

**Robert John Cooke vs Commonwealth Bank of Australia**

**Supreme Court Proceedings No. S3868 of 1996**

**Application for Leave to Appear**

**Reference No: PM PWF.0001.0001.4588  
Commonwealth Bank of Australia**

My application to the Royal Commission into Banking was submitted on 19 April 2018 at 06:21:35. Since that time, no invitation to attend the Royal Commission has been forthcoming.

**Development of the PECs**

The facts are I established the first private emergency centre at the Mater Private Hospital (Priority Emergency Centre (PEC)) in September 1988 and subsequently established emergency centres at St Andrews War Memorial Hospital in Brisbane in 1992, the Wesley Hospital in Brisbane in 1993, the Calvary Hospital in Cairns in 1994 and the Masonic Hospital in Sydney in 1995 – all at the request of the respective hospital's management.

I initially funded the Mater Private Hospital from my own resources and financial backing of Mr Dick Karreman and financial support of the Metway Bank.

Subsequently the Commonwealth Development Bank replaced the Metway Bank as the banking facility for the centres providing overdraft facilities.

Subsequently, I was funded by the Commonwealth Bank at the request of Donald Nissen, then State Manager of the Commonwealth Bank.

We exported services to Asia and the Pacific, provided specialist medical care outside the capital cities and to take the load off the public health sector in Queensland and New South Wales. It is clear that these services are extremely important to the health system in Australia, and in particular, Queensland and New South Wales.

Each of the centres has provided emergency services 365 days per year, 7 days per week and 24 hours per day.

Prior to Ross Griffiths' (Chief Receiver of the Commonwealth Bank) intervention, the centres were operating efficiently according to planned budget and providing emergency specialist services in Queensland and New South Wales that consequently took the pressure off the public health system and gave patients the option of immediate specialist services.

As a result of Ross Griffiths' intervention, the emergency centres in Cairns and Sydney have been closed down resulting in an enormous financial loss to both hospitals in the region of \$10M each constructing the emergency centres and \$5M to each hospital for the equipment provided, and my personal loss of \$5M in providing the equipment that I provided to the two hospitals.

St Andrews' Hospital PEC continues to operate as I established it.

Prior to Ross Griffiths' intervention, the centres at the time earned export income from Japanese tourists via direct contracts with 24 Japanese insurance companies providing local treatment for Japanese nationals, aeromedical retrievals from Asia and the Pacific and repatriations to Asia.

The centres at the time were staffed by specialist emergency physicians who referred their patients on to the appropriate specialists without any delay, resulting in a significant improvement in the outcomes of emergency patients (e.g. trauma, cardiac, respiratory etc). The centres at the time employed over 100 people full-time and another 35 people part-time, including 68 specialists in emergency medicine.

### **The first PEC and the Medical Board of Queensland**

Initially, I established the first 5-level Priority Emergency Centre offering all services by specialists, including specialist emergency physicians at the Mater Private Hospital in Brisbane in 1988.

On the opening of this initial service, seven complaints from general practitioners to the Medical Board of Queensland (who did not want the centre to open because they feared loss of their own come) resulted in me receiving seven charges based on advertising from the Medical Board of Queensland.

Ultimately after three years of enquiries by the Medical Board of Queensland, and a hearing in the Supreme Court, I was found "not guilty" by Justice Shepardson and his two assistants. That decision was upheld on review by the Full Court of Queensland.

### **What did the financial services entity do that amounts to misconduct or conduct falling below community standards and expectations?**

As explained below, the Commonwealth Bank initially sought my business to advance funds on limited security. It then pressured me to sign additional securities in its favour and then without justification appointed a controller who in effect sacrificed my interests in the businesses I had established. This was done in a malicious manner to make an example of me as a doctor. The bank's representative for some unknown reason presented the idea of a doctor being able to establish a successful business and deliberately set out to ruin my business, and reputation.

I established the first PEC at the Mater Private Hospital in Brisbane which was opened in September 1988. This first centre was funded by myself (Dr Robert Cooke) with the aid of the then Metway Bank, with the assistance of an investor Dick Karreman. At the end of the lease, the Mater Private Hospital took over the PEC.

I transferred all of the equipment out of the Mater PEC and opened a new Priority Emergency Centre (PEC) at St Andrews Hospital in Brisbane, with subsequent openings of PECs at the Calvary Hospital in Cairns and the Masonic Hospital in Sydney.

These centres had been initially funded by the Commonwealth Development Bank. The then State Manager of the Commonwealth Bank, Donald Nissen, proposed that his bank, the Commonwealth Bank, would be better able to service our banking requirements. He offered to take over all of our requirements, on the asset backing of the contracts that I held with the Sisters of Mercy, the Moderator-General of the Presbyterian/Uniting Church, the Bishop of Cairns, the Worshipful Grand Master of Masonry in Sydney, as well as 24 Japanese contracts. The contracts with the various hospitals were contracted for periods varying from 10 to 25 years. All of the emergency physicians were contracted for periods of one to five years.

**Note:** At no time were my personal or family assets to be used as asset backing for the \$3.1 million and a chattel mortgage of \$1.65 million, as agreed to by Donald Nissen. These amounts were issued to partially fund the expensive equipment that were required in the emergency centres.

### **Accusation of not paying the interest costs**

Throughout this entire process, there is no evidence that Dr Robert Cooke (RJC) and companies were not paying the bank. In fact, the Cooke Group continued to make additional payments from at least December 1995 until March 1996 of \$45,000 a month, additional to the amount that the bank would have received on enforcement of its securities.

Treseder (CBA) to Feez Ruthning in the middle March 1996 warned that *“Dr Cooke should be prepared for the bank’s decision to enforce its securities because it had made those sort of decisions before with Exacom and others”*.

Dr Cooke’s opinion is that the bank had no intention of waiting until the end of March 1996 to make its decision.

### **What happened when you made the complaint?**

Solicitors, Feez Ruthning and Robert Cooke had ongoing consultations with the banking entity (Commonwealth bank) which resulted in us proceeding with court action against the bank. I had six successful court actions against the Commonwealth Bank with Shane Doyle, SC, leading our legal team, during which time, the Commonwealth Bank had to continue funding the emergency centres.

After being successful in these six preceding preliminary court proceedings, six weeks were set aside in the Supreme Court to hear the main action, Cooke vs Commonwealth Bank. The centres had been closed by Ross Griffiths' bullying tactics against the CEOs of the hospitals, behind my back, when he had no legal reason to do so.

I was required to advance in excess of \$60,000 to proceed in the Supreme Court of Queensland. I had to front the court and advise that I was unable to raise the \$60,000 and that my legal representation would have to withdraw from the case. The case was accordingly dismissed. I was bankrupted. I was thrown out of my home (which was a Family Trust) and left destitute, destroying my orthopaedic practice and my family.

Since May 1996, I wish to confirm that the St Andrews Hospital PEC is operating profitably, and as a result St Andrews have been able to repay a debt of \$20M. Further, the other PECs (Wesley Hospital, Greenslopes Hospital and others) are all operating profitably and the whole concept is working throughout the country, albeit that I have not derived any financial benefit as the developer of the concept and not only lost all of the equipment that I paid for, but also the profits that were accruing which ultimately enabled St Andrews Hospital to pay off their debt on their cardiac centre of \$20M.

### **The agreement**

Donald Nissen, State Manager of the Commonwealth Bank, sought out my business through his friend, Ted Howard, who was at that time Head of Catholic Finance at St Stephen's cathedral, and Vice President of the National Party and Chairman of the Rental Bond Authority. It was made abundantly clear to Donald Nissen that the only security on offer would be the long-term contracts that I held with the owners of the hospitals involved. He was also informed, and agreed, that it would take up to three years for the centres in Cairns and Sydney to reach profitability, and he had no problems with that.

Donald Nissen approved the loan of a \$3.1 million plus a \$1.65 chattel mortgage in February 1994. These funds were made immediately available and the centres were well and truly operating to the expected returns of the time. Robert Cooke was also funding the centres independently from his own resources as an orthopaedic surgeon.

Then in November 1994, the Commonwealth Bank "welched" on the financial arrangements that had been ratified by Donald Nissen, State Manager.

AFTER finance approval and with the PECs operating to reach their projected targets, Feez Ruthning received a letter from David J Frank, Solicitor, CBA stating *"I am instructed by my client that, at this stage, the only security that will be taken from EMS will be a Registered Equitable Mortgage"*.

I objected to this welch on the deal strongly, and advised that I would not comply.

By a sleight-of-hand manoeuvre soon after, I was forced to sign a ream of documents from the Commonwealth Bank and was given no time nor legal advice about the documents with the statement that "if I didn't sign them to be delivered to the Commonwealth Bank by morning, that my operations would be shut down by Ross Griffiths". I did sign (along with my former wife) the documents that Feez Ruthning had supplied without having the opportunity of reviewing these documents and was pressured into signing without reading.

On the day of his arrival, Mr Cook, relieving manager from Sydney for Donald Nissen advised that he was "closing me down" as Donald Nissen did not have authority from Sydney to authorise the loans that he had issued me. He advised me that Donald Nissen had acted illegally and without the authority of Head office in Sydney in providing me with the funds. He said that Donald Nissen had no authority to loan more than \$3 million to any customer without prior approval from Sydney.

**Note:** This was the exact time that the Commonwealth Bank was undergoing privatisation, and there was substantial inhouse bickering and inhouse bullying at that time.

I then contacted the Australian Manager of the Commonwealth Bank who reversed Mr Cook's decision and advised me that he would look into it further, which he did.

### **Conflict of Interest (Commonwealth Bank and Feez Ruthning)**

At this time, privatisation of the Commonwealth Bank was well advanced and my solicitors, Feez Ruthning were competing to be the Commonwealth Bank's new solicitors, without my knowledge. Thereafter, Feez appeared to have lost interest in my conflict with the Commonwealth Bank, having conferences were Mr Treseder, Ross Griffiths and others about my companies' funding. At the end of the day, Feez advised me that Ross Griffiths would not allow the funding to continue, because "I might become a wealthy man" I was advised.

In addition, Feez Ruthning, unbeknownst to me, were negotiating with the Commonwealth Bank to become their solicitors. Thereafter, my voice was not heard by the Commonwealth Bank due to the negativity of Feez Ruthning that were seeking favours from the Commonwealth Bank.

Feez Ruthning soon after, advised me to find alternate solicitors which I did – James Conomos.

### **Aggression and bullying tactics of Ross Griffiths, Chief Receiver of Commonwealth Bank**

During this time of conflict involving Feez Ruthning and the Commonwealth Bank, I was visited by Ross Griffiths, Chief Receiver of the Commonwealth Bank who advised me that “assholes like me should not exist and that he intended to crush me into the ground so that I would never get up again”. At the end of the day, Ross Griffiths stated “that he would have me working for him for \$50,000 a year”. I advised him “not likely”.

This was my first meeting with Ross Griffiths who was allegedly in Brisbane to help me.

All of my subsequent meeting with Ross Griffiths involved denigration, foul language and the continuing theme that “you doctors think that you can run a business, and you can’t, and I will prove to the world using you as an example”.

In a subsequent meeting with the Worshipal Grand Master of Masonry in Sydney, and the Board of Directors of that hospital in Ross Griffiths’ offices in Sydney, we were kept waiting for an hour where upon he burst into the office denigrating the Prime Minister of Australia, Paul Keating, in most unseemingly language about his pig farms. The Worshipal Grand Master commented that he had no reason to have any knowledge of the Commonwealth Bank’s dealings with the Prime Minister. Ross Griffiths responded with expletives, indicating that he didn’t care what we thought.

Subsequent to that meeting, Ross Griffiths visited the Worshipal Grand Master and advised him that if he did not accept a sum of money (of around \$270,000) for my investment in all of the equipment in the Masonic’s new emergency department, that he would close their emergency centre at Masonic Hospital down by withdrawing my funding. Thereafter he visited the CEOs of St Andrews Hospital and Calvary Hospital with similar bullying tactics, at a time when he had no legal right to go behind my back, a customer of the Commonwealth Bank to make such threats, which resulted in the hospitals acquiescing as he destroyed my reputation with these institutions.

### **Illegal practices and bullying**

Ross Griffiths refused to accept settlement of my account from Dick Karreman who visited him at his office by appointment, and was made to wait 2 hours to see him. At the meeting, Ross Griffiths refused to accept his money (some \$3M as settlement of Cooke’s account and stated in no uncertain terms that “fucking doctors have to learn a lesson and he will use Cooke as a scapegoat”.

In addition, Greg Kennedy from PTE also approached Ross Griffiths and despite writing twice to him, Ross Griffiths ignored his requests.

Rodney Adler of FAI Insurance and Sir Llew Edwards, former Minister for Health and Treasurer of Queensland made personal appeals to Ross Griffiths and the bank to withdraw his attack on Cooke. The net result of that was that Griffiths said to me “that I know too many important people, and that won’t help me”.

Each of the emergency centres were purpose-built by each parent hospital as part of contractual arrangements with me to establish level 5 emergency centres staffed and capable of treating any emergency at any time by specialists. As a result of Ross Griffiths bullying, the CEOs of the three hospitals had no choice but to accept his payment of some \$238,420 for the equipment in each of the emergency centres which had cost Cooke some \$5M to install in each facility. Griffiths’ threat said that he would remove all of the equipment and close them down if they didn’t acquiesce to his demands.

As a result of Ross Griffiths’ belligerent and aggressive attacks on the CEOs of the three hospitals, Cairns and Sydney lost \$9M and \$10M respectively, and as a consequence, were forced to sell their hospitals, and a vitally important emergency medical service was lost to those two communities.

St Andrews had the benefit of a church trust fund to keep them going, and Cooke of course, lost \$5M on each of the centres.

#### **Benefits of the sale of St Andrews Hospital to the Commonwealth Bank**

St Andrews Hospital did well out of the deal with Ross Griffiths as they got \$5M of Cooke’s equipment for \$238,420 approximately and left them in a very desirable situation, which included the following:

- Occupation of the premises for a 10-year period, rent free;
- A purpose-built emergency centre;
- Free power and amenities;
- Free nursing staff (two specialised emergency nurses every shift);
- Half the cost of advertising;
- A payment equivalent to 20% of the base admission rate for each patient admitted from the PEC to the hospital.
- St Andrews Hospital PEC have since been able to repay a debt of \$20M having taken over business

Courtesy of Ross Griffiths, whose dealings with the hospitals were quite illegal as at that stage I had not defaulted in any repayments and all of the centres were operating according to their budgets.

Similar terms were applied to the PECs located at Cairns and Ashfield, except that the licences were for 25 and 20 years respectively.

### **Moving my case forward to the Royal Commission into Banking**

My solicitors have provided me with access to their files to enable me to move this submission forwards to your Commission.

### **What changes would you like the Royal Commission to recommend?**

I was treated unlawfully and illegally by the Commonwealth Bank, and it is my wish that my case be brought before the Royal Commission due to the current issues relating to the Commonwealth Bank.

People, just like myself, are now having the opportunity to have their day in court to reveal the Commonwealth Bank's devious practices that have destroyed lives, marriages, families, incomes and futures. It is my desire to have my day in court to highlight the bank's destructive practices and to be compensated for losses due to the bank's criminal activities.

I have been the target of the Commonwealth Bank's illegal practices and the practices of their henchmen, and while I have tried to bring these issues to light, my views are finally heard and the opportunity has arisen to tell my story.

### **Commonwealth Bank's double ledgers**

At the time of negotiations with the Commonwealth Bank, I repeated requested copies of my bank statements, and for reasons unknown to me, I never received these statements.

I finally discovered copies of these statements in the hands of John Salmon and Professor Evans who were preparing submissions to the Senate about my case. The important issues were, and are, the Commonwealth Bank were using a technique called "double ledgers" which ultimately left me owing over \$9M for which I was bankrupted.

My CEO at the time (Alan Jackson) also requested these statements and did not know the correct amount that the bank was demanding and how much is owed by each entity.

### **Summary of facts (as shown below)**

Please see the facts presented in date order, with appropriate references as to where the document can be located.



