibility the other would cooperate. Jarrett, investment banker, of Walsh Street, South Yarra, pleaded guilty to one charge of, between 1, 1986, and June 29, 1987,



Ron Jarrett . . . pleaded guilty.



John Elliott . . . accused.

falling to act honestly as an officer of Elders IXL Ltd with intent to deceive or defraud.

The charge said he concealed from Elders and regulatory authorities that he and other Elders officers and associates had a financial or beneficial interest in convertible bonds issued by Elders N.V. in 1984 and acquired by RHP Ltd in 1986. It said he also concealed the

true basis and nature of the payment of about \$66.5 million of Elders' money to Allan Robert Hawkins.

Mr Wolnarski said Jarrett's plea and the assistance he provided authorities were significant matters.

"Jarrett has provided a valuable and revealing insight into the business 'motives' and criminality of those who had control of that company," he said. "His plea acknowledges his involvement in a scheme whereby former senior officers of Elders IXL stole approximately \$66.5 million and paid it, from Elders, to entities associated with Robert Allan Hawkins."

The payments had arisen from an attempt by the late Robert Holmes a Court to gain control of RHP, a "white knight" intervention by Elders and a late but crucial involvement by Held Pty Ltd, a company associated with Hawkins, in the course of the power play.

He said the true owners of convertible bonds issued by Elders N.V., revealed by Jarrett to include himself, John Dorman Elliott, Peter Damien Scanlon, another former Elders IXL director, Richard Wiesener and other associates, netted a secret profit of about \$78 million.

Mr Berkeley said Elliott should have said that the \$78 million would go to the company, but he did not.

He said Jarrett, who did what Mr Elliott told him, was allocated more than \$3 million from the profit, but got nothing out of it after he was told to invest the money in Hurlin Holdings.

Continued on Page 5

**INSIDE:** Elliott believed that Jarrett was Australia's best finance director but their relationship was never more than master and servant. — **Background:** Page 6.

# Elliott aide to assist prosecution

Continued from Page 1

Mr Berkeley said Jarrett had worked in an environment that was like a spy story, in which a small executive group ran everything and the "stragglers" at the bottom did the work.

Mr Wolnarski said the material provided by Jarrett might properly be described as being of great public importance. He said in the circumstances of the case, a suspended jail sentence for Jarrett would not be inappropriate. Mr Berkeley also said Justice Coldrey could impose a sentence that did not require Jarrett to spend time in prison.

The maximum penalty for the offence is five years' jail, a \$20,000 fine or both. He said Jarrett also faced one count of conspiracy and two counts of theft of funds totalling \$66.5 million, but they would be withdrawn later. He said Jarrett had agreed to make

himself available to give evidence at a preliminary hearing of charges against his co-accused. A preliminary hearing of charges against Elliott, Scanlon, Kenneth Robert Higgins, the former head of Elders corporate division, Peter Robert Camm, former manager of Elders Finance, New Zealand, and two Bank of New Zealand employees, Michael David Eugene Woods and Victor George Paulis, were listed to begin on August 1. Mr Wolnarski said Wisener was not in Australia, but lived in Monaco.

Mr Wolnarski said that in 1987 Scanlon told Jarrett Elders IXL owed money to Hawkins as part of an arrangement it had with him regarding the purchase of BHP shares. Scanlon allegedly told Jarrett it was necessary to pay the money in a way that was not disclosed. Mr Wolnarski said Elliott also told Jarrett that a fee was payable to Hawkins.

He said on January 11, 1988, Elders IXL paid \$19,521,669 to the Bank of New Zealand in what appeared to be a genuine foreign exchange transaction. Elders paid \$27,680,000 to the bank on September 7, 1988, in settlement of purported foreign exchange transactions. On each occasion, the bank entered mirror arrangements with a company associated with Hawkins and paid the proceeds to the company, he said.

He said Elders had treated each payment in its accounting records as being incurred as a result of genuine foreign exchange transactions.

Mr Wolnarski said Jarrett gave evidence to a National Companies and Securities Commission inquiry in 1986 and to the National Crime Authority in 1990 about the ownership of the convertible bonds.

