

L. of 1977

IN THE PRIVY COUNCIL

29 OF 1974
No. of 197

ON APPEAL from the Supreme Court of New South Wales
Equity Division in Proceedings No. 707 of 1975

IN THE MATTER OF:-

CUMBERLAND HOLDINGS LIMITED

AND IN THE MATTER OF:-

THE COMPANIES ACT, 1961

TRANSCRIPT RECORD OF PROCEEDINGS

Volume VI

SOLICITORS FOR THE APPELLANT

Sinclairs,
5 Elizabeth Street,
SYDNEY

By their Agents:

Coward Chance,
Royex House,
Aldermanbury Square,
LONDON. EC2V 7LD

SOLICITORS FOR THE RESPONDENT

Allen Allen & Hemsley,
2 Castlereagh Street,
SYDNEY

By their Agents:

Slaughter & May,
35 Basinghall Street,
LONDON. EC2V 5DB

ON APPEAL from the Supreme Court of New South Wales
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IN THE MATTER OF:-

CUMBERLAND HOLDINGS LIMITED

AND IN THE MATTER OF:-

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INDEX OF REFERENCE

PART II

List of Original Exhibits included in the Transcript
Record of Proceedings

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
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VOLUME VI

2.	Petitioner	Photocopy letter Solicitors for the Company to Solicitors for the Petitioner of 15 May, 1975 together with photocopy letter Solicitors for Petitioner to Solicitors for Company of 30 May, 1975 together with photocopy letter Solicitors for Petitioner to Solicitors for Company of 13 October 1975, together with further particulars relied upon by the Petitioner in support of the allegations specified in the Petition	1460
22.	Petitioner	Photocopy letter Solicitors for Petitioner to FAI Insurances Limited of 13 December, 1974, together with photocopy letter Solicitors for Company to Solicitors for Petitioner of 20 December, 1974, together with photocopy letter Solicitors for Petitioner to Solicitors for Company of 24 December, 1974, together with photocopy letter Solicitors for Company to Solicitors for Petitioner of 3 January, 1975	1296

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
23.	Petitioner	Photocopy Minutes of Meeting of Board of Directors of Cumberland Holdings Limited of 18 December, 1974	1303
24.	Petitioner	Photocopy letter G.L.A. Donohoo to Cumberland Holdings Limited of 18 December, 1974 together with photocopy letter FAI Insurance Group to G.L.A. Donohoo of 18 December, 1974, together with letter G.L.A. Donohoo to Cumberland Holdings Limited of 24 December, 1974, together with photocopy letter Cumberland Holdings Limited to G.L.A. Donohoo of 3 January, 1975 together with photocopy copy letter G.L.A. Donohoo to Cumberland Holdings Limited of 8 January, 1975, together with photocopy letter Cumberland Holdings Limited to G.L.A. Donohoo of 14 January, 1975	1305
26.	Petitioner	Photocopy copy letter G.L.A. Donohoo to Cumberland Holdings Limited of 2 January, 1975	1324
28.	Petitioner	Photocopy letter FAI Insurance Group to G.L.A. Donohoo of 22 January, 1975	1335
29.	Petitioner	Photocopy Minutes of Meetings of Board of Directors of Cumberland Holdings Limited of 22 January, 1975 and 28 January, 1975	1337
30.	Petitioner	Photocopy letter FAI Insurance Group to G.L.A. Donohoo of 29 January, 1975 together with photocopy letter FAI Insurance Group to Cumberland Holdings Limited of 29 January, 1975	1364
31.	Petitioner	Photocopy letter FAI Insurance Group to the Ordinary Stockholders and the Preference Stockholders of Cumberland Holdings Limited of 29 January, 1975	1366
32.	Petitioner	Photocopy circular G.L.A. Donohoo to the Ordinary Stockholders and the Preference Stockholders of Cumberland Holdings Limited of 29 January, 1975	1368