Date	Item	Reference	No.
22/06/1979	<p>Certificate of Registration of Charge created by Cooke Mantle Pty Ltd in favour of Medical and Commercial Finance Corporation Limited to secure an advice of \$114,300</p> <p>Bill of Sale Cooke Mantle Pty Ltd in favour of Medical and Commercial Finance Corporation Limited in favour of medical and Commercial Finance Corporation Limited to secure \$152,699.00</p>	<p>Box 631 Marked 21</p>	1
09/1989	<p>Prior Emergency Centre (PEC) at the Mater Private Hospital commences operation</p>		2
3/12/1993	<p>Brief to Counsel – supplementary report of Mr Paul Vincent Volume 2 Accident and Emergency Department Establishment Agreement</p>	<p>Box 628 Folder</p>	3
23/02/1994	<p>Letter CBA (Institutional Banking) to RJC <i>“We refer to our recent discussions and are pleased to confirm that the commonwealth bank of Australia has approved accommodation of \$3.1M.....”</i></p>	<p>Box 633 Marked 1</p>	4
3/03/1994	<p><b>CBA finance approved</b> <i>Letter from DS McLean, Manager, Business Banking, CBA to RJ Cooke “the ...CBA confirms approval of finance totalling \$3,100,000 on account of the Cooke group”.</i></p> <p><i>Approval of finance has been provided against the CBA’s commercial credit assessment for the ongoing viability of Priority Emergency Centre operations as proposed to be conducted in the Cairns, Brisbane and Sydney districts. The level of finance approved is projected by the CBA (and the Cooke group) to be sufficient to establish the three operational units and provide ongoing working capital requirements.</i></p>	<p>Box 637 Marked 15</p> <p>I also hold a copy of this paperwork</p>	5
17/03/1994	<p><b>Letter from RJC to DS McLean, Manager Business Banking, CBA</b> <i>“....advising of the requested drawn down of the facility Cooke Mantle \$900,000....”</i></p>	<p>I hold a copy of this paperwork</p>	6
17/04/1994	<p><b>Approved increase in Bills Discount Facility</b> <b>CBA Business Banking Centre wrote to Robert Cooke:</b></p>	<p>Box 633 Marked 2</p>	7

	<p><i>"We are pleased to inform you that the bank has approved an increase in the Bills Discount Facility of \$285,000 (gross) to assist with short term working capital requirements. Total facilities approved on account of Cooke Mantle Pty Ltd as trustee for the Robert Cooke Trust will now be \$1,085,000 (gross). In conjunction with this approval a reduction of facilities on account of RJC commensurate with this increase is proposed resulting in total Cook group borrowings remaining at \$3,000,000".</i></p>	I also hold a copy of this paperwork	
24/05/1994	Deed of Variation of Agreement between St Andrews Hospital and EMS and APMC	Box 628 Marked 13	8
5/10/94	Letter David J Frank, Solicitor, CBA <i>"I have received instructions today that the bank will accept the proposed alterations to both the Masonic and St Andrew's Tripartite Agreements."</i>	Box 633 Marked 6	9
24/10/94	Letter CBA (Business Banking Sector) to Feez Ruthning <i>"re RJC – Equitable mortgage by EMS CAN 010 814 338</i> <i>We attach a copy of Equitable Mortgage by Emergency Medical Systems Pty Ltd as requested for your records. We are pleased to have been of assistance to you in this matter".</i>	Box 633 Marked 5	10
3/11/1994	<p><b>AFTER finance approval and establishment of the Priority Emergency Centres (PECs)</b></p> <p>Feez Ruthning received a letter from David J Frank, Solicitor, CBA <i>"I am instructed by my client that, at this stage, the only security that will be taken from EMS will be a Registered Equitable Mortgage".</i></p> <p>By a sleight-of-hand manoeuvre, I was instructed to sign a lot of documents that Feez Ruthning had supplied without having the opportunity of reviewing and was pressured into signing without reading).</p> <p>Donald Nissen had obtained a change in the mortgage arrangements for my home which enabled the Commonwealth Bank to gain access to this property by these complex series of documents. Donald Nissen went on holidays and a locum manager called, Mr Cook arrived from Sydney. He advised me that Donald Nissen had acted illegally and without the authority of Head office in Sydney in providing me with the funds. He said that Donald Nissen had no authority to loan more than \$3 million to any customer without prior approval from Sydney.</p>	Box 633 Marked 4	11

	<b>Note:</b> This was the exact time that the Commonwealth Bank privatised, and there was substantial inhouse bickering and inhouse bullying.		
02/03/1995	<b>Letter received from Commonwealth Bank (P.A. Wright, Chief Manager, Lending Services)</b> "I am pleased you are able to join us for dinner next Thursday evening. The function will be held in the Bank's dining room on the 26 <sup>th</sup> floor commencing at 7.30pm.....For your information, I detail the other guests attending...."	I have the paperwork here	12
31/05/1995	<b>Letter EMS (Eric Bremner) to David McLean, Manager, Business Banking</b> <i>"I attach a submission for \$750,000 additional funding for EMS development.</i> <i>Requirements reflect the early problems in the operation and marketing of the NSW Masonic Hospital Centre in Sydney. We have kept the bank informed of these problems from January of this year.</i>  <i>St Andrews Brisbane and Calvary Cairns facilities are operating very satisfactorily and will no longer be a drain on our resources.</i>  <i>This submission is based on giving the NSW Masonic Hospital facility 6 months in which to become cash flow positive. It also includes an allocation for additional advertising considered important to achieving this target.</i>  <i>Health Department memo attached proposes that specialist fees referred to in our original submission will commence 1 July 1995. Quantum of these fees is not yet known however early indications are that patient fees content of our income should increase approx 40% (\$50,000 on May levels).</i>	Box 633 Marked 3	13
May 2005	Evicted from Beatrice Terrace by Ian Hall on orders from the Supreme Court		14
5/05/1995	DMS Progress Report – Cairns	I have a copy of this paperwork	15

05/05/1995	<p>Letter from Commonwealth Department of Human Services and Health to Dr Keith Barnes, Medical Fees Department, AMA</p> <p>“...setting out below the arrangements the Department proposes to introduce from 1 July 1995....by amending the Health Insurance Regulations to define an emergency situation where a written referral is not required.....”</p>	I have a copy of this paperwork	16
August 1995	<p>Statutory declaration written by Dick Karreman providing details about the way in which he was treated by Ross Griffiths when he went personally to see him in Sydney to offer him \$3M for the PECs. Ross Griffiths made him wait for nearly two hours before he was seen, and then he “refused” to accept payment “stating that fucking doctors have to learn a lesson and he will use Cooke as a scapegoat”.</p>	I have a copy of this paperwork	17
22/08/1995	<p>Internal Memorandum from DS McLean, Relationship Manager, CBA.</p> <p>Seems to be a very positive look at the Cooke Group of Companies:</p> <ol style="list-style-type: none"> <li>1. Management issue at Calvary is far from resolved and continues to adversely affect trading performance</li> <li>2. Bremner likely to resign due to dissatisfaction with Dr Cooke’s management philosophies</li> <li>3. Dr Ashby is not satisfied with the “job description” as Dr Cooke wishes to retain control of the day to day management issues</li> <li>4. Marketing strategy not working to its best capacity due to internal conflict between Bill Hawley (new appointee) and David Russell, the previous manager</li> </ol> <p>St Andrews remains the best performing PEC facility however significant improvements in Calvary and Masonic performances have been evident over recent periods.</p> <p>Japanese benefactor, Mr Toyama, continues to advise Dr Cooke of his willingness to provide an Irrevocable Standby Letter of Credit for AUD \$1.5M. Dr Cooke is of the opinion that Mr Toyama will provide same at his pleasure rather than by any specific date.</p> <p>Mr McLean concludes that the PEC facility concept remains accepted as a viable proposition, however, the mix of debt/equity is considered a matter of conjecture such as the present position.</p>	<p>Box 636</p> <p>Marked 1</p>	18

<p>22/08/1995</p>	<p><b>Internal memo was received from DS McLean, CBA Relationship Manager stating</b> that “<i>St Andrews remains the best performing PEC facility, however significant improvements in Calvary and Masonic performances have been evident over recent periods</i>”. Mr Mclean concluded that “<i>that the PEC facility concept remains accepted as a viable proposition, however, the mix of debt/equity is considered a matter of conjecture such as the present position</i>”.</p> <p>We continued trading, and some months later I was visited by a Mr Ross Griffiths from the Commonwealth Bank's Head Office in Sydney. He again advised me that the arrangements that had been arranged by Mr Nissen were illegal and that he was going to audit what was being done and would require access to all of my business associates, including the lawyers, Feez Ruthning.</p> <p>As there was a conflict in interest, Feez Ruthning had to withdraw as my legal advisors in this matter.</p> <p>At the time of this dispute, a business associate of mine at the time, Mr Dirk Karreman, visited Ross Griffiths in his Sydney office and made a cash offer of \$3 million dollars to settle on my behalf with the Commonwealth Bank. Mr Griffiths refused to accept his offer stating, “<i>fucking medical practitioners who think they are businessmen have to be stopped and I intend to make an example of Cooke</i>”. This visit and comments have been diarised by Mr Karreman and he has also provided a statement to this effect.</p> <p>Consequent to that, the Commonwealth Bank withdrew their funding and I became engaged with the bank over their misleading and false agreements and conduct.</p> <p>I went through six preliminary court proceedings against the Commonwealth Bank with Shane Doyle, SC, leading our legal team, during which time, the Commonwealth Bank had to continue funding the emergency centres. After being successful in these six preceding preliminary court proceedings, six weeks were set aside in the Supreme Court to hear the main action. Cooke vs Commonwealth Bank.</p>	<p>Box 636</p> <p>Marked 1</p>	<p>19</p>
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	I was unable to obtain money and was forced to withdraw my action against the Commonwealth Bank, and I was immediately bankrupted. I have since learnt that I was a victim of the bank's shadow ledger system and after equipment sales, I was stripped of 95% of my worth.		
24/08/1995	<p><b>Internal Memorandum from DS Mclean, Relationship Manager:</b></p> <ol style="list-style-type: none"> <li>1. Financial Controller, Eric Bremner tendered his resignation effective 8 September 1995</li> <li>2. Cooke met with members of the Rockefeller family on 22 August 1995. Cooke's intention was to sell debt rather than equity at the meeting.</li> </ol>	Box 636 Marked 2	20
August 1995	<p><b>Statutory Declaration from Dick Karreman</b></p> <p>This statutory declaration has been written from Dick's own diary notes made at the time of visiting Ross Griffiths in Sydney. This states Ross Griffiths' determination to destroy me (Dr Robert Cooke) and the derogatory remarks that he made to Dick Karreman. Dick Karreman's primary aim was to pay out the Commonwealth Bank loan, and he was deliberately refused to do so with Ross Griffiths brandishing "Fucking Medical Practitioners" need to be taught a lesson.</p> <p>In addition, Dick Karreman was made to wait 2 ½ hours before Ross Griffiths saw him, despite having an appointment to see Ross Griffiths at a particular time</p>	I hold a copy of this paperwork	20a
25/09/1995	<p>Cooke – plaintiff's documents Issues arising out of documents covering the following subjects:</p> <p>Copy of deed between trustees and Masonic Hospital Westpac and CBA</p> <p>Copy letter – business banking (Russell) to Dr Cooke</p> <p>Business Banking (McLean) to Bremner</p> <p>Valuation – Equipment (total value of the valuation was \$1,151,066.00.</p> <p>CBA internal memorandum – business banking (McLean) to Lending Services (Wright) dated 07/09/95</p> <p>Internal memorandum – Business banking (McLean) to Lending Services (Wright) dated 4/08/1995</p> <p>CBA Internal Memorandum – business banking (McLean) to Lending Services (Wright) 22/08/965</p> <p>CBA internal memorandum – Lending Services (Malley/Wright) to GCPC dated 18/08/1995</p> <p>Internal memorandum from business banking (McLean) to Lending Services Department (Cook)***</p>	I hold a copy of this paperwork	21

	<p>From Lending Services Queensland (Cook) to Business banking Centre (McLean)</p> <p>From Lending Services Queensland (Cook) to Business Banking Centre (McLean)</p> <p>Diary note of PJ Cook – acting chief manager, Lending Services 28 June 1</p> <p>Internal memorandum from business banking (McLean) to Lending Services Department (Cook)</p> <p>etc</p> <p>***Mr McLean has had close communication with Eric Bremner who appears to be , either unwittingly or unreservedly, keen to highlight deficiencies of the business to CBA – the effect is to weaken CBA's support of the business and I question Bremner's motives. We were already aware that market and management issues need to be addressed and this will need to be enforced by CBA if we act to continue support”.</p>		
26/09/1995	<p><b>Letter Commonwealth Bank to Dr Cooke</b></p> <p>“The CBA has not been able to satisfy itself of the medium term viability of the group’s activities and therefore advises that it is not prepared to allow any further increases in its exposure to your group. Group facilities as at close of business 25 September 1995 are.....”</p>	I hold a copy of this paperwork	22
20/10/1995	<p><b>Ausindo-Asia/Pacific (Peter W. Wentzki, Principal) to Ross Griffiths, Manager, Credit Recovery</b></p> <p>“We are assisting EMS in securing equity investment, two constructive options have been identified. Documentation describing EMS position and requirements have been forwarded, drawing favourable response. Meetings in Melbourne between Dr Cooke and the parties are arranged for October 21 and 22 1995.....”</p>	I hold a copy of this paperwork	23
20/10/1995	<p><b>Memorandum to Cooke Group of Companies from SJ Manson, Manager, Credit Recovery re discussions with Executive of Masonic Hospital, Ashfield</b></p>	I hold a copy of this paperwork	24
25/10/1995	<p><b>Demand letter from CBA to EMS</b></p>	I hold a copy of this paperwork	25

	“...hereby demands payment of \$813,841.43 being the amount of principal and/or interest and other moneys due and payable to the bank by you .....		
25/10/1995	<b>Demand letter from CBA to RJC</b> “...hereby demands payment of \$741,129.36 being the amount of principal and/or interest and other moneys due and payable to the bank by you .....	I hold a copy of this paperwork	26
25/10/1995	<b>Demand letter from CBA to MDPHone</b> “...hereby demands payment of \$1,140.51 being the amount of principal and/or interest and other moneys due and payable to the bank by you .....	I hold a copy of this paperwork	27
25/10/1995	<b>Demand letter from CBA to RJC</b> “...hereby demands payment of \$2,550,450.73 being the amount of principal and/or interest and other moneys due and payable to the bank by you .....	I hold a copy of this paperwork	28
27/10/1995	Letter Joseph X Mulcahy, Barrister and Solicitor to Ross Griffiths, Credit Recovery Manager “I have been asked by Dr Robert Cooke to confirm to you that negotiations have been taking place with a potential Equity Partner/Joint Venturer with a view to a substantial injection of capital into the business. However, these negotiations are still at an early stage. Having looked at the transition, it appears to me that the bank has a very large financial involvement and that by creating barriers to the continuation of the business at this time not only jeopardises the present negotiations (assuming that there is a collapse of the business prior to a capital injection) but will also result in the bank taking a major loss.....”	I hold a copy of this paperwork	29
Undated	Handwritten letter to Mr Ross Griffiths from BLE “You are aware that BLE has been approached by Dr Robert Cooke of EMS with a view to us making an equity investment in EMS....”	I hold a copy of this paperwork	30
30/10/1995	RJC sends a note to Adam Thatcher regarding letter RJC received from Tresscocks & Maddox “I have been asked to write to you to indicate the position of the Board of the NSW Masonic Hospital regarding the future of the relationship between the Hospital and EMS....”	I hold a copy of this paperwork	31
31/10/1995	Letter Feez to TressCocks & Maddox “.....In relation to the sixth paragraph on page 2 of your letter, Dr Cooke emphatically denies that he has engaged in any misleading or deceptive conduct of any kind. He instructs us that he knew	Box 633 Marked 3	32



	<p><i>nothing of the so called "letter of comfort" provided by Mr Karreman to the hospital until the last couple of months when your client sent a copy of the letter to him.....</i></p> <p><i>Our client is involved in serious negotiations with a potential investor and is hopefully of successfully concluding those negotiations in the not too distant future."</i></p>		
02/11/1995	Letter Feez to Bill Thompson Minter Ellison regarding purchase proposal by Sci-Fleet Group of Companies	Box 633 Marked 4	33
16/11/1995	<p><b>Fax from Feez Ruthning to Dick Karreman enclosing a copy of the draft figures.</b></p> <p>"There are still some issues to be resolved and the words that go with them are being finalised, hopefully by Wednesday. In the meantime, the figures do <u>show that both St Andrews and Cairns are cash positive and Sydney is projected to be cash positive in 12 months' time</u>".</p>	Box 632 Marked 1	34
17/11/1995	<p><b>Memorandum from AJW re EMS</b></p> <p>In this memo, it is indicated that figures for the three centres are cash positive together and that Sydney becomes cash positive by November 1996.</p> <p>In addition, Ross (Griffiths) provides a summary of the bank's situation and states that, for example, Cooke Mantle Pty Ltd owes \$900,000 on a bill facility which rolls over on 27 December 1995, Dr Cooke has the equivalent of a cheque account with the CBA in the amount of \$2.6 million, Dr Cooke has a bill line with the CBA in the amount of \$1.7 million which rolls over on the 29 December.</p> <p>"Rolls over" is the operative word here – not required immediately!</p>	I have a copy of this paperwork	35
20/11/1995	<p><b>Letter and certificate from Commonwealth Bank signed by Don Nissen, State General Manager Qld</b></p> <p>"....offering a discount of 0.25% discount on a Commonwealth Bank Fixed Interest Rate Home Loan for the initial fixed term and a 50% reduction on the application fee....."on our current range of competitive fixed home loan interest rates....."</p>	I have the paperwork here	36
15/12/1995	Letter Feez Ruthning to Ross Griffiths to reach an agreement on the future conduct of the business and repayment of the bank's debt.	Box 628 Marked 1	37