He said Scanlon had congratulated Jarrett about his evidence after they

and Elliott gave evidence before the CCSC denying any knowledge of the true beneficial owners of the bonds.

He said Jarrett had drafted a false explanation about the foreign exchange transactions before giving evidence to the NCA in December, 1990. The version was discussed with Elliott, Scanlon and Higgins.

Mr Wolnarski said Elliott and Scanlon were concerned that there might be a problem if different accounts were given to the NCA, which might gain access to records in Switzerland regarding the 1983 bond issue. They were also allegedly concerned that NCA inquiries in the Bank of Switzerland might reveal the truth about the ownership of the \$195 million parcel of bonds.

Justice Coldrey granted Jarrett bail and said he would sentence him on a date to be fixed.

# Jarrett: backroom boy untouched by greed

By DAVID ELIAS

The year was 1986, a frantic and exciting time for John Elliott's Elders IXL group. It was doing the crest of a financial wave and in the thick of a series of multi-million-dollar take-over battles in Australia and overseas.

For Ken Jarrett, the quiet and unassuming backroom boy who headed Elders Merchant Finance, it was a year of personal triumph. In two separate forays into the European money markets he raised \$5.5 billion to help the group achieve its goals.

On April 10 that year John Elliott watched from the fibres of the stock exchange as brokers played the largest over purchase order, a \$1.7 billion plunge which gave Elders 18.75 per cent of BHP in one day.

It was a white knight counter bid to the attempted takeover of BHP which the late Perth entrepreneur, Robert Holmes a Court, had launched seven days earlier and the unseen and unassuming Ken Jarrett had made it possible by finding the money when it was most needed.

Six months later Elders was again making headlines with the sudden \$3.5 billion acquisition of the British brewing and hotel group Courage, and again it was Jarrett who had found the money.

John Elliott believed that Kenneth Charles Jarrett was Australia's best financial director. His exploitation of the Euro-markets as a place for sinking equity capital in the heady 1980s helped raise Elders' profile around the world. Jarrett turned Elders Finance into one of the largest and most profitable non-bank financial institutions in the country with a network of offices around the world. He expanded Elders into Britain, Europe, the Middle East, India, and across south east Asia including China and Taiwan.

Elliott had hand-picked Jarrett from the best of the MBA students at Mel-

**Mr Jarrett was really a foot soldier with an exalted title?**

— Michael Scanlon

bourne University in the early 1970s and rewarded him with long hours, constant phone calls day, night and week-ends, countless overseas trips away from his wife and five children and eventually with a promotion to the board.

But according to evidence put before the Supreme Court yesterday, the relationship between the two men was never more than master and servant. "Mr Jarrett was really a foot soldier with an exalted title," Michael Scanlon, a long term business associate and friend told Justice Coldrey.

"Elliott was very dominant, Jarrett was the flip side, quiet, unassuming and totally untouched by greed."

As a beneficial owner of convertible bonds in Elders that had been sold to BHP at a \$78 million profit, Jarrett's share was \$3 million, but in a night time phone call from London, Elliott told him to liquidate the money in Harlin Holdings or face the sack.

The move troubled Jarrett, a devout Christian, former Sunday School teacher and fund-raiser for religious causes, who his wife said never told lies.

His wife, Carolyn, was among several character witnesses who said that her husband believed implicitly in Elders and happily devoted 20 years of his life to the group to the detriment of his family.

But he regarded Harlin, the company Elliott used to takeover Elders IXL, as something that was not in Elders' best interests.

Mrs Jarrett told the court, "When Mr Harlin was suggested by John it was a time of complete distress for us. It seemed it would be the end of the company [Elders IXL]."

Ken Jarrett had once said that Elders was a lot of fun but with Harlin the fun stopped and his brilliant career with what he regarded as the most exciting business venture in Australia came to an end.

He was depressed, and in 1990 he went to work for a while in merchant banking before setting up his own business consultancy.

Ken Jarrett, 50, is the son of a New Zealand tax official who had made his own move into private enterprise as a public accountant in the small North Island community of Whakatane.