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
33.	Petitioner	Photocopy Notice of Extraordinary General Meeting of Cumberland Holdings Limited of 30 January, 1975, together with photocopy Proxy Form Annexed	1370
34.	Petitioner	Photocopy Minutes of Meeting of Board of Directors of Cumberland Holdings Limited of 30 January, 1975	1372
35.	Petitioner	Photocopy letter FAI Insurance Group to the Ordinary Stockholders and Preference Stockholders of Cumberland Holdings Limited of 4 February, 1975	1374
36.	Petitioner	Photocopy letter G.L.A. Donohoo to L.J. Adler of 13 February, 1975, together with photocopy letter Cumberland Holdings Limited to G.L.A. Donohoo of 17 February, 1975	1378
37.	Petitioner	Photocopy circular G.L.A. Donohoo to the Ordinary Stockholders and the Preference Stockholders of Cumberland Holdings Limited of 19 February, 1975 together with annexure being photocopy of list of daily Stock Exchange quotations and photocopy of details of sales by L.J. Adler's interests, together with letter Washington H. Soul Pattinson & Co. Limited to the Ordinary Stockholders and the Preference Stockholders of Cumberland Holdings Limited of 28 February 1975, together with annexure being photocopy form of resolution and reply paid envelope	1382
38.	Petitioner	Photocopy of text of speech of G.L.A. Donohoo of 4 March, 1975	1415
39.	Petitioner	Minutes of Extraordinary General Meeting of Stockholders of Cumberland Holdings Limited of 4 March, 1975	1425
40.	Petitioner	Photocopy letter Cumberland Holdings Limited to the Sydney Stock Exchange Limited of 7 March, 1975	1427
42.	Petitioner	Extracts from Australian Associated Stock Exchange's Listing Manual - being Section 1A1, Section 3H(18) Section 5	1429

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
45.	Company	Letter Sydney Stock Exchange Limited to Solicitors for Petitioner of 10 October, 1975, together with annexure being list of Stock Exchange transactions in Cumberland Holdings Limited stock units, together with letter Sydney Stock Exchange Limited to Solicitors for Petitioner of 16 October, 1975, together with annexure being daily quotations of Stock Exchange for Cumberland Holdings Limited stock units	1439
48.	Company	Photocopy copy letter G.L.A. Donohoo to Cumberland Holdings Limited of 20 February, 1975 together with photocopy letter Solicitors for Company to G.L.A. Donohoo of 21 February, 1975, together with photocopy letter Solicitors for the Petitioner to the Solicitors for the Company of 24 February, 1975, together with annexure being photocopy letter Solicitors for the Petitioner to G.L.A. Donohoo of 24 February, 1975, together with photocopy copy letter Solicitors for the Company to the Solicitors for the Petitioner of 28 February, 1975, together with photocopy copy letter Solicitors for the Petitioner to Cumberland Holdings Limited of 28 February, 1975, together with photocopy letter Solicitors for the Company to the Solicitors for the Petitioner of 3 March, 1975, together with photocopy copy letter Solicitors for the Petitioner to the Solicitors for the Company of 4 March, 1975	1400
53.	Petitioner	Photocopy letter Solicitors for Petitioner to Solicitors for Company of 20 October, 1975	1451
66.	Petitioner	Photocopy bundle of 97 consents of shareholders of Cumberland Holdings Limited to Resolution to be carried at Meeting of Minority Stockholders on 10 March 1975, together with list of supporting minority stockholders (Note: One only consent as specimen included together with list)	1438