	<p>Feez talked about the failure of Eric Bremner to perform his functions, giving assurances to the investors and directors, RJC's incapacity in June 1995 (flu, middle lobe pneumonia, haemoptysis, retina.</p> <p>Also, Feez spoke about the benefits of RJC proposal to CBA to pay out the bank, allowing stability of the group, allowing RJC to concentrate on his practice, etc</p>	I have a copy of the paperwork	
15/12/1995	<p>Letter from CBA, PJ Treseder Credit Recovery to RJC</p> <p>"With regard to the above facilities, please be advised that if rollover costs.... Of approx. \$23,661 for the \$900,000 bill and \$22,000 for the bills totalling \$1,700,00 are not paid on the respective rollover dates, the bank will retire the bills to Bills Matured accounts at interest rates of 15.75% pa....."</p>	I have a copy of this paperwork	38
22/12/1995	<p>Letter Feez Ruthning to Gordon Hayes, Commercial Manager, Westpac re assessing the finance application. "..... <i>Whilst we have no firm indication in this regard, we believe that CBA would accept a figure of somewhere between \$2 and \$3 million. In addition Dr Cooke estimates that because of the build-up of unsecured creditors for the group, he will need additional funding of approx. \$500,000 for creditors. Accordingly, we would appreciate it if you could work on a finance application of \$3.5 million and, as our negotiations with CBA progress, we will let you have a more accurate figure.</i>"</p>	<p>Box 632</p> <p>Marked 2</p>	39
December 1995	Cashflow forecasts month of December 1995	<p>Box 632</p> <p>Marked 3</p>	40
End 1995	<p>RJ Cooke and Cooke Mantle Pty Ltd</p> <p>Profit and Loss Analysis for years 1991/92, 1992/93, 1993/94 and 1994/95</p> <p>Eg. Net profit for 1991/92 \$51,162 through to 1994/5 of \$294,050</p>	I have a copy of this paperwork	41
11/01/1996	<b>Letter from Feez Ruthning to Ross Griffiths, Chief Manager, Credit Recovery</b>	I have a copy of this paperwork	42
17/01/1996	<b>Letter Feez to Tony Havig, Havig &amp; Jackson</b>	<p>Box 633</p> <p>Marked 7</p>	43

	<i>"Further to our meeting today, we confirm that we act on behalf of RJC whose family company Cooke Mantle Pty Ltd is the owner of the above property. Our client wishes to appoint you to prepare a report on the following matters regarding the above property...."</i>		
19/01/1996	<p><b>Letter Feez Ruthning to Ross Griffiths, Chief Manager, Credit Recovery</b></p> <p><i>"...Whilst our client will be using its best endeavours to make the payments you refer to on the first page of your letter, our client does have some reservations about whether this will be chieved. Because of the increasing pressure to pay outstanding unsecured creditors, particularly those important to the practice our client believes there is some merit in paying those first so that the practice can run in an orderly fashion.....unable to do so both through illness and the problems caused by unsecured creditors not being paid, particularly medical assistants and supplies who must be paid if Dr Cooke is to continue to carry out operations and the like...."</i></p>	I have a copy of this paperwork	44
22/01/1996	<p><b>Letter Feez to Bryan Bradford, Jones Lang Wootton re rooms at Wickham House</b></p> <p><i>"Further to our meeting today, we confirm that we act on behalf of RJC who runs his medical practice in rooms on the ground floor of the above building.</i></p> <p><i>On behalf of RJC you are appointed to provide a report on the reasonable value of our client's interest in Wickham House...."</i></p>	Box 633 Marked 8	45
22/01/1996	<p><b>Letter Feez to Tony Havig</b></p> <p><i>"Further to our letter of 17 January 1996 and our telephone conversation today, we confirm our instructions that Dr Cooke that you are appointed as agent to sell the above property.....Dr Cooke would also like to negotiate the terms of your commission</i></p>	Box 633 Marked 9	46
25/01/1996	<p>Letter to Hugh Fin, National Credit Manager of CBA from Llew Edwards stressing the fact that:</p> <p><i>"As a former medical practitioner and as an external adviser to the Honourable Peter Beattie, the Minister for Health in Queensland and Chairman of the Queensland Health Rebuilding Advisory Committee I have had discussions with Dr Cooke regarding the problems that he faces. I need to stress to you that whilst I am unaware of the details of the bank's requirements upon Dr Cooke that the services provided by his activities in Queensland and in Sydney are of high profile and of great importance to the medical systems in Queensland and in Sydney.</i></p> <p><i>There is no doubt that should premature action be taken which may have damaging effects upon the operations of such services, enormous publicity and other effects would result. It is my belief that if</i></p>	Box 637 Marked 7  I have a copy of this letter which I found in Box 633	47

	<p><i>there is any way by which the bank can assist Dr Cooke and his company over the next few weeks to overcome financial arrangements and to have the benefit of a new CEO who is currently being considered for appointment as well as allow the projections that he has provided to the banks to be considered, that this would be of great advantage, both to the bank in the long term and also to the company and indirectly of course to the health systems in Sydney and in Queensland”</i></p>		
13/02/1996	<p>Letter Feez Ruthning to Peter Treseder, Credit Recovery, CBA</p> <p><i>...”we confirm that Dr Cooke has been concerned for some time now that he does not understand how the Group’s debt has reached the level it has. We stress that Dr Cooke is not saying that the level f debt the bank says is owing is wrong. All he is saying is that he simply does not know how it has apparently increased so dramatically in what appears to be a relatively short space of time.</i></p> <p><i>His level of concern was increased last week when he found a letter from the CBA to him in June setting out what he understood to be the maximum exposure of the Group (ie \$2,750,000). Tjat letter refers to his overdraft being increased to \$1,050,000 and yet there is no reference in your letter to us of 12 December to that overdraft.</i></p> <p><i>All he is seeking is a simple explanation of how the level of indebtedness increased from somewhere between \$2 and \$3 million in June/July of 1995 to a level of approximately \$6.5 million only two or three months later. Dr Cooke says that the bank’s national credit manager, Hugh Finn was still telling him in July/August of 1995 how the bank was happy with the progress of the centres and was supporting him”.</i></p>	<p>Box 632</p> <p>Marked 4</p> <p>I found a copy in box 633 which I have taken</p> <p>I have a copy of this paperwork</p>	48
16/02/1996	<p><b>Letter from Brian Lister to Ross Griffiths</b></p> <p>“I have been a business associate and good friend of Dr Robert Cooke for many years. I am aware that Dr Cooke and his companies are presently facing financial difficulties and the bank is putting pressure on him to sell his house. .... As a sign of good faith, I have signed an offer to buy the property for a purchase price of \$900,000 which is my estimate of the market value of the property.... I confirm that I would be happy to progress negotiats on the sale immediately upon my return to Brisbane.”</p>	<p>I have a copy of this paperwork</p>	49

29/2/1996	Review of the financial performance for 3 months ended 29 February 1996 – EMS and AMPC x Price Waterhouse	Box 628 Marked 14	50
18/03/1996	Letter Feez Ruthning to MacDonnells, Cairns re Cairns Calvary Hospital and their concerns.	Box 632 Marked 9	51
20/03/1996	<p>Letter Commonwealth Bank to Feez Ruthning re their disappointment that default of arrangements has occurred..... unable to make the last instalments of \$21,203.29 and \$13,664.27 due 2 March 1996.</p> <p>As an aside - there is no evidence that RJC and companies were not paying the bank. In fact, Cooke Group continued to make payments from at least December 1995 until March 1996 of \$45,000 a month, all of which is additional to the amount that the bank would have received on enforcement of its securities.</p> <p>Treseder to Feez in the middle March 1996 warned that <i>“Dr Cooke should be prepared for the bank’s decision to enforce its securities because it had made those sort of decisions before with Exacom and others”</i>.</p> <p>Dr Cooke’s opinion is that the bank had no intention of waiting until the end of March to make its decision.</p>	<p>Box 632 Marked 10</p> <p>I have a copy of this paperwork</p>	52
20/03/1996	Letter Feez Ruthning to Tony Havig, Havig & Jackson Re market and sale of RJC’s property	I have a copy of this paperwork	53
21/03/1996	Letter Feez Ruthning to PJ Treseder, Manager Credit Recovery Referring to recent telephone discussions between Peter Treseder and Adam Thatcher and between Peter Treseder and Sandy Wilson	I have a copy of this paperwork	54
March 1996	St Andrews Hospital stats, eg patient numbers, patient fees, admission numbers, admission fees, advertising, insurance, payroll tax etc	Box 632 Marked 5	55

March 1996	Sydney Masonic Hospital stats, eg patient numbers, patient fees, admission numbers, admission fees, advertising, insurance, payroll tax etc	Box 632 Marked 6	56
March 1996	Cairns Calvary Hospital stats, eg patient numbers, patient fees, admission numbers, admission fees, advertising, insurance, payroll tax etc	Box 632 Marked 7	57
March 1996	Appointment of new CEO Alan Jackson to EMS. One of his first tasks is to reconstruct the company's accounting and administration to ensure viability. To that purpose and so that he can reduce any wasted expenditure, Alan has been attempting without success to reconcile the accounts from Calvary.	Box 633 Marked 11	58
06/03/1996	Deed Roman Catholic Trust for the Diocese of Cairns	Box 632 Marked 8	59
20/03/1996	Letter Feez Ruthning to Tony Havig, Havig & Jackson re sale of 7 Beatrice Terrace – about the potential commission that RJC will need to pay Havig's for the sale of Beatrice Terrace	Box 632 Marked 11A	60
21/03/1996	Letter Feez Ruthning to PJ Treseder, Credit Recovery, CBA  “...”We accept that the strict reading of your letter of 8 January 1996 would indicate that the lease instalments due in March had to be paid on the dates they fell due which we understand are 2 March 1996 and 15 March 1996 respectively. Nevertheless we believe there is some ambiguity in your letter in this regard and it was our understanding that provided the full amount of approx \$34,00 was paid by the end of March (as it had been at the end of January and end of February) then this would be acceptable to the bank.”.....	Box 632 Marked 11	61
25/03/1996	Letter Commonwealth Bank to Feez Ruthning  “... At 3 January 1996 meetings was he indicated that the proposed debt compromise outlined in Mr Wilson's letter of 15 December 1995, was totally unsatisfactory to the bank. ....Mr Griffiths also indicated that the group needed to examine options available to it a bit more laterally than it had in the past....that the bank would keep an open mind when considering any suggestions made....however the main reason for agreeing to the present arrangement, notwithstanding that our position is worsening, was to allow you more time to substantially finalise negotiations with an equity participant.”	Box 632 Marked 12	62
25/03/1996	Letter CBA (Treseder) to RJC	Box 633	63

	<p>“Thank you for your letter of 21 March 1996.</p> <p>In relation to your point 2, my understanding of the thrust of Mr Griffith’s comments at the 3 Jan 1996 meetings was he indicated that the proposed debt compromise, outlined in Mr Wilson’s letter of 15 December 1995, was totally unsatisfactory to the bank.</p> <p>Mr Griffiths also indicated that the group needed to examine options available to it a bit more laterally than it had in the past. He also indicated without commitment, that the bank would keep an open mind when considering any suggestions made. However, the main reason for agreeing to the present arrangement, notwithstanding that our position is worsening, was to allow you more time to substantially finalise negotiations with an equity participant.</p> <p>I would have thought that, for everyone concerned, the provision of adequate financial data is of utmost importance to enable each party to formulate an informed view as to solutions and future prospects. As part of this process the business plan would need to be amended to reflect realistic future prospects based on results to date.”</p>	Marked 10	
April 1996	<p>The big business of crisis control</p> <p>Written by Charles Boag of Medical Observer Business – interview the man set to revolutionise Australia’s emergency service centres with a Rolls-Royce drive to the future</p>		64
April 1996	<ul style="list-style-type: none"> <li>• Notices of default issued by the Commonwealth Bank to EMS and to Dr Cooke;</li> <li>• Ian Richard Hall appointed as receiver and manager over EMS;</li> </ul> <p>All PECs were sold.</p>		65
09/04/1996	Several Letters of Demand from CBA, totalling \$6,688,085.		66
15/04/1996	<p>Letter Alan Jackson, CEO, EMS to Mr P Evendon, Credit Recovery, CBA</p> <p>“...I refer to our recent meeting where the CBA were offered \$2 million by Mr Karreman in consideration of full release of all mortgages and indebtedness in relation to EMS, Asia Pacific, Cooke Mantle and Dr Robert Cooke.</p>	<p>Box 632</p> <p>Marked 13</p> <p>I have taken the whole document to be returned later</p>	67
15/04/1996	<p>Letter Feez Ruthing to David Murray, Managing Director, Commonwealth Bank</p> <p>‘.... If the bank pursues the course of action it has proposed, both Dr Cooke and the facilities he is providing to the community will be irretrievably destroyed and will cost more than 70 employees their jobs. There is likely to be damaging publicity, but more importantly, the confidence of the general</p>	I have a copy of this paperwork	68

	<p>public in the private health system will be greatly reduced which will again put more pressure back on the public health system. This is certainly not something that the government either at a Commonwealth or State level would desire.....”</p> <p>“...Dr Cooke has at least two potential investors who may be able to save the companies. One of those investors, a Mr Dick Karreman, has already entered into negotiations with the bank and the other investor, Quadrant Capital Fund (the new venture capital fund established by Westpac and others) has said that it would need four weeks to conduct due diligence, after which it would be in a position to tell the Bank whether or not it can provide the investment.....”</p>		
15/04/1996	<p>Letter Feez Ruthning to Peter Treseder Credit Recovery</p> <p>“Further to our telephone conversations last week, we understand that you met with Mr Dick Karreman and Mr Alan Jackson on Friday, and at that meeting, Mr Karreman made an offer of \$2M to buy the bank out. We further understand that the bank has not accepted that offer at this stage.</p> <p>The message that Mr Karreman and Mr Jackson tell us they got from their meeting with you was that, although the bank was prepared to accept the \$2M was in the vicinity of what the bank would receive on enforcement of its securities, Dr Cooke would “have to bear some additional pain because “he should not be allowed to get away with it”.</p> <p>If this is a true reflection of the bank’s attitude, it is extremely disappointment and is of great concern....”</p>	I have a copy of this paperwork	69
23/04/1996	<p>Letter Crouch &amp; Lyndon to Feez Ruthning</p> <p>“We have been instructed by our client that it has been approached by the Commonwealth Bank in relation to the equipment utilised in your client’s business premises. It appears that the equipment is subject to a charge in favour of the bank and the bank is seeking access to the premises in order to inspect the equipment prior to exercising its power as mortgagee and proceeding to sell same...”</p>	I have a copy of this paperwork	70
26/04/1996	<p>Letter from Adam Thatcher, Feez Ruthning to Ross Griffiths, CBA re “The current position is that the bank has made a decision to enforce its securities. Dick Karreman has made an offer to the bank of</p>	Box 637 Marked 8	7



	<p>\$2 million to pay out the bank in full. Both Dick Karreman and the Cooke Group believe that \$2 million is substantially in excess of what the bank will receive on enforcement.</p> <p>The bank has rejected that offer at this stage either because it wants Dr Cooke to bear additional pain or because it believes it can achieve a higher figure on enforcement of his securities”.</p> <p>.... the bank has indicated it will .....be prepared to consider \$2 million plus Dr Cooke’s house (ie a figure of approximately \$3 million).</p> <p>The bank has now written to each of the hospitals indicating its intention to sell the equipment”.</p> <p>“Whilst the proposal requires the bank to write off part of its debt, it is reasonable to conclude that this proposal will yield a return to the bank of twice the amount it would receive in an enforcement situation”</p>		
April 1996	<ul style="list-style-type: none"> <li>• Notices of default issued by the Commonwealth Bank to EMS and to Dr Cooke</li> <li>• Ian Richard Hall appointed as receiver and manager over EMS</li> <li>• PECs were sold immediately</li> </ul>	<p>Volume 4, Box 625</p> <p>Letter from James Conomos lawyers dated 17 May 2001</p> <p>Marked 1</p> <p>** I have a copy</p>	72
09/04/1996	<p><i>Several Letters of Demand from CBA RJC to CBA, Cooke Mantle to CBA, EMS to CBA, MDPPhone Australia to CBA totalling \$6,688,085</i></p> <p>This was at a time where RJC had been querying the figures from the CBA, their refusal to forward statements and denied knowledge of the CBA’s double ledger system</p>	<p>Box 632</p> <p>Marked</p>	73
15/04/1996	<p>Letter from EMS Pty Ltd (Mr Alan Jackson) to Mr P Evendon, Senior Manager, Credit Recovery</p>	<p>I have a copy of the paperwork</p>	74

	<p>“I refer to our recent meeting where the Commonwealth Bank were offered \$2M by Mr Karreman.....</p> <p>Whilst the 42M offer appeared acceptable, the bank said it wanted a further \$1M which was focused on a penalty against Dr Cooke. It appeared to become personal rather than an economic decision because it was recognised that on a sale of assets together with the legalities and awkwardness of release and bargaining with hospitals.....</p> <p>It raises another issue, in that how did the bank allow this debt to achieve a level of \$7.9M unsecured. While Dr Cooke was very ill for many months and did not have a CEO for the greater period, the bank I would imagine should analyse their own responsibility with the debt.</p> <p>Further, I understand the indebtedness has not been reconciled and this is some discrepancy of at least \$1.7M. At a previous meeting I had with senior bank officers, it was stated that this matter would take a day and the bank did not have time to undertake the reconciliation.....”</p>		
15/04/1996	<p><b>Letter Feez Ruthning to David Murray, Managing Director, CBA</b></p> <p><i>“....Default has occurred under those facilities and the matter is being handled by your Credit Recovery Division in Sydney through Ross Griffiths, Peter Treseder and Phil Evendon. Recovery has given Dr Cooke 5 days’ notice to pay all outstanding monies under his facilities after which they have told us they will be taking action to enforce their securities.</i></p> <p><i>The facilities that have been provided are in respect of private emergency medical centres operating out of three major hospitals in Queensland and New South Wales which provide an enormous service to the health system of Australia and also take the load off the public health sector.</i></p> <p><i>The reason we are writing to you personally on behalf of Dr Cooke is because Dr Cooke has at least two potential investors who may be able to save the companies – Dick Karreman has already entered into negotiations with the bank and the other investor, Quadrant Capital Fund (the new venture capital fund established by Westpac and others). Has said that it would need four weeks to conduct due diligence...”</i></p>	Box 632 Marked 15	75