At the age of 18, Jarrett studied for a bachelor of commerce degree at Auckland University. He was a part-time student who paid his own way through but still managed to graduate at 21.

**Jarrett is a company man who's biggest fault is his loyalty?**

— Hartog Barkalay, QC

After graduation he married his school days' sweetheart and returned home to work as an administrator with the Whakatane Ford Dealership until Alcoa offered him a job in 1965, bringing him across the Tasman Sea to Geelong.

In 1972 Alcoa awarded him a scholarship to Melbourne University's business school to study for his MBA. One of his lecturers was John Elliott, also an MBA graduate from Melbourne, who had just begun his climb

in the business world with his takeover of the Tasmanian jam manufacturer, Henry Jones IXL.

Jarrett won the business school's finance prize in 1973 and John Elliott, believing that he had spotted a finance whizzkid, insisted him to join him at Henry Jones as a project manager. Jarrett later said that Henry Jones seemed to be the place to spend a couple of years before going out on his own. Instead, he ended up staying.

Elliott's faith in Jarrett was confirmed. He rose to be head of the finance and treasury department but when Jarrett was promoted to the board he discovered all power had been delegated to the four-man executive committee of John Elliott, strategist and later TAB chairman, Peter Scanlon, Elders director, John Baillet-Latour, Finance Director and Elliott's confidante, Richard Wellesley, who now lives in Monaco.

Jarrett's counsel, Hartog Barkalay QC, told Justice Coldrey that Elliott ran the company on a need-to-know basis. Everyone who was not on the executive committee was told what they needed to know to operate, but that was all.

When Jarrett was told to find a way to transfer \$6.5 million to companies controlled by Allen Hawkins in New Zealand, he was told that the money was owed as a fee. Jarrett ascertained from the board that it was a debt for Hawkins' involvement in the defence of the BHP takeover and carried out the instructions.

Among six character witnesses to testify to Jarrett's honesty and integrity was the Reverend Alan Nichols, head of World Vision Australia and former Archbishop of Melbourne who described his fundraising activities. He said Jarrett helped a new foundation for the Mission of St James and St John and put up \$10,000 of his own money as a starter and asked his business friends to match it.

# Keating threatens Lib

By ROSS PEANE,  
Political Correspondent,  
and AAP

Prime Minister Paul Keating has bluntly warned Opposition frontbencher Ian McLachlan that his role as a former director of Elders IXL will be closely scrutinised in light of the prosecution of former senior Elders executives.

His warning came on the day former Executive Ken Jarrell was sentenced to jail for his involvement in a \$66.5 million falsified fortnightly transaction over which former Elders chief John Lillott, a former Liberal federal president, faces three charges.

And former Australian Securities Commission chairman Ron Black, who launched the investigation which led to Jarrell's trial, said the Jarrell trial would make corporate leaders more vigilant in overseeing their businesses.

"I suppose if there is a charge as



Ian McLachlan, warned not to be  
paw all piggery questions.

a result of this decision, it will be in causing non-executive directors to give even greater attention to what the executives get up to," he said.

## Row erupts as Elders man jailed

Justice John Coddery sentenced Jarrell, the former head of the Elders Finance Group, to 18 months' jail, but suspended 12 months of the term.

The Keating attack is a bid to head off further parliamentary attacks on Mr Keating's former involvement with a NSW piggery.

Clearly infuriated by the piggery questioning, Mr Keating told Parliament yesterday: "We are taking very close and intense notice of the proceedings before the Victorian Supreme Court in respect of Elders during which time he [Mr McLachlan] was a director... and at a time when his fiduciary responsibilities to the shareholders were exercised, when Elders bought 19 per cent of BHP in 1986, three years before he actually founded his retirement fund from the board," he told Parliament. "We will be taking note of the

fiduciary responsibilities to this very serious matter now before the Victorian Supreme Court."

In court, Justice Coddery said Jarrell, described as a financial whizkid, had been prepared to use his financial expertise to engage in clandestine transactions.

"It may well be that you, along with many others in the corporate world, were seduced by the new and exciting commercial status opened by financial deregulation and by the heavy atmosphere of the 1980s, in which the new entrepreneurial banks in trading generated glamour and where business men frequently succeeded in outsmarting regulators," he said.