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
72.	Company	Photocopy letter Sydney Stock Exchange Limited to FAI Insurances Limited of 10 January, 1975, together with Subpoena issued by Solicitor for Petitioner dated 16 October, 1975 addressed to Secretary of Sydney Stock Exchange Limited	1325
73.	Company	Photocopy Minutes of Meeting of Board of Directors of FAI Insurances Limited of 10 January, 1975, together with annexure being photocopy letter J.R. Wilson to FAI Insurances Limited of 10 January 1975	1329
75.	Company	Photocopy Minutes of Meeting of Board of Directors of FAI Insurances Limited of 28 January 1975	1346
76.	Company	Minutes of Meeting of Board of Directors of Fire and All Risks Insurance Company Limited of 28 January, 1975 together with annexure being copy letter Fire and All Risks Insurance Company Limited to Cumberland Holdings Limited of 29 January 1975	1347
77.	Company	Notice of Annual General Meeting and Annual Reports and Accounts of Cumberland Holdings Limited for 1975	1349
81.	Petitioner	Letter Sydney Stock Exchange Limited to Solicitors for Petitioner of 30 October, 1975 together with letter Sydney Stock Exchange Limited to Solicitors for Company of 3 December, 1975, together with letter Sydney Stock Exchange Limited to Solicitors for Petitioner of 3 December, 1975	1454
82.	Petitioner	Typed notes of T.E. Atkinson	1458
85.	Company	Letter Gibbings & Webb to Solicitors for Company of 10 October, 1975	1450
87.	Petitioner	Photocopy return for six months ended 31 December, 1974 of Cumberland Holdings Limited, together with list of movements in share stock of Cumberland Holdings Limited from the 1 July, 1974 to October, 1975	1316

Exhibit Mark	By Whom Tendered	Nature of Exhibit	Page
88.	Petitioner	Facts agreed between Petitioner and the Company for sale price of FAI Insurances Limited shares on the Sydney Stock Exchange	1321
90.	Company	Paragraph 18 of Draft Statement of J.S. Millner and G.L.A. Donchoo on the dismissal of Washington H. Soul Pattinson & Co. Limited as suppliers of pharmaceuticals to Cumberland Holdings Limited	1322
92.	Petitioner	Information extracted from Cumberland Holdings Limited share transfer journal	1323
101.	Company	Photocopy Minutes of Meeting of Board of Directors of Cumberland Holdings Limited of 7 March 1975	1437

**ALLEN ALLEN & HEMSLEY
Solicitors and Notaries**

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LOXTON
DAVID WIGRAM ALLEN
CECIL SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMIESON
GRAHAM GEORGE COOKE
THOMAS WAYMOUTH MAGNEY
JOHN RODNEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FREDERICK PAUL LIND
RONALD ADRIAN FOWLES
EZEKIEL SOLOMON
JOHN JOSEPH McGLINCHEY
JOHN BERESFORD DORTER
WILLIAM MONTAGUE CHARLES GUMMOW
JORGEN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN McCANN
ROGER GAIRE BLUNT
REGINALD IAN BARRETT
JOHN ROBERT FELIX LEHANE
RICHARD FRANCIS EDMONDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT McKILLOP

Telephone: 2 0315
Postal Address:
Box 50, G.P.O.
SYDNEY, N.S.W., 2001
Cables: "Allens", Sydney
Telex: AA 21641
C.D.E.: Box 105

Our Reference: JBT:IRH 10
Your Reference:

13th December 1974

P. & O. Building
2 Castlereagh Street
SYDNEY

Mr. Lawrence J. Adler,
Chairman,
FAI Insurances Limited,
185 Macquarie Street,
SYDNEY, 2000

20

Dear Sir,

WASHINGTON H. SOUL PATTINSON & COMPANY LIMITED
RE: FAI INSURANCES LIMITED

We have instructions to act for Washington H. Soul
Pattinson & Company Limited which, as you are aware,
is an owner of ordinary and preference stock units in
the capital of Cumberland Holdings Limited.

Our client is the beneficial owner of 46,500 Ordinary
stock units in Cumberland which represents approximately
6.67% of the total issued ordinary stock units.
Our client's holding of preference stock units is substantial.

30

Fire and All Risks Insurance Company Limited, a

Exhibit 22 - Letter
from Allen, Allen &
Hemsley, 13.12.1974
1296.

subsidiary of FAI Insurances Limited, was of course the holder of 607,298 ordinary stock units in the capital of Cumberland on the 1st of November, 1974, which represented approximately 80% of the total issued ordinary stock units, and is the holder also of a substantial number of preference stock units.