	<p><i>Dr Cooke and his advisors are firmly of the view that the maximum amount that could be realised on enforcement of the securities would be no more than \$2M and Mr Karreman has already offered that amount to the bank. There seems to have been some suggestion by Credit Records that Dr Cooke has to “bear some additional pain” because of the possible large write-off by the bank and this is why they are seeking a higher payout.</i></p> <p><i>At the end of the day, Dr Cooke asks that the CBA let common sense prevail. The bank is facing a maximum return on enforcement of \$2M (Dr Cooke believes substantially less) and it has an investor who is prepared to pay \$2M with no enforcement costs, no time delays and no adverse publicity. ....This is a “win” situation for both the bank and RJC whilst an enforcement situation would be the opposite.”</i></p>		
15/04/1996	<p>Letter Feez Ruthning to Peter Treseder</p> <p>“Further to our telephone conversations last week, we understand that you met with Mr Dick Karreman and Mr Alan Jackson on Friday, and at that meeting Mr Karreman made an offer of \$2M to buy the bank out. We further understand that the bank has not accepted that offer at this stage.</p> <p>The message that Mr Karreman and Mr Jackson tell us they got from their meeting with you was that, although the bank was prepared to accept that \$2M was in the vicinity of what the bank would receive on enforcement of its securities, Dr Cooke would “have to bear some additional pain” because “he should not be allowed to get away with it”.</p> <p>If this is a true reflection of the bank’s attitude, it is extremely disappointing.....Dr Cooke has been purely motivated by serving the community with private specialist emergency facilities which take the pressure off the public health system.”.....</p>	I have the paperwork	76
16/04/1996	<p>Letter from David J Frank, CBA to Feez Ruthning <i>“I am the solicitor for the CBA and I refer to your letter dated 15 April 1996 addressed to my client. I am instructed by my client that it is prepared to extend the tie for the payment of monies under the respective notices to 5.00pm on Wednesday 17 April 1996 after which time my client will consider taking action to enforce its securities if payment is not made.”</i></p>	Box 632 Marked 16	77

	Gee, bit whoop. A whole day's grace!!!!		
16/04/1996	<p><b>Letter Feez Ruthning to P Evenden and P Treseder, Credit Recovery, CBA</b></p> <p><i>"We refer to our telephone conversation with Phil Evenden yesterday during which it was confirmed that the reason the bank required a higher amount to be paid by an investor that it would receive on enforcement of its securities was because Dr Cooke should have to bear additional pain and should not be allowed to be seen to get getting away with what he has done. It was further confirmed that the bank's view was that it owed a duty to its shareholders and other borrowers in this regard"</i></p> <p><b>Note:</b> This is again yet another example of the bullying tactics, not allowing another investor to come in and refinance the bank, not letting go.....</p>	I have the paperwork	78
16/04/1996	<p>Letter Feez Ruthning to P Evenden and P Tresder, Credit Recovery, CBA <i>"We refer to our telephone conversation with Phil Evenden yesterday during which it was confirmed that the reason the bank required a higher amount to be paid by an investor that it would receive on enforcement of its securities was because Dr Cooke should have to bear additional pain and should not be allowed by be seen to get getting away with what he has done. It was further confirmed that the bank's view was that it owed a duty to its shareholders and other borrowers in this regard.</i></p>	<p>Box 632</p> <p>Not marked</p> <p>I have the original document</p>	79
17/04/1996	<p>Letter Feez Ruthning to John Forsyth, Chief Credit Officer and General Manager, CBA</p> <p><i>"....We remind you that one of the conditions of giving the further three-month period was that the Cook Group continued to pay \$45,000 per month and this was achieved. In other words the three months extension was given by the bank with the full knowledge of what payment were being made. Accordingly, the fact that the debt owing to the bank increased over that three month period is irrelevant for present purposes as it was done with the full knowledge and consent of the bank...."</i></p> <p><i>".....We note also that it is the first time that the bank has ever expressed the view that it can achieve over \$2M on enforcement. On every other occasion that it has been raised with the bank, the response has been that Dr Cooke should bear additional pay and that is why a higher figure than</i></p>	I have a copy of the paperwork	80

	<p>\$2M was required. Dr Cooke would be interested to hear the reasons for the bank's change of view. In any event, Dr Cooke reserves his rights in this regard and intends to take that aspect of the matter further.</p> <p>At the end of the day, the bank's attitude is extremely difficult to understand. Not only is it abundantly clear that it is not in the interests of the shareholders of the bank, it pays no regard to the value of life saving health facilities and the employees and doctors who work within those facilities. It also pays no regard to an orthopaedic surgeon who has devoted his life and resources to providing better care in Australia."</p>		
17/04/1996	<p>Letter CBA (Group Credit Policy and Control) to Feez Ruthning <i>"I acknowledge that Dr Cooke has expressed the belief that the aggregate debt claimed by the bank is overstated by at least \$1.5 to \$2M, that believe is of course without foundation.</i></p> <p><i>The bank provides regular statements of all facilities to its customers to enable them, inter alia, to reconcile account balances with their books and records.</i></p> <p><i>We do not have any of the Group's books and records therefore, we cannot assist in this reconciliation process. As to how the debt arise we must refer you to the various statements of transactions already provided by the bank"</i></p>	Box 632 Marked 17	81
17/04/1996	<p>Letter CBA (Group Credit Policy and Control) to Feez Ruthning <i>"I refer to your letter dated 15 April 1996 addressed to Mr Peter Treseder. I can assure you that the bank is not pursuing a personal vendetta against Dr Cooke. The bank is proposing to exercise the rights available under its contractual agreement with the Cooke Group, in the process of which we believe we will recover an amount in excess of the \$2M mentioned by you.</i></p> <p><i>We are well aware of the enormous personal work effect which Dr Cooke has put into the businesses but regrettably it has been unsuccessful in stemming the significant losses; which the bank has partially had to fund. You will also be aware that Dr Cooke has not been successful in achieving the</i></p>	I have a copy of the paperwork	82

	<p><i>sale of his home (the proceeds of which were to reduce the debt of the bank) and the injection of much needed new capital.</i></p> <p><i>It is for these reasons that bank will now proceed to enforce its securities in the absence of the demands for repayment being satisfied."</i></p>		
17/04/1996	Various letters between Feez and the bank, the bank and Feez etc	Box 632 I have the originals	83
17/04/1996	Letter ATO to RJC ..... <i>"You were concerned that proposed action to liquidate both your companies EMS and APMC would irretrievably destroy the companies and cost at least 70 employees their jobs. You also raised a number of issues in relation to your dealings with us and indicated you should be entitled to know what I and my employees have done wrong.....The short answer to that question is that your companies have failed to comply with their legal obligations to meet their taxation commitment over a considerable period of time.... Presently your companies owe a total of \$600,000 or more for unremitted group tax deductions and fringe benefits tax.....I note also that you have failed to comply with your own personal legal obligations to lodge tax returns....."</i>	Box 632 Marked	
17/04/1996	Letter Commonwealth Bank to Mr A Jackson, CEO, Emergency Medical Systems Pty Ltd  ".....I can assure you that the bank is not pursuing a personal vendetta against Dr Cooke. The bank is proposing to exercise the rights available under its contractual agreement with the Cooke Group, in the process of which we believe we will recover an amount in excess of the \$2M mentioned by you.  To suggest, as you have, that the bank is in any way responsible for the financial problems of the Cooke Group is of course totally rejected. Before addressing this issue it is appropriate to clarify the debt position - \$7.6M not \$7.9M.....the debt is secured, not unsecured....."	I have a copy of the paperwork	84
18/04/1996	Letter Feez Ruthning to Ross Griffiths, Chief Manager, Credit Recovery, CBA, Level 8, Cnr Pitt Street & Martin Place, Sydney <i>"We refer to the notices of demand dated 9 and 10 April served on the various entities within the Cooke Group.</i>	Box 632 Marked 19	85

	<p><i>The Cooke Group is confused by those notices and would like clarification from the bank on a number of issues.</i></p> <ol style="list-style-type: none"> <li><i>1. In your letter to Mr Jackson of 17 April 1996, you state that the current debt is approximately \$6.7M not \$7.9 M. We note that the aggregate amount claimed under the letters of demand is \$7,874,288. This latter figure is approximately the same as the level of indebtedness estimated by Mr Treseder and Mr Evenden in our meeting with them on 4 April 1996. The discrepancy is substantial and the Group does not know the correct amount that the bank is demanding and how much is owed by each entity.</i></li> <li><i>2. Some of the notices of demand require payment by entities under instruments where no such liability exists.</i></li> <li><i>3. The bank is purporting to claim moneys from guarantors at the same time as it is claiming the same moneys from debtors.</i></li> <li><i>4. The securities given over the equipment situated in Queensland do not seem to comply with the Queensland Bills of Sale legislation.</i></li> </ol> <p><i>We seek your assurance that the bank will not be exercising any rights consequence upon the notices of demand until the above matters are properly clarified.”</i></p>		
18/04/1996	<p>Letter CBA (Group Credit Policy and Control) to Feez</p> <p><i>“I refer to your letter dated 17 April 1996.</i></p> <p><i>The bank’s position has been clearly outlined in its correspondence of 17 April. There are, however, a number of points in your letter which require clarification:</i></p>	Box 632 Marked 20	86

	<ol style="list-style-type: none"> <li>1. <i>The payments required by the bank during the final three-month period of forbearance were expressed as a minimum amount. Had the Cooke Group achieved the cost savings which were forecast in its November and December projections, we would have expected to receive all amounts contractually due to the bank</i></li> <li>2. <i>The final three-month period of forbearance was provided at the request of the Cooke Group to enable it to introduce an equity participant. Any alternate scenario such as debt restructuring could only follow an equity injection.</i></li> <li>3. <i>We are reliably advised that Havig &amp; Jackson had not (as at 17 April 1996) been appointed to market the security property.</i></li> <li>4. <i>We do not view Mr Karreman as an equity investor. Mr Karreman's discussions with the bank have been on the basis of a purchase, at a substantial discount, of the bank's debt</i></li> <li>5. <i>From the outset, the bank has expected the Cook Group to meet its contractual obligations. We have not been seeking to sell our debt at a discount. It was not until the Cooke Group filed to satisfy the requirements, upon which we agreed to a further period of forbearance, that the bank contemplated a sale of the debt due to it.</i></li> <li>6. <i>The bank expects to receive in excess of \$2M from the exercise of lal its securities, not merely the sale of securities. We expect Dr Cooke to work with us in order to maximise the return to the bank."</i></li> </ol>		
19/04/1996	<p>Letter Feez Ruthning to John Forsyth, Chief Credit Officer, CBA</p> <p>"Whilst the payments required by the bank during the January to March period were expressed as a minimum amount, there is no doubt that the bank was not expecting to receive any more than that. Mr Griffiths well know of the Cooke Group's problems with the build up of unsecured creditors and specifically stated that, provided the minimum payments were made, any monies left over could be paid in any manner that the Cooke Group saw fit. Naturally, any balance moneys were used to assist in paying unsecured creditors but we stress that it was done with the full knowledge and consent of the bank.</p> <p>Your reference to cost savings in November is also confusing. The Group's business plan did not start until 1 December.....</p> <p>Re Dick Karreman.....</p>	I have a copy of the paperwork	87



	<p>Dr Cooke has done everything he possibly can to date to assist the bank in maximising its return.....</p> <p>Given the bank's attitude, Dr Cooke seriously questions whether the bank ever had any intention of trying to resolve the Group's problems in a mutually satisfactory way or whether the bank always had the intention of enforcing its securities and merely delayed in the hope that unsecured creditors might take action to wind up the companies to avoid the bank having to step in first. If that is the case, it is not only disappointing but also misleading."</p>		
19/04/1996	<p>Letter David J Frank, Solicitor, CBA to Feez Ruthning</p> <p>"I am instructed that the money owing to the bank as at 9 April 1996 was as follows:</p> <p>RJ Cooke \$4,538,970</p> <p>Cooke Mantle \$961,663</p> <p>Emergency Medical Systems \$1,186,203</p> <p>MD Phone Australia Pty Ltd \$1,249</p> <p>My client will not give the assurance you seek."</p>	I have a copy of the paperwork	88
22/04/1996	<p>Letter Tressocks &amp; Maddox to EMS <i>"My client has received a letter from the CBA to the effect that the bank intends to see as mortgagee your equipment located in the Accident and Emergency Centre at the hospital. If the bank is entitled to take this action, it is evidence that you are in default of the establishment agreement....."</i></p>	Box 632 Marked 23	89
23/04/1996	<p>Letter Feez Ruthning to Tress Cocks and Maddox</p> <p>"The bank is not entitled at this stage to sell our client's equipment as mortgagee. Amongst other things, statutory notices have either not been given or have not expired.</p> <p>There have not been sufficient defaults under clause 23 to trigger clause 24(b).</p>	Box 632 Marked 24	90

	<p>Our client does not accept that your client is in a position to serve notice under clause 24(b)(iio) of the Establishment Agreement.</p> <p>Our client has asked us to mention that it is negotiating with a number of investors with a view to paying the bank out a higher amount than the bank would receive on enforcement of its securities. One of those investors has already made an offer to the bank and several other investors are conducting due diligence with a view to doing the same. Our client is confident that the matter can be sorted out with the bank in the near future and would ask for your client's cooperation in this regard."</p>		
24/04/1996	<p>Letter Feez to Crouch &amp; Lyndon re EMS PEC at St Andrews Hospital</p> <p>....."In any event, the bank is not entitled at this stage to sell our client's equipment as mortgagee. Amongst other things, statutory notices have either not been given or have not expired..."</p>	<p>Box 632</p> <p>Marked 25</p>	91
24/04/1996	<p>Letter Feez to Ross Griffiths, Chief Manager, Credit Recovery, CBA</p> <p><i>"We understand that the bank has notified the hospitals that it proposes to sell the equipment. We wish to put the bank on notice that in addition to the procedural issues raised in our letter to Mr Frank there are issues of a more substantive nature which the bank should consider carefully before acting under its security.</i></p> <p><i>The security over the equipment in Queensland owned by RJC, EMS and APMC is void. We have previously referred you to the Queensland Bills of Sale legislation. Section 22 of that legislation sets out certain procedural requirements which must be complied with if chattel security is taken. Failure to do so means that the security has no effect in respect of the assets charged. You will appreciate that this legislation applies to both chattel securities granted by individuals and companies and that company charges are not exempt from compliance with the provisions of the Bills of Sale Act. None of the securities granted by RJC or the companies comply with section 22 of the Bills of Sale legislation.</i></p> <p><i>We confirm our request that the bank gives its assurances that it will not purport to exercise rights under the securities"</i></p>	<p>Box 632</p> <p>Marked 26</p>	92

24/04/1996	<p>Letter Feez Ruthning to David J. Frank, Solicitor, CBA</p> <p>“The Cooke Group continues to be confused by the Notices of Demand which have been served on behalf of the bank. Your letter of 19 April 1996 purports to explain the various bases upon which the notices have been served.....<b>None of the notices specify a method of calculating that interest and it is therefore difficult for the members of the Cooke Group to ascertain the payment required by the bank to satisfy the notices.....</b></p> <p>It seems clear that unless and until the above issues are clarified, the relevant notices of demand and Forms 7 are invalid. However, there are also matters of a more substantive nature that the bank should take into account when considering its position.....”</p>	I have the original paperwork	93
26/04/1996	<p>Letter Group Credit Policy and Control (John Forsyth), CBA to Feez Ruthning</p> <p>“.....Whilst the bank may not have expected to receive payments in excess of the minimum during the further period of forbearance it was nonetheless optimistic that additional payments would be made. The ‘further period of forbearance’ was to allow for the introduction of equity. As the equity was to be used for the purpose of paying overdue creditors and to fund other working capital needs. It follows that had equity been introduced the group should have been in a position to make additional payments (ie reduce the debt) to the bank.....”</p>	I have the original paperwork	94
30/04/1996	<p>Letter Feez to Ross Griffiths</p> <p>“..... the current position is that the bank has made a decision to enforce its securities. Dick Karreman has made a n offer to the bank of \$2M to pay out the bank in full. Both Dick Karreman and the Cooke Group believe that \$2M is substantially in excess of what the bank will receive on enforcement....”</p>	Box 632  I have taken the original document	95
2/05/1996	<p>Letter Feez to John Forsyth, Chief Credit Officer and General Manager, CBA</p> <p>“The bank has never said until now that a debt restructuring proposal could only happen with some form of equity injection. If it were such an important point for the bank (which it now seems to be) why is not specifically mentioned in your letter of 8 January....”.</p>	Box 632  I have taken the original document	96
2/5/1996	<p><b>Demand letter CBA to RJC</b></p> <p><i>“.....demand payment of the sum of 2,747,521 being the amount owed by you to the bank as at 9 April 1996 in relation to your abovementioned overdraft account.</i></p>	Box 632  Marked 27	97