The defence had submitted that Jarrell had been a "loyal lieutenant" of the executive committee of the company and particularly of Jarrell, who "through his dominant

personality, exerted great influence over you."

"It was claimed that Jarrell ran the company on a 'good-looking' basis and misled you personally

know-how to carry out the policy decisions of the executive," he said. Mr McLachlan, who declined to Monday and again yesterday that Mr Keating had misled Parliament over his knowledge of the piggery companies' activities, accused Mr Keating last night of bully-boy tactics and said he would not stop pursuing questions on the piggery.

He said through a spokesman: "This is another good example of the Prime Minister's slanderous and bully-boy tactics. It highlights his piggery."

Mr McLachlan had nothing to hide over his role as a former director of Elders.

The court has heard that Jarrell

planned to give evidence on Jarrell's alleged role in the multi-million-dollar scheme.

Jarrell, an investment banker of Walsh Street, South Yarra, pleaded guilty to one charge of falsifying documents as an officer of Elders IXL between April, 1988, and June, 1990.

He admitted that he co-ordinated from Elders IXL the fact that Mr. Elwell, former TAFE chairman and Elders executive Peter Scudamore, and other executives had a financial or beneficial interest in convertible bonds issued by BHP in 1984.

The \$101 million parcel of bonds yielded a profit of \$78 million of which Jarrell's share was approximately \$3 million, the court heard.

The court heard that Jarrell had converted the last part of \$26.5 million belonging to IXL had been paid to New Zealanders Allan Robert Hawkins, chairman of the Equicorp group of companies.

Continued on Page 2

## Keating hits at McLachlan

Continued from Page 1

Mr Keating, announced in March he had sold out his interest in the piggery after it became the focus of continuing scrutiny by the Opposition.

An update of Mr's pecuniary interests released yesterday, confirms Mr Keating sold his shareholding in the piggery on March 7.

Mr McLachlan asked why Mr Keating had claimed a piggery in which he had an interest at Parkville had defeated a pollution charge laid by the NSW Environment Protection Agency. He alleged that the case actually involved another piggery, owned by the same group, some 100km away.

Mr Keating said the claims were not important given that both piggeries were owned by one company. The company had a charge laid against it by the EPA and had won.



WEDNESDAY, AUGUST 3, 1994

# The Canberra Times

TO SERVE THE NATIONAL CAPITAL AND THROUGHOUT THE NATION

## Key Elliott witness 'fraudster and liar'

MELBOURNE: The key witness in the case against former Elders boss John Elliott was "a self-confessed fraudster and liar" who had received preferential treatment from the National Crime Authority, a court was told yesterday.

Elliott's committal hearing in the Melbourne Magistrates Court heard the NCA had deliberately leaked information to the media about its investigation into Elliott and had failed to verify claims made by chief Crown witness Ken Jarrett.

It heard also that police who had prepared the charges against Elliott and his co-accused were "puppets" of the NCA; that the late Robert Holmes a Court had colluded improperly with former National Companies and Securities Commission boss Henry Bosch during

Holmes a Court's attempted takeover of BHP, and that the NCA had conducted a three-year vendetta against Elliott.

Elliott, along with former Elders executives Peter Camm, Peter Scanlon and Ken Higgins and bankers Michael Wood and Victor Psaltis, is facing committal proceedings on charges relating to the payment of \$66.5 million by Elders to New Zealand businessman Allan Robert Hawkins.

The court had already heard that Jarrett, serving a six-month jail sentence for dishonesty in his role in the payment, would provide evidence capable of convicting all six defendants.

Under questioning from Elliott's counsel, Robert Richter, QC, a police investigator attached to the

NCA, agreed that greater evidence seemed to have been given to Jarrett's word than Elliott's.

Mr Richter said Elliott had complained vigorously about information he believed had been leaked to the media by an NCA officer, but the claim had not been investigated.

At the same time, Jarrett, who announced during his trial that he had turned Queen's evidence, had made similar complaints: the NCA had responded.