Accordingly, Cumberland is a subsidiary of FAI and is controlled by it. Two of the three Directors of Cumberland, namely, yourself and Mr. J. Belfer, are Directors of FAI. 10

Senior Counsel has advised us that in his opinion our client would be entitled to have Cumberland wound up by the Equity Division of the Supreme Court on the ground set forth in Section 222(1)(f) of the Companies Act 1961 as amended in

2/.....

CONTINUATION SHEET

FROM

No. 2. Date 13/12/74

20

ALLEN ALLEN & HEMSLEY

TO Mr. Lawrence J. Adler

that you and Mr. Belfer as Directors of Cumberland have acted in the affairs of that Company in your own interests rather than in the interests of the members as a whole and in other ways which are unfair and unjust to other members.

The grounds relied upon in support of this contention are as follows:-

30

1. In FAI's offer to the stockholders of Cumberland dated 20th November 1974, you urged them to accept for each of their ordinary stock units in Cumberland one ordinary share in FAI although -

- (i) In July of this year, members of your family and family companies sold 35,950 ordinary stock units in Cumberland to Fire and All Risks at \$1.25 cash per stock unit, whereas the latest available market sale price of FAI ordinary shares at the time of the offer was approximately 55 cents. 40

- (ii) At the time of the offer, each Cumberland ordinary stock unit had a net tangible assets backing of approximately \$1.22, whereas each FAI ordinary share had a net tangible assets

Exhibit 22 - Letter
from Allen, Allen &

1297. Hemsley, 13.12.1974

Exhibit 22 - Letter
from Allen, Allen &
Hemsley, 13.12.1974

backing of only approximately 52 cents.

2. You and Mr. Belfer, as Directors of Cumberland, refused to have the takeover offer evaluated by a merchant banker or a firm of chartered accountants so that their report might be available for the guidance of stockholders in Cumberland in deciding whether they should or should not accept the offer. In view of the situation of conflict between the roles of yourself and Mr. Belfer as, on the one hand, directors of FAI and, on the other, directors of Cumberland, the refusal to allow minority stockholders of Cumberland an opportunity of making an assessment of the takeover offer in the light of an independent report as proposed by Mr. Donohoo was manifestly unjust and unfair.

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3/.....

CONTINUATION SHEET

FROM

No. 3. Date 13/12/74

20

ALLEN ALLEN & HEMSLEY

TO Mr. Lawrence J. Adler

3. You and Mr. Belfer, as Directors of Cumberland, failed to advise the stockholders of Cumberland that the Registrar of the Workers' Compensation Commission had instituted proceedings which were still current for the suspension or termination of FAI's licence to carry on its business as an insurer under the Workers' Compensation Act.

4. You and Mr. Belfer, as Directors of Cumberland, failed to resist the FAI takeover offer and to advise the stockholders of Cumberland that it was not in their interests to accept it.

30

5. The action by yourself and Mr. Belfer, in your capacities as Directors of FAI, in causing its subsidiary Fire and All Risks to increase its stockholding in Cumberland from 72% to 80% and thereby jeopardise its listing in the Sydney Stock Exchange was calculated to undermine the position of Cumberland's minority stockholders and place them in a position where they had no practical alternative but to accept the FAI offer for their stock units.

40

6. On 4th September, 1974, the Sydney Stock Exchange notified Cumberland in effect that the listing of its stock units would be in jeopardy unless not later than 3rd December the Exchange were notified that Fire and All Risks' holding in Cumberland had been reduced to 75% of Cumberland's issued capital. Both you and Mr. Belfer,

Exhibit 22 - Letter
from Allen, Allen &
Hemsley, 13.12.1974

1298.

Exhibit 22 - Letter
from Allen, Allen &
Hemsley, 13.12.1974

as directors of Cumberland, failed to take any steps to procure Fire and All Risks to reduce its holding of Cumberland stock units to the extent indicated by the Sydney Stock Exchange as being necessary. Such failure was both unjust and unfair to minority stockholders in Cumberland.