	<p><i>Unless the abovementioned sum is paid to the bank at the abovementioned branch within 5 days from the date of this notice the bank will take action to recover payment of the said amount and any costs incurred in respect of such recovery.</i></p> <p><i>This demand is exclusively in relation to your abovementioned overdraft account and is separate from, but not additional to, the money owed to the bank on any other account or pursuant to any other agreement."</i></p>		
03/05/1996	<p><b>Letter Feez Ruthning to Ross Griffiths, Chief Manager, Credit Recovery</b></p> <p>"....The tone of your letter suggests that you will not consider any proposal and yet in previous correspondence you have said you would be receptive to any proposal which will enable Dr Cooke to continue his practice. There is no doubt our proposal does that. If the bank is not prepared to accept our proposal, please tell us what sort of proposal the bank has in mind to allow Dr Cooke to continue his practice."</p>	I have a copy of this paperwork	98
07/05/1996	<p>Letter CBA (Ross Griffiths) to Feez Ruthning</p> <p>"We refer to your letter dated 3 May 1996. The bank is unaware of the position of all the creditors of the various entities in the Cooke Group. Accordingly, it is not possible for us to outline proposals which might enable Dr Cooke to continue his practice".</p>	Box 632 Marked 28	99
08/05/1996	<p>Letter Feez to John Forsyth, Chief Credit Officer &amp; GM, CBA</p> <p>"...The bank has never said until now that a debt restructuring proposal could only happen with some form of equity injection. If it were such an important point for the bank (which it now seems to be) why is it not specifically mentioned in your letter of 8 January. All that letter mentioned was that the bank understood that the Cooke Group would progress the introduction of an equity investor which is exactly what it did.....</p> <p>Further during the three month period we had many conversations with officers of the bank and those officers were informed on numerous occasions that potential equity investors such as BLE want3ed to see the trading performance of the centres against the business plan at least until the end of March. Never once did we receive a response that equity had to be introduced by 31 March or else the bank would be terminating the relationship.....</p> <p>The bank knew very well that no-one would invest money in the company until they knew at what level the bank would be prepared to cap its debt either on an ongoing basis for the purposes of being paid out. The bank was asked this question on numerous occasions and refused to answer it until the day it informed us that it has a decision to enforce its securities. Within a matter of days after that at</p>	Box 632 I have taken the original document  There is a copy in box 633	100

	least two potential equity investors dealt with the bank but the bank now tells us it is too late because it did not happen before 31 March. Quite frankly, our client is amazed the bank's conduct...."		
08/05/1996	Letter Feez to Ross Griffiths, CBA <i>"We are instructed that the approximate position with unsecured creditors of \$1M and is made up as follows.."....Dr Cooke once again requests that the bank take no further steps in enforcing its securities for at least one month so that potential investors have enough time to conduct a proper due diligence exercise and put one or more firm proposals to the bank....."</i>	Box 632  I have a copy of this paperwork	101
10/05/1996	Letter Shimero Pte Ltd to Ross Griffiths, Credit Recovery, CBA "..... confirming my company's interests in Emergency Medical System and its associated companies....."  This same letter was sent to the Commonwealth Bank on two occasions – 10/05/96 and 21/05/96. The CBA completely ignored them.	I have a copy of this paperwork	102
14/05/1996	Memorandum to Sir Llewellyn Edwards, Westpac re investment in EMS Brisbane together with a strategic plan and investment proposal	I have a copy of this paperwork	103
May 1996	CBA appointed receivers to RJC companies. Dr Cooke lost all three PECs as they were sold by the bank	Box 630 Marked 5	104
15/05/1996	Receiver appointed Cooke Mantle Pty Ltd over Lot 1 RP92178 CT 3283/248 known as 7 Beatrice Terrace, Ascot	Box 631 Marked 20  I also have a copy of the paperwork	105
16/05/1996	Letter Minter Ellison to Feez Ruthning <i>"We are instructed that Mr al yesterday endeavoured to take possession of 7 Beatrice Terrace, Ascot, property of Cooke Mantle over which Mr Hall has been appointed, but was unable to do so.....Mr Hall has instructed us that he yesterday informed you that if Cooke Mantle and Dr and Mrs</i>	I have a copy of this paperwork	106

	Cooke are prepared to now indicate that they will deliver up possession to him, he is prepared to allow them until 29 May 2996 within which to do so.....”		
22/05/1996	Letter Commonwealth Bank Group Credit Policy and Control, Credit Recovery to Mr Ian Hall, Coopers & Lybrand  This letter is attached to a Deed of Indemnity dated 15 May 1996 (Cooke Mantle Pty Ltd receiver appointed)	I have a copy of the paperwork	107
23/05/1996	Letter CBA, Credit Recovery to Mr Ian Hall  “....As you are aware, we have reached agreement with each of the hospitals in relation to the purchase of the emergency medical centres..... We were originally hopeful of achieving an identical agreement with each hospital, but have formally agreed to small variations to each. This will obviously require the need for three separate contracts.....”	I have a copy of the paperwork	108
29/05/1996	Unrelenting action by CBA in their attempt to sell off the PECs. CBA had no right to contact the 3 PECs without the knowledge, approval or consent of the 100% shareholder, Dr Robert Cooke  CBA’s Ross Griffiths’ bullying tactics towards Sydney PEC:  <i>a. At 9.00pm, John Pearson of the NSW Masonic Hospital was telephoned by Ross Griffiths of the plaintiff and told to be in his office at 9.00am on the next morning or the private emergency centre located the hospital would be shut down”.</i> <i>b. “At 8.00am on 30 May 1996, John Pearson of the NSW Masonic Hospital, attended a meeting with Mr Ross Griffiths of the plaintiff and a representative for the receiver and was told that unless the NSW Masonic Hospital purchased the equipment located in the private emergency centre for the price stated by the plaintiff, that the plaintiff would close down the private emergency centre immediately.”</i>  John Pearson, on behalf of the NSW Masonic Hospital, agreed to sign an agreement submitted by the plaintiff to purchase the equipment from the receiver on 30 May 1996.		109

06/06/1996	<p>Letter FAI to David O'Brien, Minter Ellison</p> <p>".....In a telephone conversation yesterday, the receiver advised me that signed agreements are in place for the hospitals to acquire the abovementioned assets and that the receiver anticipates that these transactions will be settled by the end of this week. If this is the case, it was noted that FAI would be offered the assets and therefore could not pursue an acquisition as proposed in our letter of 31 May 1996 to Mr Ian Hall of Coopers &amp; Lybrand...."</p>	I have a copy of this paperwork	110
17/06/1996	<p>Letter Feez Ruthning to LE Taylor, Chief Solicitor and General Counsel, CBA</p> <p>"....Dr Cooke instructs us that he has negotiated with his financier to secure funds of \$3M to pay that amount to the bank in exchange for a transfer of all the bank's securities and a full release of Dr Cooke and each entity in the Cooke group.....</p> <p>Dr Cooke would ask the bank to give serious consideration to accepting this proposal. It is consistent with an offer made by the bank to us some weeks ago when Mr Treseder and Mr Evenden offered "2.1M plus the house to walk away". It is also consistent with the figure that was discussed between Mr Karreman and Mr Griffiths some time ago....."</p>	I have a copy of this paperwork	111
17/06/1996	<p>Letter LE Taylor, Chief Solicitor and General Counsel to Feez Ruthning</p> <p>"....the bank has received correspondence from the hospitals to the effect that they will not entertain annulment of their respective contracts with the receiver or dealing with Dr Cooke. The bank therefore cannot consider any offer involving assets which have been sold to the hospitals but would consider an offer in relation to the balance of the Cooke Group assets."</p>	I have a copy of this paperwork	112
18/06/1996	<p>Letter Feez Ruthning to LE Taylor, Chief Solicitor and General Counsel, CBA</p> <p>"....We confirm that Dr Cooke is intending to approach each of the hospitals himself to see what scope, if any, there is for the hospitals to reconsider their position. In the meantime, Dr Cooke has had further discussions with representatives of his financier regarding an offer for the balance of the assets held by the bank.</p> <p>Dr Cooke instructs us that he is in a position to offer to the bank \$1.2 million in exchange for a transfer of all the bank's securities and a full release of Dr Cooke and each entity of the Cooke Group."</p>	I have a copy of this paperwork	113
19/06/1996	<p>Letter LE Taylor, Chief Solicitor and General Counsel to Feez Ruthning</p>	I have a copy of this paperwork	114

	“ I refer to your facsimile letter of 18 June 1996.....I am instructe3d to inform you that the offer contained in your letter is not acceptable to the bank.”		
19/06/1996	Letter LE Taylor, Chief Solicitor and General Counsel to Feez Ruthning “I refer to the telephone conversation of 19 June 1996 and confirm my client’s instructions to inform you that the bank requires full payment of its debt and, in the absence of ushc payment, intends to pursue the avenues available to it under its securities”.	I have a copy of this paperwork	115
19/06/1996	Valuation of medical plant and equipment in respect to EMS at NSW Masonic Hospital.  Auction Estimate and existing use value	I have a copy of this paperwork	116
20/06/1996	Letter RJC to Rodney Adler, FAI “I refer to our discussion last evening, 19 June 2996, and wish to confirm my request for a loan facility based on the following alternatives:  Loan for \$3.5M to buy out bank’s debt inclusive of all Cooke Group assets....  Loan for \$2.5M to buy out the bank’s debt less returns from sale of the three priority emergency centres.....”	I have a copy of this paperwork	117
13/08/1996	Supreme Court of Queensland Affidavit of Donald Nissen  E.g. “I deny that I said that the bank understood the extent of the exposure given to EMS and the likely maximum exposure of the debt in February 1996 and that the bank would continue to support EMS provided that it would become profitable by end of 1996”	Box 630  Marked 4	118
05/09/1996	<b>Letter from Simon Smith, Senior Economist AEC Group to Jim Conomos</b> stating <i>“Based upon information so far supplied to me by Dr Robert Cooke, I have estimated on a very preliminary basis, that at the expiry of the contracts held by the above companies with the host hospitals, a present value profit of some \$46 million will have been earned. In other words, under the receivership action by the Commonwealth Bank of Australia the above companies will effectively lose \$46 million”.</i>	I have a copy of this paperwork	119
05/09/1996	<b>Letter from Simon Smith, Senior Economist AEC Group to Jim Conomos</b> stating <i>“Based upon information so far supplied to me by Dr Robert Cooke, I have estimated on a very preliminary basis, that at the expiry of the contracts held by the above companies with the host hospitals, a present value</i>	I have a copy of this paperwork	120



	<i>profit of some \$46 million will have been earned. In other words, under the receivership action by the Commonwealth Bank of Australia the above companies will effectively lose \$46 million”.</i>		
10/05/1996	Letter from Greg Kennedy, Shimerco Pte Ltd to Ross Griffiths confirming the company’s interest in acquiring the Emergency Medical System  Ross Griffiths did not reply to this letter or any other correspondence from Mr Kennedy	Box 637  Marked 6  Found another copy in box 633 so have taken the copy	121
13/05/1996	Letter LE Taylor, Chief Solicitors and General Counsel, CBA to Feez Ruthning  <i>“Please note that control of this matter has been transferred to my Sydney office. Service of a Writ of Summons in the Queensland Supreme Court proceedings No. 3868 of 1996 between CBA and RJC was effected on Friday 10 May 1996 and any communication in relation to that matter should be through Minter Ellison. Any further communication from you in relation to any other matters affect RJC and/or the Cooke Group should be addressed to this office and not to be Brisbane office or to my client.</i>  <b><i>I understand from my client that you wish to obtain copies of the various guarantees executed by RJC. Currently my client has no intention of proceeding to recovery any money from RJC pursuant to such guarantees through it is not necessary to make those documents available.</i></b>  <i>It is not currently my client’s intention to exercise its rights arising from any defaults under the Chattel Mortgages which documents you have previously alleged to be invalid. My client holds registered equitable mortgages over the respective assets of EMS and APMC and entitled to rely on those security documents to the extent that default arises thereunder.”</i>	Box 632  Marked 29	122
14/05/1996	Letter Feez Ruthning to LE Taylor, CBA  ““In relation to the second paragraph of your letter, the request that we made some two weeks ago was for copies of all guarantees executed by any member of the Cooke Group to be provided by us and not just guarantees from RJC. We also offered our undertaking to photocopy those document	Box 632  Marked 30	123

	<p>and return them immediately to the bank and this offer stands. Again we request that you make those documents available as <b>neither we nor our client holds any copies.</b></p> <p>In relation to the last paragraph of your letter, you have missed the point. It is our review that the equitable mortgages and the chattel mortgages are invalid in respect of the equipment because they do not comply with the Bills of Sale legislation.”</p>		
15/05/1996	<p>Ian Hall at the residence of the Cooke’s trying to attempt to gain possession.</p> <p>He had no legal right to do this.</p>	<p>Box 631 Marked 22</p>	124
16/05/1996	<p>Ian Hall’s Telephone conversation with Sandy Wilson and Adam Thatcher. Sandy advised RJC that he legally has a tenancy agreement with Cooke Mantle entitling him to be there and that he cannot be removed.</p>	<p>Box 631 Marked 23</p>	125
16/05/1996	<p>Letter Minter Ellison to Feez regarding yesterday’s Ian hall attempting to take position of 7 Beatrice Terrace.</p> <p>“Mr Hall has instructed us that he yesterday informed you that if Cooke Mantle and Dr &amp; Mrs Cooke are prepared to now indicate that they will deliver up possession to him, he is prepared to allow them until 29 May 1996 within which to do so. Would you please inform us by tomorrow whether Cooke Mantle and Dr &amp; Mrs Cooke are prepared to provide Mr Hall with “vacant possession”.</p> <p><b>It seems that shithead Ian Hall was granted receivership on 15 May 1996 and then ‘pounced’.</b></p>	<p>Box 632 Marked 31</p>	126
16/05/96	<p><b>Letter RJC to Peter Treseder</b></p> <p>.....I would like to arrange a ‘without prejudice meeting’ with Ross Griffiths in Sydney 17 May to discuss a proposal where:</p>	<p>Box 632 Marked</p>	127

	<ol style="list-style-type: none"> <li>1. the bank gives me until 5.00 on Monday 17 June to come up with a firm proposal where an investor pays the bank an amount of no less than \$3M in exchange for a full release from the bank</li> <li>2. if I am unable to come up with that firm proposal by 5.00pm 17 June 1996 I will then undertake to cooperate fully with the bank in ( a) immediately putting the Beatrice Terrace property on the market no later than 18 June ( b) giving vacant possession to the purchaser of the house (c) transferring the emergency centres as required by the bank</li> <li>3. the bank takes no further action against the Cooke Group pending this proposal being fulfilled by 5.00pm 17 June 1996.....”</li> </ol>		
17/05/1996	<p>Letter CBA (Group Credit Policy and Control) ? who from</p> <p>“Based on past performance, and information presently available to us, we have no confidence that you can fulfil the requirements of any proposal along the lines of that suggested.....”</p>	Box 632 Marked 33	128
17/05/1996	<p>Letter Feez Ruthning (Sandy Wilson) to Minter Ellison ... <i>“for the last eight months we have been dealing with the CBA on Dr Cooke’s behalf ..... One issue that has continued to concern Dr Cooke has been to properly reconcile the accounts, including the account relevant to these proceedings..... This issue was first raised with the bank in 1995 and it has been raised on numerous occasions since by telephone, in meetings and by letters including with Mr Peter Treseder, Mr Phil Evenden and Mr Ross Griffiths of your client.....”</i></p> <p><i>Mr Treseder indicated to Mr Thatcher of our firm in early 1996 that he would prepare a reconciliation of the accounts. Subsequently in the meeting on 4 April 1996 Mr Treseder said he had still not been able to spare the time to prepare that reconciliation, but Mr Evenden agreed to examine the issue himself.</i></p> <p><i>Despite numerous requests no reconciliation has been provided.”</i></p>	Box 637 Marked 22	129
20/05/1996	<p>Letter Feez Ruthning to Minter Ellison</p> <p><i>“We act for Dr &amp; Mrs Cooke regarding their rights to possession of the above property.....Cooke Mantle granted a yearly tenancy to Dr &amp; Mrs Cooke commencing 18 April 1987 and under the current term does not expire until at least 17 April 1997. Dr and Mrs Cooke are not prepared to provide Mr Hall with vacant possession of the property at this stage.”</i></p>	Box 632 Marked 34	130
21/05/1996	Letter Greg Kennedy, Shimer Pte Ltd to Ross Griffiths	Box 632	131

	<p>“.....I would like to update you on the progress we are making on the due diligence of EMS.....we would expect to finalise our due diligence within the next one and a half weeks with the principles of EMS meeting with my company chairman and board at the end of this month. I would like to stress the importance to our group of preserving all of the assets of the company as a whole in order to maximise our company position at takeover”</p>	Marked 35	
30/05/1996	<p>Letter to Coopers &amp; Lybrand from Ian Hall, Receiver</p> <p>“I am writing to inform you that on 30 May 1996, I was appointed receiver over certain assets of the abovenamed companies, EMS and APMC.</p> <p>Contracts for sale of the assets of which I have been appointed have been executed and are due to settle within the next seven days.....”</p>	<p>Box 632</p> <p>Marked 36</p>	132
30/05/1996	<p>Agreement for sale of assets</p> <p>Between EMS, APC and St Andrews War Memorial Hospital for the price to be equal to the greater of 87.5% of the total amount of the valuation, as determined by the valuer, of the assets; and \$250,000</p> <p>St Andrews is the only true value we have. Masonic and Cairns are ??</p>	<p>Box 636</p> <p>Marked 2</p>	133
30/05/1996	<p>Agreement for sale of assets</p> <p>Between EMS, APC and The Roman Catholic Trust Corporation for the Diocese of Cairns for the price to be equal to the greater of 87.5% of the total amount of the valuation, as determined by the valuer, of the assets in the vicinity of \$238,420 (see Box 636 marked 6 – Pickles Auctions Pty Limited, Belmore, NSW)</p>	<p>Box 636</p> <p>Marked 4</p>	134
30/05/1996	<p>Agreement for sale of assets</p> <p>Between EMS, APC and United Grand Lodge of New South Wales of Ancient Free and Accepted Masons for the price to be equal to the greater of 87.5% of the total amount of the valuation</p>	<p>Box 636</p> <p>Marked 5</p>	135
31/05/1996	<p>Letter Feez Ruthning to Angus MacIver, Director, FAI Insurance Group</p> <p>“....We understand that our client’s CEO Alan Jackson met with your chief analyst in Sydney on 29 May and he has asked us to write to you to comment on several matters raised in his discussions:</p>	<p>Box 632</p> <p>Box 37</p>	136