"When someone who has turned and is assisting [the NCA] complains, the NCA springs into action," Mr Richter said. "But when someone who is a target complains, no-one bothered to check."

The NCA had preferred to believe Jarrett over Elliott about a contentious Eurobond placement

on which it is alleged Elliott and others made substantial profits.

Jarrett alleged he made \$3 million on the Eurobonds but had been forced to surrender the money. Detective Inspector Thomas Tully agreed with Mr Richter's suggestion that the NCA had apparently failed to verify the claim.

Similarly, no investigations had been carried out into Jarrett's claim that he had nothing to show from 20 years' service to Elders.

"The only word you have to go on is that of a fraudster and a self-confessed liar," Mr Richter said.

John Walker, QC, for Scanlon, continued the attack on Jarrett's credibility.

"Not only is he a self-confessed liar but he's a self-confessed perjurer," Mr Walker said. "You have tak-

en Jarrett's word against Scanlon's - the word of a self-confessed perjurer?"

Detective Inspector Tully replied: "Yes."

Although Detective Inspector Tully and an earlier witness, Detective Sergeant Douglas Seymour, appeared as police informants against the six defendants, they gave evidence that they had been excluded from various aspects of the investigation.

Sergeant Seymour had earlier agreed to a suggestion that he had been treated like a "mushroom" by the NCA.

Yesterday, Detective Inspector Tully said he had had no contact with Jarrett and realised having been kept in the dark.

The case continues today.



## Witness statements invented, court told

MELBOURNE: New claims that the National Crime Authority manufactured witnesses' statements in its theft and conspiracy case against former Elders chief John Elliott emerged in a tense courtroom exchange yesterday.

On a day when the credibility of the Crown's key witness was again attacked, defence lawyers claimed to have scored a major point when it was revealed the same mistake occurred word-for-word in the statements of at least four witnesses.

The error related to evidence concerning the movement of \$39 million through the Elders accounts in early 1988.

Elliott and others are facing a committal hearing into charges concerning the \$39 million and another amount of \$27.5 million which were allegedly disguised as foreign-exchange transactions but were in reality payments made by Elders to companies controlled by jailed New Zealand businessman Allan Hawkins.

It is alleged Bank of New Zealand employees Michael Woods and Victor Psaltis assisted by creating the documentation for the sham deals.

In the Melbourne Magistrates Court yesterday, Woods's counsel, Terry Forrest, showed that sworn statements describing how the \$39 million moved through Elders books were incorrect.

Mr Forrest said the same mistake, a minor accounting anomaly, had occurred in identical terms in the statements of four witnesses.

He said the error was evidence that the NCA had reproduced its own be-

liefs in the witnesses' statements, rather than have the documents represent the views of the witnesses.

It was the second time in the four days of the hearing that evidence had been presented showing the NCA had reproduced identical mistakes in a number of statements.

The error came to light during the cross-examination of Gerard Dempsey, a former Elders, and now Fosters Brewing Group, accountant.

Documents before the court were also at odds with the opening address made to the court by Crown prosecutor Brind Woinarski, QC. Mr Forrest said.

In his opening, Mr Woinarski said the chief crown witness Ken Jarrett would say the false story to cover up the payments to the Hawkins' companies came into existence in late 1989 or early 1990. But Elders' own accounting records describe the \$39 million as a foreign exchange hedge as early as January 1988.

Mr Wheeler said the documents cast further doubt on the evidence of Jarrett, the former Elders treasury boss who turned Queen's evidence earlier this year after being jailed for his role in the transactions.

Jarrett had earlier been described in court as a "self-confessed liar and perjurer and a convicted fraudster".

Malcolm Henry Ware, a former Elders Finance Group director, said he found Jarrett imprecise in his operation of the Elders treasury.

Jarrett is yet to give evidence to the hearing which is expected to continue for up to three months.

# Jailed Elders man creative on finance

**MELBOURNE:** Jailed former executive of Elders IXL Ken Jarrett was a "creative thinker" when it came to financial matters, a committal hearing into charges against John Elliott and former Elders executives was told yesterday.