It would seem that the only way in which the unfairness and injustice which has been imposed upon the minority stockholders in Cumberland - by your action in creating a situation where there is the prospect of their stock units being delisted - can be relieved is by FAI making a cash offer to them. This offer would, of course, have to be at the same prices as were paid in July by Fire and All Risks for the stock units which it then

10

4/.....

CONTINUATION SHEET

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FROM

No.4. Date 13/12/74

ALLEN ALLEN & HEMSLEY

TO Mr. Lawrence J. Adler

purchased from members of your family and family companies. These prices were \$1.25 cash for ordinary stock units and 50 cents cash for preference stock units. If Fire and All Risks was prepared to buy stock units from your family at these prices, then it should be equally prepared to pay the same prices to other stockholders. In any event, \$1.25 for an ordinary stock unit represents approximately its present net tangible assets backing; and 50 cents for a preference stock unit would be an equally appropriate price.

30

Accordingly, we advise that, unless we have your written undertaking within fourteen days of the date of this letter, that FAI will within a further twenty-eight days make a cash offer to all Cumberland Stockholders for the whole of their holdings at the prices indicated in the previous paragraph, our client will, for the purpose of protecting its own and other minority stockholders' investments in Cumberland, commence proceedings by petition for the winding-up of the Company.

40

Yours faithfully,

Allen Allen & Hemsley

c.c. Mr. J. Belfer

Exhibit 22 - Letter
from Allen, Allen &
Hemsley, 13.12.1974

	SINCLAIRS	23.DEC.1974.
	Solicitors & Notaries	1R18/JBT
William James	117 Pitt Street	
Sinclair	Sydney, 2000	
Notary Public	C.D.E. 660	Telephone 233.3377
Commissioner for	WJS/MCU	Cables "Sinsol"
Affidavits		00151
David Bruce Armati, LL.B.		

20th December, 1974.

Messrs. Allen, Allen & Hemsley, 10
 Solicitors,
C.D.E. No. 105, SYDNEY.

Dear Sirs,

Re: L.J. Adler, J. Belfer and Washington H. Soul Pattinson & Company Limited.

We have been instructed by Messrs. Adler & Belfer to acknowledge receipt of your letter dated 13th December, 1974, reference JBT:IRH received by them on the 17th December, 1974.

Our clients deny that they or any other directors of Cumberland Holdings Limited have acted in the affairs of that company in their own interests rather than the interests of the members as a whole or in any other ways which are unfair and unjust to the members. We do not propose to traverse in detail the various supplementary allegations in your letter. 20

We are also instructed by FAI Insurances Limited and by Fire and All Risks Insurance Company Limited to inform you that neither proposes to make any cash offer for the purchase of your client's shares. 30

If your client proposes to present a petition for the winding up of Cumberland Holdings Limited we will obtain instructions to accept service of it.

Yours faithfully,

W.J. Sinclair
S I N C L A I R S

ALLEN ALLEN & HEMSLEY

SOLICITORS AND NOTARIES

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LUTIGN
DAVID HIGRAM ALLEN
C. L. L. SIMEY COLEMAN
IAN HAINY LANCE HANFEL
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMESON
GRAHAM GEORGE COOKE
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RICHARD FRANCIS EDMONDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT MURKILLUP

P. & O. BUILDING
2 CASTLEREAGH STREET
SYDNEY

TELEPHONE: 2 0315
POSTAL ADDRESS: BOX 50, G.P.O.
SYDNEY, N.S.W. 2001
CABLES: "ALLENS," SYDNEY
TELEX: AA 21641
C.D.E.: BOX 105

OUR REFERENCE
YOUR REFERENCE

IRH/JBT

24th December 1974

Messrs. Sinclairs,
Solicitors,
Box 660,
CITY DOCUMENT EXCHANGE

RECEIVED
-2 JAN 1975
Ans'd

Dear Sirs,

Re: Washington H. Soul Pattinson & Company
Limited and Cumberland Holdings
Limited, L.J. Adler and J. Belfer

10

We acknowledge receipt of your letter dated 20th
December 1974 reference WJS/MCU.