	<p>1. <i>The CBA has previously suggested that it is likely to accept a figure of \$3M in exchange for a full release.</i></p> <p>2. <i>As far as the company structure is concerned, the contracts with each of the three hospitals are in the name of EMS and EMS is 100% controlled by RJC.</i></p> <p><i>Alan Jackson has been with the company now for three months and is convinced once the business are stabilised with injection of necessary capital, the future is bright particularly given Dr Cooke's and the company's standing in Asia"</i></p>		
31/05/1996	<p>Letter Minter Ellison to Feez Ruthning</p> <p><i>"On behalf of Dr Cooke, you have requested us to provide you with copies of the contracts which our client receiver has signed with the Masonic, St Andrews and Calvary Hospitals respectively. You have confirmed that the reason why RJC has instructed you to make this request is because he is this morning meeting with Mr Adler of FAI for the purpose of discussing with Mr Adler whether FAI wishes to purchase the centres</i></p> <p><i>We are instructed that our client regard the contracts as confidential as between him and the hospitals. However, we are authorised to inform you that each contract is binding on the receiver and the hospitals."</i></p>	<p>Box 632</p> <p>Marked 38</p> <p>I have a copy of the letter</p>	137
31/05/1996	<p>Letter FAI (Maclver) to Ian Hall, Coopers &amp; Lybrand</p> <p><i>".....You advised me yesterday that you had exchanged contracts with the hospitals for the sale of the equipment in the emergency centres and that settlement would take place in approx. 7 days.</i></p> <p><i>I now wish to formally advise you that we are presently holding talks with RJC and Alan Jackson with a view to purchasing the companies and their assets and goodwill.</i></p> <p><i>We are looking at paying a price of \$1.9M.</i></p> <p><i>Our offer to purchase the companies at the above price will be subject to the CBA releasing all mortgages and charges over the companies, businesses and assets owned by RJC.</i></p>	<p>Box 632</p> <p>Marked 39</p>	138

03/06/1996	<p>Letter Feez Ruthning (Sandy Wilson) to Minter Ellison ...</p> <p><i>On 30 May 1996 the Commonwealth Bank appointed a receiver to certain assets of Dr Cooke's medical companies and, accordingly we sought an extension for a few days so that we could get proper instructions from Dr Cooke...</i></p> <p><i>Our client has a serious complaint that he has been double charged. He first raised it over six months ago. Will your client now provide a proper accounting and copies of the relevant documents so that we can prepare his defence or is it necessary for him to seek an order form the Court compelling it?"</i></p>	Box 637 Marked 21	139
03/06/1996	<p>Letter Feez to Ian Hall</p> <p><i>"On 30 May you wrote to RJC asking for advice about any third party property at the Acc and Emergency Centres at each hospital.</i></p> <p><i>You have advise that contracts for sale of the assets have been executed, although you have declined our client's request for copies of those contracts and we therefore need to reserve our client's rights as he does not know what assets you have purported to sell or the entity that is selling the assets. Further we would refer to numerous previous conversations and letters with the bank and our letters to the bank's solicitors, Messrs Minter Elison more recently, in which our client has been requeting details of the assets and the method of their purchase or leasing. This includes the question of whether they are leased from the bank or owned by the company and secured to the bank. We assume that you have requested and obtained all the necessary information from the CBA and from Messrs Price Waterhouse accordingly.....</i></p> <p><i>There is also, we understand, equipment owned by suppliers who have not been paid.</i></p> <p><i>In those circumstances, it is clear that there are third party claims against the assets and we again repeat our request for the various documents so we can determine which assets you wish to sell to the hospitals and the status of those contracts and whether there are still substantial assets available</i></p>	Box 632 Marked 40	140

	<i>which could be purchased by FAI or one of the other interested investors to the benefit of the company.”</i>		
03/06/1996	<p><i>Letter Feez to MacDonnells Solicitors, Cairns</i></p> <p><i>(similar letters written to Crouch &amp; Lyndon and TressCocks and Maddox re EMS Pty Ltd</i></p> <p><i>“We understand that Mr Ian Hall of Coopers and Lybrand was appointed as receiver of EMS Pty Ltd on Thursday morning and the immediately signed a contract with your client for the purchase of certain assets of the Emergency and Accident Department at the hospital.</i></p> <p><i>We have asked to see a copy of the relevant contract but have been refused so we apologise if this letter is a bit vague.</i></p> <p><i>The receiver has written to Dr Cooke to ascertain who owns the equipment and we have advised the receiver that some of the equipment in the respective centres is leased from Wickham Finance Lit and other equipment is possibly claimed by suppliers.</i></p> <p><i>You should bear in mind with respect to the contract that your client has apparently entered into that the receiver may not own the necessary assets. We really cannot comment any further because we do not know what arrangements have been entered into and who are the contracting parties.</i></p> <p><i>We have been also asked by FAI insurances Limited to advise your client that they were negotiating with the company prior to the appointment of the receiver and have been in further negotiations on Friday and over the weekend continuing into today, as they have a strong interest in an involvement with the company and its assets and goodwill.</i></p> <p><i>FAI Insurances Limited also asked us to write to the receiver as they have had no response to their letter last week.</i></p>	<p>Box 632</p> <p>Marked 41</p>	141
06/06/1996	<i>Letter FAI (Adler) to David O’Brien, Minter Ellison</i>	Box 632	142

	<p>“...and we wish to advise that you have been misinformed regarding FAI’s attitude toward possible purchase of the assets of EMS and APMC...” ,,,,“If this is the case, it was noted that FAI would not be offered the assets and therefore could not pursue an acquisition as proposed in our letter of 31 May 1996 to Mr Ian Hall of Coopers and Lybrand.....”</p>	I have the original document	
07/06/1996	<p>Letter St Andrews (Vaughan Howell) CEO to Rodley Adler FAI</p> <p>“Firstly, St Andrews is NOT reluctant to proceed with the purchase of the assets of EMS and APMC. We anticipate settlement of the agreement which we have with the receiver, within the next 7 days.</p> <p>Secondly, subsequent to the appointment of the receiver over the assets of EMS and APMC, it is our strong perception that the doctors, who are currently working in our Emergency Department are only too happy to transfer their employment to St Andrews...”</p>	<p>Box 632</p> <p>Marked 42</p>	143
11/06/1996	<p>Letter Feez to LE Taylor, Chief Solicitor and General Counsel</p> <p><i>“We are instructed by RJC that he is in a position to secure funds of \$2.5M from a financier who is prepared to pay that amount to the bank in exchange for a transfer of all the bank’s securities and a full release of RJC and each entity in the Cooke Group.</i></p> <p><i>Although we understand that the receiver has entered into contracts with each of the hospitals, Dr Cooke is confident that if the bank will accept the above offer, he can convince the hospitals not to enforce the contracts.</i></p>	<p>Box 633</p> <p>Marked 12</p>	144
11/06/1996	<p>Letter Feez Ruthning to Russell Beer, MacDonnells Solicitors</p> <p>“As you are aware, Commonwealth Bank has purposed to appoint Mr Ian Hall as receiver to certain assets of the two companies..... Mr Hall has not been appointed in respect of other property of EMS and Asia Pacific.....”</p> <p>This is a similar letter sent to Trescox and Maddox</p>	I hold the paperwork	145
13/06/1996	<p>Letter LE Taylor, CBA to Feez Ruthning</p> <p><i>“You will no doubt recall from previous meetings with officers of the bank that the bank indicated, on a “without prejudice” basis it would be prepared to consider offers to settle based on receipt of the sum of \$3.5M.</i></p> <p><i>Despite having incurred significant legal and administrative costs the bank would still be prepared to consider such a settlement. However, as you are also aware, the receiver of the assets of EMS and APMC has entered into legally binding contracts with the 3 hospitals.</i></p>	<p>Box 632</p> <p>Marked 43</p>	146



	<i>It is our impression that the hospitals would wish to complete the contracts and do not wish to be involved with Dr Cooke or his group of companies”.</i>		
17/06/1996	Letter from Feez Ruthning to LE Taylor, Chief Solicitor and General Counsel, CBA “Dr Cooke instructs us he has negotiated with his finances to secure funds of \$M to pay that amount to the bank in exchange for a transfer of all the bank’s securities and a full release of Dr Cooke and each entity in the Cooke Group.....”	I have the paperwork	147
17/06/1996	<i>LE Taylor, CBA to Feez Ruthning</i> <i>“The bank has received correspondence from the hospitals to the effect that they will not entertain annulment of their respective contracts with the receiver or dealing with RJC.</i>  <i>The bank therefore cannot consider any offer involving assets which have been sold to the hospitals but would consider an offer in relation to the balance of the Cooke Group assets.”</i>	Box 632 Marked 44	148
18/06/1996	Feez Ruthning to LE Taylor, Chief Solicitor and General Counsel, CBA “Further to your letter yesterday, we confirm that Dr Cooke is intending to approach each of the hospitals himself to see what scope, if any, there is for the hospitals to reconsider their position.....”	I hold the paperwork	149
19/06/1996	LE Taylor, CBA to Feez Ruthning <i>“I refer to your facsimile letter of 18 June a copy of which was forwarded to my client.</i> <i>I am instructed to inform you that the offer contained in your letter is not acceptable to the bank</i>	Box 632 Marked 45	150
19/06/1996	LE Taylor, Chief Solicitor and General Counsel, CBA to Feez <i>“I refer to the telephone conversation of 19 June 1996 (Thatcher/Armstrong) and confirm my client’s instructions to inform you that the bank requires full repayment of its debt, and in the absence of such payment, intends to pursue the avenues available to it under its securities”</i>	Box 632 Marked 46 I have found a copy in box 633 hence I have taken the copy	151
19/06/1996	Valuation of medical plant and equipment in respect of EMS at Masonic (\$296,015), Calvary Hospital (\$265,710) and St Andrews Hospitals (\$355,140)	Box 636 Marked 7	152

	These are further broken down into various categories with an auction estimate and existing use value	I have taken the original document	
21/08/1996	Letter to Conomos from Shane Doyle in relation to matters they discussed in conference	Box 637 Marked 18	153
21/08/1996	Letter CBA (RJ Wawryniak) Senior Manager Credit Recovery to DW Knight <i>"At the time the bank's Proofs of Debts were lodged with you, no funds had been received by the bank from the sale of assets subject to its securities"</i> .	Box 637 Marked 14	154
30/05/1996	Appointment of Receiver to Assets of Emergency Medical Systems Pty Ltd	Box 637 Marked 3	155
5/09/1996	Letter from Simon Smith, Senior Economist AEC Group to Jim Conomos stating "Based upon information so far supplied to me by Dr Robert Cooke, I have estimated on a very preliminary basis, that at the expiry of the contracts held by the above companies with the host hospitals, a present value profit of some \$46 million will have been earned. In other words, under the receivership action by the Commonwealth Bank of Australia the above companies will effectively lose \$46 million.	Box 637 Marked 13	156
5/09/1996	Analysis of borrowings from Metway Bank totalling \$3,100,000.00 It involves the house at Ascot, Phillips Street, Stoney Creek	Box 637 Marked 16	157
17/10/1996	<b>RJC handwritten email to James Conomos</b> <i>"James, Ross Griffiths from CBA referred me to DOV Brenner in Melbourne and during the interval I was negotiating with Brenner, Griffiths was in regular contact with Brenner.</i>  <i>Dick Karreman of Karreman Brothers, Greg Kennedy of Shimer Pte Ltd, Peter Buzzard of Blue Quadrant, G Chapman of NQ Telecasters, Rodney Adler of FAI were all actively pursuing their due diligence on attempting to negotiate with Ross Griffiths at the time of the appointment of the receivers.</i>  <i>Ross Griffiths made it clear to all that he wanted "blood money" and would not proceed because Robert Cooke "may become a wealthy man" as a consequence of any settlement with the bank.</i>		158

	<p><i>Ross Griffiths by his actions and direct communications destroyed my reputation and credibility with the Catholic Diocese of Cairns and Governing Board of Calvary Hospital, The Governing Board of St Andrews War Memorial Hospital and indirectly the Presbyterian Church, The Board of the NSW Masonic Hospital and indirectly the NSW Masonic Executive, the ASOS – political wing of the Royal College of Surgeons and the AMA and the medical and hospital fraternity at large to the detriment of my standing and medical practice”.</i></p>		
07/12/1996	<p>Letter from St Andrews to Conomos “<i>What could you possibly have in common with a Hospital like St Andrews? .....Our Priority Emergency Centre (PEC) under the expert management of Dr Ian Brandon offers 24 hour immediate medical care in the case of an emergency, sudden illness or accident on the job.....</i>”</p> <p><i>“....looking forward to another successful year....patient occupancy rates of around 20% over the past three years.....new \$50 million hospital building fronting Wickham Terrace...”</i></p>	Box 637 Marked 4	159
17/10/1996	<p>RJC handwritten email to James Conomos</p> <p>“James, Ross Griffiths from CBA referred me to DOV Brenner in Melbourne and during the interval I was negotiating with Brenner Griffith was in regular contact with Brenner.</p> <p>Dick Karreman of Karreman Brothers, Greg Kennedy of Shimero Pte Ltd, Peter Buzzard of Blue Quadrant, G Chapman of NQ Telecasters, Rodney Adler of FAI were all actively pursuing their due diligence on attempting to negotiate with Ross Griffith at the time of the appointment of the receivers.</p> <p>Ross Griffiths made it clear to all that he wanted “blood money” and would not proceed because Robert Cooke “may become a wealthy man” as a consequence of any settlement with the bank.</p> <p>Ross Griffiths by his actions and direct communications destroyed my reputation and credibility with the Catholic Diocese of Cairns and Governing Board of Calvary Hospital, The Governing Board of St Andrews War Memorial Hospital and indirectly the Presbyterian Church, The Board of the NSW</p>	Box 637 Marked 5	160

	Masonic Hospital and indirectly the NSW Masonic Executive, the ASOS – political wing of the Royal College of Surgeons and the AMA and the medical and hospital fraternity at large to the detriment of my standing and medical practice.”		
Dec 96	Emergency Medical Systems – Sydney Cash flow statement 1 December 1995 to 31 December 1996 Total closing balance \$242,667 Total payments - \$1,397,917	I have the paperwork	161
1996 - 1999	Brief to Shane Doyle SC for mediation Contained the following Index to Brief: <ul style="list-style-type: none"> <li>• Writ of summons between CBA and Dr Cooke issued – 10 May 1996</li> <li>• Entry of appearance filed by Dr Cooke – 20 May 1996</li> <li>• Judgment summons filed by Commonwealth Bank of Australia against Dr Cooke - 21 June 1996</li> <li>• Affidavit of D.T. O'Brien filed - 21 June 1996</li> <li>• Affidavit of P.J. Treseder filed – 21 June 1996</li> <li>• Affidavit of RJ Cooke (together with 25 exhibits filed) – 9 July 1996</li> <li>• Affidavit of D.I. Nissen filed – 13 August 1996</li> <li>• Affidavit of David Stuart McLean – 13 August 1996</li> <li>• Affidavit of Paul Anthony Wright – 13 August 1996</li> <li>• Affidavit of Phillip Archibald Evenden – 13 August 1996</li> <li>• Affidavit of Hugh Grignion Finn – 13 August 1996</li> <li>• Affidavit of Peter John Cook – 13 August 1996</li> <li>• Affidavit of Ian Richard Hall – 13 August 1996</li> <li>• Affidavit of RJ Cooke sworn – 21 August 1996</li> <li>• Affidavit of RJ Cooke sworn – 06 September 1996</li> <li>• Affidavit of RJ Cooke sworn – 11 September 1996</li> <li>• Judgment of Justice Helman – 19 September 1996</li> <li>• Amended defence and counterclaim of defendant (Dr RJ Cooke) delivered – 10 March 1997</li> </ul>	Volume 4, Box 625 Marked 3  I also have a copy of the paperwork	162