Jarrett's "great strength" was his creative thinking and ability to devise various financial schemes, the Melbourne Magistrates Court heard.

Andrew Cummins, a former chief executive of Elders Finance Group and Elders Investment Ltd, made the comments under cross-examination by Elliott's counsel, Robert Richter, QC.

Cummins agreed that Jarrett had been involved in complex financial deals.

He said people other than Jarrett would often put in place a specific transaction while not necessarily knowing the full details of the deal.

Jarrett, who will give evidence for the Crown, was jailed in June for six months after pleading guilty to charges relating to the alleged theft of \$66.5 million from Elders IXL shareholders.

Elliott, and former Elders executives Peter Scanlon and Ken Biggins are charged with theft and conspiracy to defraud shareholders in relation to the alleged deal.

Another former Elders director, Peter Camm, and bankers Michael Woods and Victor Psaltis, are each charged with conspiracy to defraud.

No-one has been required to enter a plea.

It is alleged the money was disguised as losses on two foreign exchange hedging deals and then paid to companies associated with the jailed New Zealand businessman Allan Hawkins, as a reward for helping Elders fight a takeover bid of BHP by the late Robert Holmes a Court in 1986.

The defence claims the two alleged payments — of \$39.5 million and \$27 million — were losses incurred on legitimate but failed foreign exchange dealings.

Under cross-examination, Cummins agreed that if the Elders Group performed badly it would have affected the bonuses and remuneration of Jarrett, who was in charge of both Elders Finance and Elders Treasury.

Cummins said when he took over Elders Finance in June 1989, it was "under the threat of bankruptcy" as a result of a bid for a company called Harlin.

Jarrett had left Elders Finance by this stage but had continued as a consultant and worked on significant loans.

Cummins, who is a director of Incheupe Plc in London, said he did not have any knowledge of the foreign exchange transactions which are the subject of the charges.

He said he knew of only one occasion when Elders suffered a large loss as a result of a foreign exchange and this was because he had personally discussed the deal with Elliott.

The hearing, before Magistrate Graeme Hicks, was adjourned until Monday.

## Elliott theft case 'not strong'

MELBOURNE: The Crown case was not strong against former Elders chief John Elliott in relation to an alleged \$80.5 million in sham transactions, the magistrate hearing the committal said yesterday.

Magistrate Graeme Hicks said the factual basis of the Crown case against Elliott and another former Elders executive, Peter Scanlon, was "not a strong one".

An "abundance of evidence" pointed to a sham transaction, Mr Hicks said in the Melbourne Magistrates Court.

He said the question was what involvement Scanlon and Elliott had in the matter.

Mr Hicks, who said he was outlining his tentative view, said that "many signposts" pointed to the Crown's key witness, former Elders finance director Ken Jar-

rett, and that Jarrett was the only "signpost" that pointed to Elliott and Scanlon knowing of the transaction.

Later in the hearing, Mr Hicks described Jarrett as a perjurer who had a strong motive for lying, but who did not necessarily appear shifty.

Jarrett, who was indemnified against further prosecution, was jailed for six months in June after pleading guilty to Companies Code offences in relation to the payment.

Elliott, Scanlon and another former Elders executive, Ken Higgins, are charged with theft and conspiracy relating to two alleged payments totalling \$88.5 million to companies associated with jailed New Zealand businessman Allan Hawkins.

Another former director Peter



Magistrate calls Ken Jarrett, right, a perjurer and the only "signpost" that pointed to John Elliott, left.

Canlon and two bankers, Victor Psaltis and Michael Woods, are charged with conspiracy.

The prosecution has alleged that two foreign exchange deals were concocted in 1988 to cover payments to Hawkins as a reward for his help in fending off a bid

in 1988 by the late Robert Holmes a Court to gain control of BHP.

Elliott's counsel, Robert Richter, QC, told the court the Crown's case was misconceived and fundamentally flawed and his client should be discharged.

He said no money was stolen from Elders Ltd; none of the defendants received any of the alleged stolen money; and there was no evidence Elliott knew, or had over that, Hawkins.