We note that your clients, Messrs. Adler and
Belfer, deny the allegations of unfairness in our letter
of the 13th December 1974 and that your clients FAI
Insurances Limited and Fire and All Risks Insurance
Company Limited do not propose to make any cash offer
for the purchase of our client's shares. With respect
to the refusal to make a cash offer please note that
in our abovementioned letter we sought such an offer
not only to our client but to all the stock unit holders
in Cumberland.

20

Yours faithfully,

Allen Allen & Hemsley.

c.c. F.E.A.

Exhibit 22 - Letter
from Allen Allen &
Hemsley, 24/12/1974
1301.

Sinclairs IRH/JBT
Solicitors & Notaries
117 Pitt Street
SYDNEY, 2000
Telephone 233.3377
Cables "Sinsol"
C.D.E.660

William James
Sinclair
Notary Public
Commissioner for
Affidavits

David Bruce Armati, LL.B.
WJS.ECD F.27
Your Ref. IRH/JBT

3 January 1975.
00160

10

Messrs. Allen Allen & Hemsley,
Solicitors,
C.D.E. Box 105,
SYDNEY.

Dear Sirs,

re L.J. ADLER AND J. BELFER.
CUMBERLAND HOLDINGS LIMITED and
WASHINGTON H. SOULD PATTINSON &
COMPANY LIMITED.

We acknowledge receipt of yours of the 24th ultimo
and note the contents. We have advised our clients
accordingly.

20

Yours truly,

Sinclairs

MINUTES OF A MEETING OF THE BOARD OF
DIRECTORS HELD ON THE 12TH FLOOR, FAI
INSURANCE BUILDING, 185 MACQUARIE STREET,
SYDNEY, ON WEDNESDAY, DECEMBER 18, 1974,
AT 9 A.M.

PRESENT: L.J. ADLER (Chairman)
J. BELFER
G.L.A. DONOHOO

1. Mr Donohoo requested that it be noted in the Minutes that he registers his protest that the Chairman refused to provide him with a copy of the Minutes of the previous meeting, prior to this meeting, particularly as they were available to him having been approved by the company's solicitors, Messrs. Norton Smith & Co. The Chairman stated that he was merely following the usual practice which had been followed for several years past without objection from Mr. Donohoo or other directors. 10

2. The Chairman tabled Minutes of meeting held on November 15, 1974. 20

The Chairman commented that these Minutes have been approved by Messrs. Norton Smith & Co., solicitors. After extensive time consuming perusal of the Minutes, it was resolved that a copy of the Minutes be taken and given to Mr Donohoo.

3. Mr Donohoo moved that a copy of the Minutes of each Directors meeting be forwarded to each Director at least seven days before the holding of the next meeting, or in the event of the next meeting being held within seven days or less after the next preceding meeting, at least one day before the following meeting. 30

Motion failed for want of a seconder.

4. Mr Donohoo drew the attention of the meeting to Section 148 of the Companies Act 1961 as amended, in that Minutes of meetings of Directors have not been entered in the books required to be kept for that purpose. This being 40

JB LA

the case Officers of the company are in default, which is an offence under the said Act, and steps should be taken to remedy the situation forthwith.

The Chairman stated that as Mr. Donohoo was aware, the usual practice was to record only the Minutes of meetings when resolutions have been made.

5. Referring to the Minutes of the Meeting of August 14, 1974, Mr. Donohoo stated that he had voted against the recommendation that the final dividend for 1974 be increased from 5% to 6%. Neither Mr. Belfer nor the Chairman was able to confirm this statement, however they both agree that Mr. Donohoo spoke against it. 10

6. Mr. Donohoo moved that in future, the Minute book used for recording proceedings of meetings of this company, be a bound book with pre-numbered pages.

Motion failed for want of a seconder.

7. The results of November were tabled and analysed. 20

Signed as a correct record.