	<ul style="list-style-type: none"> <li>• Summons on behalf of Commonwealth Bank of Australia to strike out counterclaim of Dr RJ Cooke – 9 April 1996</li> <li>• Judgment of Justice White – 22 April 1997</li> <li>• Reply and answer filed by Commonwealth Bank of Australia – 23 May 1997</li> <li>• Judgment of Justice Williams – 29 January 1999</li> <li>• Report prepared by AEC Group – 17 October 1996</li> <li>• Letter from Commonwealth Bank of Australia to Ian Richard Hall – 23 May 1996</li> <li>• Company search of Cooke Mantle Pty Ltd – 21 July 1996</li> <li>• Copy bank statements of Cooke Mantle Pty Ltd – 21 July 1996</li> <li>• Copy Equitable Mortgage of Cooke Mantle Pty Ltd – 31 April 1994</li> <li>• Copy demand by Commonwealth Bank – 10 April 1996</li> <li>• Writ of summons – 5 June 1996</li> <li>• Entry of appearance – 13 June 1996</li> <li>• Defence delivered – 25 June 1996</li> <li>• Request for further and better particulars by defendants – 25 June 1996</li> <li>• Further and better particulars – 19 July 1996</li> <li>• Request for further and better particulars by defendants – 22 July 1996</li> <li>• Amended Defence – 15 May 1997</li> <li>• Reply – 9 September 1997</li> <li>• Request for further and better particulars of the defence – 9 September 1997</li> <li>• Answers to further and better particulars – 10 November 1997</li> <li>• Notice of intention to proceed – 18 November 1999</li> </ul> <p>+ Brief to Shane Doyle SC</p>		
No. 3868 of 1996	<p>Supreme Court of Queensland – outline of submissions on behalf of the defendant</p> <p><i>“Dr Cooke denies that the loan was repayable on demand and is entitled to rectification of the overdraft agreement.....Dr Cooke also relief on defences arising out of the bank’s misleading and deceptive conduct, breach of an oral agreement whereby the Bank was to credit certain monies advanced by it to an associated entity of Dr Cooke’s EMS directly to Dr Cooke’s account and failure to take reasonable care in the exercise of a power of sale over certain security held by the bank”.</i></p>	Box 637 Marked 9	163

	<p><i>Nissen's response was that the bank was prepared to grant funding to a limit of \$5M but that as Nissen's approval limit was \$3M the formal approval would have to occur in stages. This is denied by Nissen.</i></p> <p><i>That the bank was conscious that the PECs were unlikely to produce any positive return until late 1996. According to Nissen, he would have actively discouraged such a proposal.</i></p> <p><i>That Dr Cooke could be assured that the bank would support the venture"</i></p>		
No. 3868 of 1996	<p>Supreme Court of Queensland – Affidavit of Edward William Robert Howard</p> <p>Regarding Howard and Cooke attending the offices of Donald Nissen at 11.00am on 23 November 1993 for the first time.</p> <p><i>"Dr Cooke said to Mr Nissen in my presence ....that he had a vision to establish PECs to provide a quick and high quality treatment ... that the EMS and Asia Pacific were needing funding from the bank on the basis of a refinance from Metway Bank together with further funding for the lease of plant and equipment at the PECs in the order of \$750,000 per PEC"...</i></p> <p>At the meeting Nissen said in response to Dr Cooke, in Howard's presence <i>"that the bank is always interested in examining proposals for the funding of medical ventures, that he was impressed by the vision explained by Dr Cooke and he was delighted to examine Dr Cooke's proposal for funding of the PECs in detail as soon as possible"</i></p>	Box 637 Marked 10	164
No. 3868 of 1996	Supreme Court – Affidavit of Peter Lewis	Box 637 Marked 11	165
No. 3868 of 1996	Supreme Court – Affidavit of Simon Charles Smith	Box 637 Marked 12	166
No. 3868 of 1996	Supreme Court – Affidavit of Robert John Cooke	Box 637 Marked 17	167

No. 3868 of 1996	Supreme Court – Affidavit of James Nicholas Conomos	Box 637 Marked 19	168
No. 3868 of 1996	Supreme Court – Affidavit of David Stuart McLean	Box 637 Marked 20	169
No. 3868 of 1996	Supreme Court – Outline of Submissions on behalf of the defendant  ‘...the bank claims against Dr Cooke the sum of \$2,747.521 alleged to be monies due and owing under an overdraft agreement entered into between the parties on 31 March 1994.....  Dr Coke denies that the loan was repayable on demand and is entitled to rectification of the overdraft agreement In accordance with the true agreement, the loan is not repayable until after the end of 1996”.....	I hold the paperwork	170
S4446/02	Supreme Court of Queensland Amended Statement Robert John Cooke, Commonwealth Bank of Australia and Ian Richard Hall	I hold the paperwork	171
S3868 of 1996	Supreme Court of Queensland Particulars of the Defendant’s Loss and Damages pursuant to the amended defence and counter-claim	I hold the paperwork	172
9/04/1997	Application filed on 9 April 1997. Application was heard by Justice White in the Supreme Court on 22 April 1997		173
?date	Regarding Nissen funding and 7/2/94 EMS obtained approval from Wickham Finance for \$1.6M	Box 637 Marked 1	174
22/04/1997	Transcript of Proceedings, Supreme Court of Queensland J. White No. 3868 of 1996	I hold the paperwork	175
May 1997	Supreme Court document – further and better particulars.	Box 637 Marked 2	176

	<p>c. "At <b>9.00pm on 29 May 1996</b>, John Pearson of the NSW Masonic Hospital was telephoned by Ross Griffiths of the plaintiff and told to be in his office at 9.00am on the next morning or the private emergency centre located the hospital would be shut down"</p> <p>d. "At 8.00am on 30 May 1996, John Pearson of the NSW Masonic Hospital, attended a meeting with Mr Ross Griffiths of the plaintiff and a representative for the receiver and was told that unless the NSW Masonic Hospital purchased the equipment located in the private emergency centre for the price stated by the plaintiff, that the plaintiff would close down the private emergency centre immediately."</p> <p>e. "John Pearson, on behalf of the NSW Masonic Hospital, agreed to sign an agreement submitted by the plaintiff to purchase the equipment from the receiver on 30 May 1996."</p> <p>These are further broken down into various categories with an auction estimate and existing use value.</p>		
18/11/1997	Letter Conomos to Tracey Moore Solicitor stating "However, at this stage, I am not able to ascertain with particularity the assets, apart from the Ascot property and the Wickham House shares which still remain under the control of the company, which are not subject to the receivership of the Commonwealth Bank".	Box 637 Marked 3	177
18/11/1997	Letter Conomos to Tracey Moore Solicitor stating "However, at this stage, I am not able to ascertain with particularity the assets, apart from the Ascot property and the Wickham House shares which still remain under the control of the company, which are not subject to the receivership of the Commonwealth Bank".	Box 637 Marked 3	178
07/08/1998	Supreme Court of Queensland Reasons for Judgement – Ambrose J.	I hold the paperwork	179
29/01/1999	Supreme Court of Queensland Reasons for Judgment – Williams J	I hold the paperwork	180
27/07/1999	Memorandum from James Conomos to RJC regarding Commonwealth Bank actions	I have the paperwork	181
17/11/1999	Supreme Court of Queensland CBA and RJC proposed orders/directions before Justice Chesterman dated 17 November 1999	Box 631 Marked 27	182
17/06/1999	Letter Minter Ellison to Conomos re Dr Cooke giving FAI an 40% interest in the outcome of a litigation case that he has against the CBA	Box 631	183



		Marked 31	
12/08/1999	Fax Conomos to Cooke/John Fitzgerald – re FAI and Alan Jackson	Box 631 Marked 29	184
16/11/1999	Conomos letter to Minter Ellison “.....My client will need further documents from your client, the receiver and from the hospitals, who now run their PECs sole by your client, before he can finalise any particulars of loss and damage.....In addition my client has been and continues to negotiate with the liquidator of EMS and APMC to acquire the companies’ cause of action against the bank for loss consequent upon the sale of the PECs.”	Box 631 Marked 30	185
18/11/1999	Supreme Court of Queensland – Notice of Intention to Proceed Dr Robert John Cooke and Cheryl Ann Mantle Cooke	Box 628	188
23/11/1998	Commonwealth Bank of Australia – Supreme Court, Brisbane (Williams J) QSC 13. 1996, No. 3868	I hold the paperwork	189
24/12/1999	Supreme Court of Queensland CBA and RJC Complaints about documents identified in DR Cooke’s list of Documents	Box 631 Marked 28	190
28/01/2000	Letter James Conomos to RJC “....I note that you have requested a letter from me to update you in relation to various legal matters. I provide the following overall perspective: FAI claims, Australian Tax Office claims, Commonwealth Bank claims, companies’ action against the bank, overall perspective. “.... In May 1996, the Commonwealth Bank appointed receivers to the two companies which operated the PECs. Prior to the appointment of receivers, it appears that the bank had already negotiated the sale of the PECs at a considerable under value (so it would seem) back to the relevant hospitals. Since May 1996, I confirm your instructions that the St Andrews Hospital PEC is operating profitably and since May 1996 has repaid a \$20M loan. Further, the other PECs are operating profitably and the whole concept is working throughout the country, albeit that you are not deriving any financial benefit as the creator of the concept.....” ***Lots of good stuff in this letter from James Conomos	I have a copy of the paperwork	191

2/02/2000	<p>Supreme Court of Queensland S3868 of 1996 – CBA and RJC (defendant)</p> <p><i>The particulars of the allegation are:</i></p> <ul style="list-style-type: none"> <li><i>a. The affected party failed to take any of any reasonable steps to ascertain whether there was a market for the purchase of EMS' undertaking as a going concern'</i></li> <li><i>b. The affected party failed to advertise the sale;</i></li> <li><i>c. The affected party failed to obtain any valuation of EMS' undertaking as a going concern;</i></li> <li><i>d. The affected party entered into the transaction on the day following the nominated party's appointment as a receiver of EMS' assets and undertaking:</i></li> <li><i>e. The affected party cancelled or caused to be cancelled each of the licence agreements relating to the PECs</i></li> </ul>	Box 641 Marked 3	192
10/02/2000	<p>Notice of Non-Party Disclosure to Ian Hall and to CBA</p> <p>"1. The requesting party alleges in his counterclaim against the affected party, that the affected party owed to the requesting party a duty under the general law or alternatively by virtue of s85(1) of the Property Law Act and by virtue of the requesting party being a guarantor of EMS' indebtedness to the affected party under a guarantee given by the requesting party.</p> <p>2. The requesting party alleges in his counterclaim that the nominated party (the receiver Mr Hall) at the direction and as agent of the bank, sold the equipment located in the PECs at the NSW Masonic Hospital, the Calvary Hospital and St Andrews Hospital.</p> <p>3. The requesting party alleges in his counterclaim against the affected party, that the affected party did not exercise reasonable care to ensure the sale of PECs was at market value and as a result the assets and undertakings of a company called Emergency Medical Systems Pty Ltd (EMS) were sold at substantially below market value.</p> <p>4. The requesting party alleges in his counterclaim against the affected party that as a result of the breach of duty, the requesting party suffered and will continue to suffer loss and damage."</p>	Box 631 Marked 25	193
10/02/2000	<p>Letter Conomos to Minter Ellison</p> <p>..."I should indicate that in view of the decision of Justice White made in early 1997 relating to my client's ability to maintain his counterclaim against your client, my client maintains the view (despite your client's view) that the documents in the possession of the receiver are documents <b>within the possession or under the control of your client</b> and therefore should be disclosed by your client".</p>	Box 631 Marked 26	194

14/02/2000	Supreme Court of Queensland CBA and RJC before Justice Chesterman dated 14 February 2000 S3868 of 1996		195
18/2/2000	Don Nissen, former State Manager of the Commonwealth Bank retires and goes to the board of Ariadne.	Box 631 Marked 18	196
23/02/2000	Letter Damian Clothier, Barrister to Conomos enclosing a modified form of Writ of Non-Party Disclosure which he believes should be served on Ian Hall	Box 631 Marked 24	197
24/02/2000	Supreme Court of Queensland Notice of Non-Party Disclosure filed in the Brisbane registry to Ian Richard Hall and Commonwealth Bank	I hold the paperwork	198
2000 sometime	<i>Statement ? to Shane Doyle commencing</i> <i>"Instructing solicitors act on behalf of Dr RJ Cooke in connection with certain proceedings commenced by the Commonwealth Bank against Dr Cooke.</i> <i>Essentially, there is one action and also one other action, the action concerning the house owned by Cooke Mantle Pty Ltd.</i> <i>The bank claims against Dr Cooke the sum of \$2,747,521 plus interest and costs."</i>	Box 631 Marked 2	199
6/3/2000	Letter Minter Ellison to Conomos re letter of 21 December 1999 setting out your client's complaints in relation to the Bank's disclosure"  <i>....As you are aware it is our client's contention that the receiver and not the bank sold the PECs to the hospitals. The bank is not obligated to disclose documents in the possession or under the control of the receiver relating to the sale of the PECs. This would include correspondence exchanged between Minter Ellison and the solicitors for the hospitals not copied to the bank and held on Minter Ellison's files"</i>	Box 631 Marked 19	200
30/05/2000	Fax James Conomos Lawyers to RJC  "....You will be happy to learn that the receiver's files (whilst not being complete) do contain letters from the bank to the receiver dated prior to the appointment of a receiver which confirm that the bank had sold the PECs prior to the appointment of the receiver. This vindicates the decision of Justice White to allow you to counterclaim against the bank even though the receiver is the agent for the company....."	I have a copy of the paperwork	201

	<p>In fact, the judgement of Justice White which your counterclaim against the bank remained in place, notes at page 5 “there is nothing in the material that asserts that Mr Hall exercises the power of sale as agent for EMS or as receiver”.</p> <p>On the basis of this fact, Shane Doyle argued that there was no basis for suggesting that the bank had not effected the sale itself. The judge accepted that argument.</p> <p>It is therefore arguable that the bank may have misled the court in seeking to strike out your counterclaim against it when it had documents which predated the appointment of the receiver by which the bank says that it had agreed to sell the PECs. These documents have only come to light now.</p> <p>What the documents do is set up your case for loss. It is then a matter of showing that the businesses had a particular worth which is equal to or exceeds the bank’s full indebtedness. That is a different issue to the report already prepared by the AEC....</p> <p>Paul Vincent will be engaged shortly on the basis that he will be asked to provide a value as at June 1996 of the PECs. That value will be considerably less than the \$100M referred to in the AEC report.....”</p>		
22/08/2000	<p>Letter RJC to Conomos asking <i>“The resulting bankruptcy would have come under the jurisdiction of Ross Griffith”. It would be interesting to know how much he was involved in the whole affair and particular the cover-up that occurred”</i></p> <p>Plus attached Courier Mail article written by Amanda Gearing dated 21 August 2000 entitled “MP probe told of bank fraud cover-up”. There was talk at the time (2000) of a Royal Commission needed into CBA’s practice</p>	Box 631 Marked 1	202

31/08/2000	Dr RJ Cooke statement of assets and liabilities as at 31 August 2000	I have a copy of the paperwork	203
11/09/2000	Letter James Conomos to Watson Mangioni Lawyer “.....I confirm that I will forward to you my client’s assets and liability position as soon as possible this week (probably by Wednesday). Upon receipt of same, I would ask that you obtain your client’s instructions as to what it proposes viz-a-viz its demand, having regard to that information....”	I have a copy of the paperwork	204
12/09/2000	Letter James Conomos to RJC “...Claims by Commonwealth Bank against You, claims by FAI, Steps necessary to complete the litigation against the bank, delay, summary	I have a copy of the paperwork	205
09/11/2000	Memo RJC to James Conomos “James, document from John Salmon – interesting and quite frightening – it seems to be somewhere along the pathway of the “system” covering pre-arranged sales, sales at a discount, mock tenders, undue influences, the role of corrupt brokers, disclosure of confidential information, manipulation of funds, terms of the contrat, review of banking practice, how the “system” works...”	I have a copy of the paperwork	206
15/11/2000	Letter RJC to Rodney Adler “.....I am disputing my liability to the bank on the basis that I have a setoff against any moneys the bank claims. My setoff stems from the claim which the companies have against the bank for the sale of the businesses at undervalue”.	Box 631 Marked 16	207
16/11/2000	Letter Conomos to Doyle re mediation being held in the Bar Common Room on 20 November 2000. Mr Mc Murdo is representing the commonwealth Bank with a Mr Watson having control of Dr Cooke’s file in Sydney as well as the bank’s internal lawyer, Matthew Farmer, Ian Hall receiver appointed by the bank, David O’Brien and Inge Kinderman from Minter Ellison, Dr Cooke and Mrs Cooke (separated since 1998 (haven’t spoken to each other for 2 years)  In terms of the mediation, RJC is not interested in any compromise which would involve him paying any money to the bank. As RJC sees it, he has a substantial claim for setoff against the bank to the extent that the bank appointed a receiver and sold the PECs before they were entitled to do so, or in any case, at a substantial loss.	Box 631 Marked 17	208

	.....From the bank's perspective, they will be looking to gain something from the proceedings and thus I expect they will at least want Dr Cooke's home if the matter is to settle"		
28/11/2000	<p>Letter RJC to Conomos + attachments re <i>"Following is a report on shadow ledgers resulting from a recent senate enquiry on this aspect of the Commonwealth Bank's activities to which John Solomon contributed"</i></p> <p>Senate enquiry dated 3 October 2000 – "There were four main allegations made against the Commonwealth Bank. These were that the bank firstly failed to inform rural customers that their debts had been written off, secondly used a shadow ledger system to improperly claim tax benefits, and thirdly wrote off loans as bad debts while still receiving interest payments to service those debts and fourthly refused to issue account statements to customers"</p>	Box 631 Marked 15	209
11/12/2000	<p>Letter James Conomos to Watson Mangioni</p> <p>"...Whilst mediation did not resolve the matter, it is useful to note that at the mediation, Mr Doyle SC (who represented Dr Cooke) indicated that the claim which Dr Cook's companies (EMS and APMC) – both in liquidation had against the bank was "a corker".</p> <p>.....If Dr Cooke succeeds against the bank itself, then one scenario is that his house will be unencumbered and that can be utilised to pay or assist to pay your client. However, it is intended that the moneys to pay your client will come from the claims of the companies against the bank.</p> <p>....Dr Cooke....believes that upon success of the actions, creditors will be paid in full and a significant return (more than enough to pay your client) will be available to him.</p>	I have a copy of the paperwork	210
4/12/2001 Offer made in 1996	Letter Minter Ellison to Conomos "at the mediation reference was made to a letter from FAI offering to pay \$3.5 million for a half interest in the PECs"	Box 631 Marked 14	211