Mr Richter said there was clearly a special relationship between Jarrett and Hawkins and there was evidence of Jarrett being on a "rollie on his own".

Mr Hicks adjourned the hearing to next Wednesday when the prosecution will make a final submission before his decision, which is due on December 9.

# Defiant Elliott to stand trial

By DAVID ELIAS

The businessman and former Liberal Party president, Mr John Elliott, will stand trial next year on theft and fraud charges over Elders' loss of \$66.5 million in two allegedly sham foreign exchange transactions.

The magistrate, Mr Graeme Hicks, ruled yesterday that a jury could infer that the transactions were shams and that Mr Elliott and three co-defendants knew them to be so. He said also that they had committed perjury before the National Crime Authority in furtherance of the conspiracy.

The man who turned Elders IXL into an international brewing, banking and commodity conglomerate entered a formal plea of not guilty. He said later that at his trial he would be found innocent.

Outside the new William Street court, opened only this week, Mr Elliott said: "I am exceedingly disappointed with the outcome of the committal."

When we go to trial ... we shall be found innocent," he said.

The corporate strategist, Mr Peter Scanlon, who is a co-defendant, later issued a statement expressing confidence that the charges against him would be thrown out by a trial jury.

He said the prosecution had agreed during the committal hearing that he had never gained financially from the transactions. "I intend to vigorously defend all three charges to confirm my innocence," he said.

In the 12th court, Mr Hicks took little more than 30 minutes to read his 33-page finding that followed a committal hearing that has lasted four months.

On Wednesday, after hearing further evidence from the NCA, Mr Hicks will formally commit Mr Elliott to trial with Mr Scanlon, and the former head of El-

ders corporate division, Mr Ken Higgins. He will also commit the former New Zealand head of Elders Merchant Finance, Mr Peter Camm for trial on a charge of conspiracy to defraud.

All four pleaded not guilty after Mr Hicks read out a formal caution to each man.

On Monday the Director of Public Prosecutions will announce whether he will continue to seek the committal of Sydney bankers Mr Michael Woods and Mr Victor Psaltis on charges of conspiring to pervert the course of justice arising out of allegedly perjured evidence given to the NCA. Mr Brind Woinarski, QC, for the DPP, announced the move against the two bankers after Mr Hicks ruled that the Crown had failed to make out a case of conspiracy to defraud against them.



During his statement Mr Hicks said that he found Kenneth Charles Jarrett, the Crown's jailed chief witness, to be both vital to the prosecution's case and a reliable witness.

Although Jarrett was an accomplice and an indemnified witness who had lied on oath to the NCA it could not be said, as the defence had claimed, that he was so discredited that no reasonable jury could properly rely upon his evidence.

The case arose out of two foreign exchange payments of \$39.5 million and \$27 million from Elders IXL through the Bank of New Zealand to private companies under the control of Allan Hawkins, chairman of the ailing failed Equilcorp group of companies.

After four years of investigations by the NCA, the Director of Public Prosecutions has alleged that the payments were a secret fee for Hawkins's helping hand in the take-over battle. Beld was jointly controlled by Hawkins, who is serving a six-year jail term in New Zealand for fraud, and the cardboard box magnate, Mr Richard Pratt.

The defence claims that the payments were genuine foreign exchange transactions and resulted from a hedging arrangement between Elders and Equilcorp to protect Elders overseas currency exposure after its 1986 purchases of the British Courage Brewery and New Zealand Forest Products.

Jarrett gave evidence that Mr Scanlon first told him that money was owing to Hawkins. It related to the BHP shares and Mr Scanlon said it was necessary to pay the money in a way it was not disclosed.

He said he confirmed this with Mr Elliott and Elders deputy chairman, Mr John Baillieu and later discussed it with Mr Higgins.

Mr Hicks said: "In my view there is sufficient evidence from which a jury could infer the two purported foreign exchange transactions were shams."

He said a properly instructed jury could infer there were no genuine foreign exchange transactions entered into or completed and that such fictitious foreign exchange transactions did not represent any pre-existing foreign exchange contractual obligations.