L.J. Adler
.....
CHAIRMAN

JB GD

Telephone: 241.3871

17th Floor 00143
1 York Street
Sydney 2000

18th December, 1974.

The Chairman of Directors,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY. 2000

Dear Sir,

As stated at to-day's meeting of directors, I wish to place on record the following: 10

1. I confirm that you have now reversed your earlier decision not to let me have a copy of the letter received from Norton Smith & Co, solicitors to the Company, together with a copy of their draft of the minutes of the meeting of directors held on 15th November, 1974.

Despite your statement to the contrary, I firmly adhere to my statement that it was agreed at that board meeting that after Norton Smith & Co. had vetted the initial draft a copy of their draft of the minutes would be forwarded to you for forwarding to each director and to Mr. Sinclair. 20

2. I had not sighted the minutes of the meeting of directors held on 14th August, 1974 until they were handed to me separately by Mr. Skane at FAI's St. Leonard's office on 11th December, 1974.

It has been Cumberland's practice that when minutes are tabled at a board meeting for confirmation, such minutes are initialled by Mr. Belfer and me as directors. 30

The minutes for the meeting of 14th August, 1974 have not been initialled by Mr. Belfer or by me.

3. I request that it be recorded in the minutes that I voted against the final dividend being increased from 5% to 6%.

Although you stated you have no recollection of my voting against the increase in dividend, you agree I spoke against such an increase.

It is hardly likely I would speak against such a move and then vote for it. 40

4. I note your statement that no minutes of a meeting

Exhibit 24 - Letter
from Mr. Donohoo to
1305. Cumberland Holdings

Exhibit 24 - Letter
from Mr. Donohoo to
Cumberland Holdings

of directors are prepared unless a resolution is
passed by the Directors.

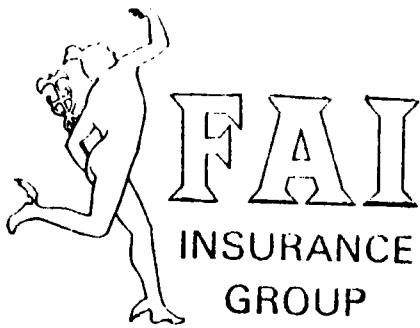
Would you please advise me the number of our
Cumberland ordinary stockholders and preference stock-
holders who have accepted the FAI take-over offer and
also the number and class of stockholders who accepted
the offer and subsequently withdrew their acceptance
pursuant to FAI's letter to stockholders dated 6th
December, 1974.

10

Yours faithfully,

G. Donohoo

c.c. Mr. John Belfer.
Messrs. Norton Smith & Co.



TELEGRAPHIC ADDRESS: "FAINSUR"
0014 FAINSUR 21755

FAI INSURANCES LIMITED
AUSTRALIAN AND INTERNATIONAL INSURANCES LTD.
FIRE AND ALL RISKS INSURANCE COMPANY LIMITED
CAR OWNERS' MUTUAL INSURANCE COMPANY LIMITED
FALKIRK ASSURANCE SOCIETY LIMITED

HEAD OFFICE: FAI INSURANCE BUILDING, 185 MACQUARIE STREET, SYDNEY 2000 • TELEPHONE 221 1155

December 18, 1974.

Mr. Glen L.A. Donohoo
Deposit and Investment Co. Ltd.
17th Floor
1 York Street,
Sydney, N.S.W., 2000

Dear Mr Donohoo,

I acknowledge receipt of your letter of even date, and
I would like to comment as follows:-

10

1. As arranged I enclose copy of letters received from Messrs. Norton Smith & Co. on the 25th November and the 18th December, 1974.

I have also taken the opportunity to enquire from David Walker whether any such Agreement as referred to by you was made, and whether Mr. Walker had any recollection thereof. Please note that Mr. Walker had no such recollection.