8/01/2001	<p>Letter RJC to Conomos. RJC <i>“concurrs with Conomos response to Minter Ellison’s letter and draft directions of 4 December 2000. Obviously the CBA are keen to bring forward the hearing to frustrate the prospective issuance of Writs against them to ensure they cannot be jointed with the current action.”</i></p> <p><i>... that the listing of me as a director of EMS and APMC by the Credit Reference Bureau was incorrect. Once Des was appointed to administer the two companies, my directorship was extinguished. As a consequence I have suffered unnecessary loss of credit rating as a result of this listing.</i></p>	Box 631 Marked 13	212
February 2001	<p>Supreme Court of Queensland S3868 of 1996 Date of directions February 2001 Supervised Case List</p>	Box 631 Marked 11	213
9/2/2001	<p>Fax letter Minter Ellison to Conomos – draft directions.</p> <p>Minter Ellison state their view is your client (RJC) does not have standing to make a claim in respect of the head of damage outlined in page a (he has lost the three PECs), nor for the loss of opportunity to develop the PECs profitably Further in respect of the head of damage particularised in para b (he has lost the dividends which he could have generated as a shareholder of EMS), the loss of expected dividends (if any) following form EMS to Dr Cooke as a shareholder, is too remote for Dr Cooke to have standing to claim.</p>	Box 631 Marked 10	214
16/02/2001	<p>Synoptic overview of AEC report inter alia for submission to Conomos lawyers</p> <p>John Fitzgerald MSc(Finance) talked about the operating enterprises – PEC Cairns, Brisbane &amp; Sydney, Aeromedical Retrieval Services, Emergency Medical Assistance Services Japanese, And the actual agreements in place at the time of receivership. Ie.</p> <ul style="list-style-type: none"> <li>• PEC St Andrews – 20 years</li> <li>• Calvary PEC – 20 years</li> <li>• Masonic – 25 years</li> <li>• Gladstone Hospital – 25 years</li> </ul>	Box 631 Marked 9	215

	<ul style="list-style-type: none"> <li>Japanese Medical Services – 25 years</li> <li>Hyperbaric Services – 25 years</li> <li>Aeromedical Retrieval / Repatriation Services – 25 years</li> </ul>		
20/02/2001	<p>Letter Conomos to Minter Ellison setting out in general terms his client's loss comprising:</p> <ol style="list-style-type: none"> <li>Loss of PECs and loss of dividends.....</li> <li>Loss of business opportunities</li> <li>Loss associated with his practice as an orthopaedic surgeon</li> </ol>	<p>Box 631 Marked 4</p>	216
05/03/2001	<p>Letter from Minter Ellison to Justice Chesterman "following the unsuccessful mediation before Mr Pat Keane QC on 20 November 2000, the parties have completed some further disclosure and have discussed the future progress of the action"</p>	<p>Box 631 Marked 7</p>	217
08/03/2001	<p>Fax Conomos to RJC re FAI. "You are not able to defend the proceedings on the basis that the monies were advanced by FAI Deposit Co Pty Ltd...The only basis you might be able to defend the proceedings is on the basis that the loans were not repayable until the determination of the Supreme Court proceedings with the Commonwealth Bank...."</p>	<p>Box 631 Marked 9</p>	218
09/3/2001	<p>Letter Conomos to Watson Mangioni re "my client paying to your client the sum of \$550,000 within 28 days of acceptance of the offer", and that upon acceptance of the offer, your client discharge my client from any liability, the subject of the above proceedings or any alleged loan by FAI to my client"</p>	<p>Box 631 Marked 8</p>	219
27/03/2001	<p>Directions made by Justice Chesterman.</p> <p>In letter are the particulars of client's (Conomos client) loss or damage as alleged in para 36, 43 and 50 of the amended defence and counterclaim are as follows:</p> <p>See letter</p>	<p>Volume 4, Box 625 Marked 2 Conomos letter to Minter Ellison ** I have a copy</p>	220
02/4/2001	<p>Letter Conomos to RJC – re Supreme Court Writ No. S3868 of 1996</p> <p>And needing to know:</p> <p>That the FAI matter is under control;</p> <p>That his Conomos outstanding accounts are going to be paid in the short term;</p> <p>That RJC has the financial capacity to fund what needs to occur in the very near future, i.e. in April 2001.....</p>	<p>Box 631 Marked 6  I also hold a copy of this paperwork</p>	221



	Conomos doesn't want to be left holding the bag"		
03/4/2001	<p>Letter Conomos to Client Manager ANZ Private bank to assist in the process of assessing a facility request from RJC.</p> <p>"There is essentially one case as between the CBA and Cooke. That case claims the sum of approximately \$2.7 M..... The amount sought by the bank is approximately \$2.7M plus interest.</p> <p>If the bank succeeds in recovering the full amount of its claim and the full amount of interest, then in order to pay that debt Dr Cooke's home would be sold. I am instructed by Cooke that his home is worth approx. \$2.5.....</p> <p>RJC strongly believes he has a good basis to defence the case on essentially 3 grounds:</p> <ol style="list-style-type: none"> <li>a. <i>Misleading and deceptive conduct entitling him to rectification of the overdraft agreement to reflect his understanding of that document.</i></li> <li>b. <i>Breach of an oral agreement whereby the bank was to credit certain moneys advanced by it to RJC to another entity. The effect being that whilst the moneys were through Dr Cooke's overdraft account, they were not intended to be paid by Dr Cooke but by the related company.</i></li> <li>c. <i>Failure by recivers appointed by the bank to take reasonable care in the exercise of their power of sale in relation to the three priority emergency centres, Dr Cooke asserts that had the receivers excised their power of sale, taking reasonable care, there would be no debt whatsoever owing by Dr Cooke.</i></li> <li>d. <i>In relation to c, Dr Coke's case is against the bank. This may seem surprising, but there has already been a court ruling having regard to the bank's conduct in the case that the bank was involved in the sale and therefore that Dr Cooke does have a case to pursue the bank for his loss"</i></li> </ol>	Box 631 Marked 5	222
11/04/2001	Statement of claim filed for FAI General between FAI and Dr Robert John Cooke by Watson Mangioni, Lawyers	Box 631 Marked 12	223
02/05/2001	Letter James Conomos Lawyers to Minter Ellison	I have a copy of the paperwork	224

	<p>“....The particulars of the nature of my client’s loss or damage as alleged in paragraphs 36, 43 and 50 of the amended defence and counterclaim are as follows:</p> <p>Paragraph 36 – damages for misleading and deceptive conduct, loss of the 3 PECs including the loss of opportunity to develop the PECs profitably, the loss of opportunity to earn income from trading of the PECs and loss of opportunity to earn capital profits from the sale of the PECs or the sale of interests in them.....</p>		
17/05/2001	<p>Letter James Conomos to RJC</p> <p>“.....Prospects of success – Page 5 “there is some evidence, Her Honour says appearing at page 149 of the affidavit of Dr Cooke filed on 9 July 1996 and paragraph 18 of the affidavit of Mr Griffiths, a bank executive, filed 15 August 1996, which gives rise to an inference that the bank was directly the sale of the assets including before the appointment of Mr Hall, which sale was effected by Mr Hall. This, in my view, is sufficient to let the pleading stand.”</p> <p>....On page 5... I also advise that at the mediation held between Dr Cooke and the bank on 20 November 2000, Mr Doyle SC appeared for Dr Cooke. He expressed the view, both prior to the mediation and during the mediation, that the counterclaim of Dr Cooke or for that matter the claim by EMS would appear to be a strong case and should be commenced as soon as reasonably practicable. In all these circumstances, I remain of the view that Dr Cooke, or for that matter EMS, has a strong basis for asserting that the bank did not take all reasonable steps to sell the three PECs for market value.....”</p>	I have the paperwork	225
08/08/2001	<p>Letter from Commonwealth Bank (BR Watson, Manager Credit Management) enclosing Dr Cooke’s bank statement for the abovementioned exposure with the bank. He states “<i>Please note that statements for the Bills Matured Account will be posted periodically however, this does not imply that the account relates to a loan facility. The balance of the account remains due and payable in full immediately</i>”.</p>	Volume 5, Box 625 Marked 2	226
16/08/2001	<p>Letter from Minter Ellison to James Conomos re review of matter before Justice Chesterman on 25 July 2001 challenging RJC’s right to claim some parts of the loss and damage</p>	Volume 5, Box 625 Marked 3	227
20/08/2001	<p>Letter RJC to James Conomos</p> <p>“The enclosed letters and bank statements originating from the Group Credit and Market Risk Credit Management section of the CBA in Sydney were received on Friday 18 August 2001.</p>	I have a copy of the paperwork	228

	<p>Bills matured A/c</p> <p>1/7/2001 - \$1,063,273.69 DR</p> <p>01/08/2001 - \$1,075,419.77 DR</p>		
01/10/2001	<p>Letter from Minter Ellison to Conomos re bank statements (bank is suing RJC in respect of overdraft account, bank is suing for possession of Ascot property, shadow ledgers, delegated lending authority, bills of exchange, distributions by the receiver, chattel mortgage facility</p>	<p>Volume 6, Box 625</p> <p>Marked 1</p> <p>I also have a copy of this paperwork</p>	229
3/10/2001	<p>Letter from James Conomos to John Salmon + attached letter from Minter Ellison.</p> <p>Minter Ellison's letter covers bank statements, shadow ledgers (they request an explanation of "shadow ledger") Delegated Lending Authority, Bills of Exchange, Distributions by the Receiver, Chattel Mortgage Facility, Business Banking Handbook and Other Manuals and Specific Documents.</p> <p>They state that their client Donald Nissen, approved the original application etc</p>	<p>Volume 5, Box 625</p> <p>Marked 1</p>	230
31 May 2002	<p>Supreme Court of Queensland</p> <p>Affidavit</p> <p>RJC, CBA and Ian Hall</p>	<p>Box 630</p> <p>Marked 1</p>	231
	<p>Brief to Michelle Silvers stating that the bank claims against Dr Cooke the sum of \$2,747,521 plus interest and costs.</p> <p>Dr Cooke denies that the loan was repayable on demand and asserts that he is entitled to rectification of the overdraft agreement.</p> <p>RJC also relies on defences arising out of the bank's: misleading and deceptive conduct, breach of an oral agreement whereby the bank was to credit certain moneys, failure to take reasonable care in the exercise of a power of sale over certain security held by the bank"</p>	<p>Box 630</p> <p>Marked 2</p>	232
	<p>Valuer's brief – index. Pleadings and other court documents</p>	<p>Box 630</p>	233

		Marked 3	
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 1997 – total 7576	I hold the paperwork	234
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 1998 – total 8517	I hold the paperwork	235
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 1999 – total 9329	I hold the paperwork	236
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 2000 – total 10,793	I hold the paperwork	237
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 2001 – total 12,922	I hold the paperwork	238
15/07/2002	St Andrews War Memorial Financial Accrual Accounting Total Triage Patients for the Financial Year 2002 – total 13,322	I hold the paperwork	239
15/07/2002	St Andrews War Memorial Profit and Loss report 1995 – Actual \$142,583.97	I hold the paperwork	240
15/07/2002	St Andrews War Memorial Profit and Loss report 1996 – Actual \$205,388.41	I hold the paperwork	241
15/07/2002	St Andrews War Memorial Profit and Loss report 1997 – Actual \$105,771.69	I hold the paperwork	242
15/07/2002	St Andrews War Memorial Profit and Loss report 1998 – Actual \$107,409.00	I hold the paperwork	243
15/07/2002	St Andrews War Memorial Profit and Loss report 1999 – Actual \$137,540.52	I hold the paperwork	244

15/07/2002	St Andrews War Memorial Profit and Loss report 2000 – Actual \$138,828.65	I hold the paperwork	245
15/07/2002	St Andrews War Memorial Profit and Loss report 2001 – Actual \$174,951.33	I hold the paperwork	246
12/08/2002	Supreme Court – APMC, EMS and RJC	Volume 6, Box 625 Marked 1	247
23/08/1996 (attached to fax 12/9/02)	Letter from Commonwealth Bank to Ian Hall, Coopers & Lybrand re agreement with the hospitals for purchase. Masonic hospital – purchase price being 87.5% of total valuation, St Andrews – purchase price being 87.5% of total valuation	Volume 6, Box 625 Marked 2	248
Date unknown ?2001	Statement of James Conomos re his discussions with RJC. Re litigation lending to defend and prosecute the Commonwealth bank litigation	Box 628 Marked 5	249
06/09/2002	Profit and Loss of all PECs 1995 to 1996	Volume 6, Box 625 Marked 4	250
09/09/2002	Memorandum “Jim” to “Gary” re losses claimed by Dr Cooke arising from the representations made on behalf of the CBA. Eg. key representations attributed to Mr Nissen, loss, breach of contract and associated claims, expectation loss, House action, other problems with the defences and counterclaim, What is Dr Cooke’s loss	Volume 6, Box 625 Marked 3	251
18/11/2002	Supreme Court Robert John Cooke v Commonwealth Bank of Australia v Ian Richard Hall Assessment of Economic Loss	I hold the paperwork	252
22/11/2002	Brief to Counsel – supplementary report of Mr Paul Vincent Volume 2 Affidavit Paul Vincent	Box 628	253
28/11/2002	Supreme Court of Queensland before Justice Chesterman – Dr Cooke, CBA & Ian Hall - Order of the Court	Volume 7, Box 625 Marked 1	254

12/12/2002	Letter James Conomos to RJC <p>“...I have briefed Ms Margaret Hoch, Barrister at Law, to settle the amendments to the pleadings in your actions against the Commonwealth Bank. These amendments are to incorporate the calculations of loss and damage provided in Mr Vincent’s report.....”</p>	I have a copy of this paperwork	255
Folders	Brief to Counsel – Margaret Hoch, Barrister at Law	Box 626	256
Folders	Letters of concern from Conomos to Cooke	Box 626	257
Folders	Statement of James Conomos and Annexures – Volume 2 Re Wickham House, David Glen Slater	Box 628	258
13/01/2003	Letter RJC to Conomos – regarding his loss of referral base to his practice, loss of professional reputation, loss of financial services, loss of family support,  Ross Griffiths had meetings with the administration of the three hospitals, Calvary in Cairns, St Andrews in Brisbane and Masonic Hospital in Sydney over a 12 week period before the CBA foreclosed on EMS, APMC and me. During this period, I was made aware of the damaging comments that Griffiths was making against me to the various administrations – at a time when he did not have my permission as a client of the bank to discuss any matters relative to my companies or me. As a consequence, my reputation and professional standing with these organisations and others was irrecoverably damaged. When the bank finally foreclosed, the hospital, emergency and ancillary staffs of the various hospitals....	Bpx 628 Marked 4	259
28/01/2003	Letter James Conomos to Robert Cooke “Regarding your losses – damage to your practice and loss which has been described as expectation loss  .....concerns sale at under value. It seems clear on the facts available that both the bank and the receiver appear to have breached their duty by failing to have taken all reasonable steps to obtain market value – that is their statutory duty. A factor which may well affect this view is that despite your initial advice to the receiver that you did not have any of the company’s records, it now transpires that you do have all of the companies’ records....	Box 628 Marked 2	260

	<p>The fact that the bank did not negotiate with Karreman, Adler or Kennedy is symptomatic of the fact that each of these parties was offering an amount of money to compromise the bank's claims.</p> <p>The bank was simply interested in its money, not a compromise....Conomos states "I cannot immediately see how the bank's failure as suggested by you is relevant to the case as pleaded".</p> <p>"In this matter the court has given you a great deal of latitude. We have been given every opportunity to get things right. The last straw came with the directions made by the court on 28 November 2002".</p>		
28/01/2003	<p>Supreme Court of Queensland</p> <p>Particulars of loss and damage</p> <p>\$2,747,521 claimed by the plaintiff (CBA)</p> <p>...Para 50 of the amended defence and counterclaim, the defendant (RJC) claims loss and damage calculated as follows:</p> <p>a. The value of St Andrews PEC as a going concern as at 30 May 1996 was \$1.9M</p> <p>b. The assets and undertaking of EMS at the St Andrews PEC were sold on 30 May 1996 for an ultimate price of \$237,127.00 which was paid as follows:</p> <p>Cheque for \$236,124.00 dated 2 October 1996 delivered to the second defendant on that date</p> <p>Cheque for \$10,003.00 delivered to the second defendant on 25 October 1997</p> <p>The loss and damage suffered is the difference between these amounts - \$1,662,873.00</p>	<p>Box 628</p> <p>Marked 3</p>	261
	<p>Receivership documents and a few affidavits</p>	<p>Box 634</p>	262