He said Jarrett's evidence alone disclosed the transactions as shams and this was supported by the direct evidence of other witnesses and circumstantial evidence. On Jarrett's evidence alone, a jury could also infer Mr Elliott, Mr Scanlon and Mr Higgins knew they were shams and had lied on oath to the NCA.

— The Age

# Elliott era ends at Elders

MELBOURNE: John Elliott resigned as chief executive of Elders IXL Ltd yesterday — ending his sometimes controversial reign at the head of one of Australia's largest companies.

His departure from daily control of the brewing and pastoral giant that he guided for eight years was announced at the end of a board meeting.

"Mr John D. Elliott, chairman and chief executive officer of Elders IXL Ltd, has advised the board of directors that he wishes to retire from the position of chief executive officer of the company," Elders said in a short statement.

Mr Elliott has been replaced by brewing head Peter Bartels, who the company hopes will prove more acceptable to investors and regulatory authorities who have blocked Elders' expansion plans in recent years.

But Mr Elliott will remain chairman of Elders, retaining a say in the company which plans in the near future to focus entirely on its world-wide brewing activities and either sell or spin off its other operations.

The departure had been mooted in Elders March 8 restructuring announcement, but was brought forward after weeks of mounting pressure from directors for Mr Elliott to resign and allow the group to present a fresh face to a cynical market-place.

With Mr Bartels at the top of the pile, company sources said Elders would be better placed to persuade the UK Monopolies and Mergers Commission that it should be allowed to swap its UK pubs for the breweries owned by Grand Metropolitan Plc.

The commission, which is now examining the swap, had two heated clashes with Mr Elliott in the 1980s when he made unsuccessful bids for other UK brewers.

The Elders statement said a new board had been formed consisting of four Harlin representatives (including Mr Elliott), four independent directors and Mr Bartels.

These changes, which include the resignation of Mr Elliott's long-time allies Ken Jarrett and Geoff Lord, are designed to appease investors and bankers.

The company has faced problems closer to home in the last eight months since Harlin Holdings Pty Ltd made a \$3 a share takeover bid for Elders under pressure from the National Companies and Securities Commission.

Harlin, which is controlled by Mr Elliott and other executives, now has 56 per cent control but faces a shortfall between inter-

est payments on the money raised to fund the bid and dividend returns from Elders.

Concern about the debt and the overall restructuring pushed Elders share price to a low of \$1.62 in recent weeks, leading to speculation Harlin's bankers would either push the company into liquidation or take a more direct role in running the company.

The restructuring will see Elders IXL lose its identity and become known as Foster's Brewing Group Ltd and Elders Ltd, with the latter controlling the agribusiness operations.

Mr Elliott was expected to retain control until the restructuring was finalised, but market concerns about the success of assets sales in the current economic environment forced a board change immediately.

Senior management close to the board said Mr Elliott had become a liability for the group, believing his removal would sweeten the group's case before the Monopolies Commission and placate nervous investors.

The sources said the transference of the chief executive role was complicated by concerns about Mr Elliott's future role, and issues of remuneration for Mr Bartels.

Elders also said Alan McGregor had been appointed the new deputy chairman and the board had accepted the resignations of Mr Jarrett, the head of Elders Finance, and Mr Lord, the chief of 43 per cent-owned Elders Resources NZFP Ltd.

Mr Lord will resign once Elders IXL completes the sale of the resources unit while Mr Jarrett will resign on June 30.

Sources said other parts of the restructuring are also facing problems, with a shareholders meeting set down for July now in doubt.

They said the meeting, where a vote will be taken on a total capital return to shareholders of \$1 a share, could be delayed while Elders finalises its plans to sell the agribusiness operations.

A weak market has forced the company to reconsider its plans for a quick sale of the unit, which may be sold to an unnamed US consortium.

Elders is also involved in negotiations to secure a \$5.0 billion debt refinancing which would see Westpac emerge as its main banker.

Industry sources said the negotiations have led to numerous proposals including one which would see a banking representative gain a board seat.

But banking sources said yesterday this would be a "highly unusual move".

BHP Co Ltd, which has a \$850 million exposure to Elders, also is believed to have considered a board seat, but this move is now considered unlikely.