2. No doubt you will recall that Minutes are frequently initialled covering several meetings.
3. As stated at today's meeting, neither I nor Mr Belfer recall that you had voted against the final dividend being increased from 5% to 6%. Therefore, I will record in the Minutes of today's meeting your statement, with the proviso that neither Mr Belfer nor I can confirm it. Indeed, I would like to record now my own recollection that the matter of increased dividends

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Exhibit 24 - Letter
from Mr. Adler to
Mr. Donohoo

1307.

Exhibit 24 - Letter
from Mr. Adler to
Mr. Donohoo

-2- 00145

was by unanimous decision of the Board.

4. Please note that my statement was of a general nature.
5. Your request to obtain information concerning acceptances of FAI's offer will be referred to The FAI Board.

10

Yours sincerely,

L. Adler
Lawrence J. Adler
CHAIRMAN

Telephone: 241.3871

17th Floor
1 York Street
Sydney 2000

24 December, 1974.

The Chairman of Directors,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY. 2000

Dear Mr. Adler,

10

I acknowledge receipt of your letter of 18 instant and would comment as follows:

Item 1. Following receipt of your letter, I also spoke to Mr. Walker who stated that whilst he admits he has no recollection of such an agreement, he is certainly not prepared to say that there was no such agreement. Once again, I refer you to Norton Smith's letter to you dated 25 November, 1974 which seems to imply that such an agreement did exist.

20

Item 2. This does sometimes occur.

Item 3. My notes taken at the meeting of directors held on 14 August, 1974 show clearly I demurred in the resolution to increase the dividend from 5% to 6%.

Item 4. Your cryptic response to point 4 in my letter to you is incomprehensible. Would you please elaborate.

Item 5. I note you persist in refusing information to me which is necessary in carrying out my duties as a director of the Company.

30

If you maintain your refusal, I shall seek the information from other quarters, but will do so under protest.

Yours faithfully,

G. Donohoo
Glen L.A. Donohoo

c.c. Mr. John Belfer
Norton Smith & Co.

1309. Exhibit 24 - Letter
to Mr. Adler,
24 December, 1974.

00162

CUMBERLAND HOLDINGS LIMITED

XXXXXXXXXXXXXXXXXXXX . Telephone . 51.8242
FAI Insurance Building, 185 Macquarie Street,
Sydney, N.S.W., 2000

January 3, 1975.

Mr Glen L.A. Donohoo
17th Floor
1 York Street
Sydney, 2000

10

Dear Mr Donohoo,

Thank you for your letter of December 24, 1974.

Item 1

Our recent exchanges of correspondence seem to have established quite clearly that there has been a genuine misunderstanding here. Can we leave it at that?

Item 3

We will take official note of your comments at the next Board meeting.

Item 4

20

I am sorry if my previous comments appeared cryptic. What I meant to indicate was that as a general rule minutes were only prepared when resolutions had been passed, though I would think it likely that there have been some exceptions to this rule over the course of the years. I have been advised that, having regard to the provisions of Section 148 of the Companies Act, this general rule on which we have been working over the years is not strictly correct and that if a formal board meeting is held some form of minutes should be prepared - even if only to record

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A member of the FAI Insurance Group

Exhibit 24 - Letter
to Mr. Donohoo,
3 January, 1975.

-2- 00163

that nothing happened at the meeting! Obviously that sort of minute could fulfil no useful purpose and I would therefore suggest that if in future we come to the date when a "formal" board meeting would otherwise be convened, but we find that there are no matters requiring the passing of formal resolutions or otherwise requiring specific minuting, we should agree not have a formal board meeting, but simply meet together informally for the purpose of discussing any matters of common interest. 10

Item 5

The advice that I have received, is that in view of FAI's withdrawal of the take-over bid, Cumberland Holdings Limited is not entitled to demand from FAI the information for which you have asked. I am further advised that since that is the case, there could be no duties as a director of Cumberland Holdings Limited which FAI could be preventing you from fulfilling by declining to supply you with the information in question. If that is so, then I myself as Chairman of Cumberland must be equally free of fault in the matter, and I resent very much your unfounded imputation to the contrary. Entirely without being under any legal obligation to do so, however I can inform you that FAI has not acquired and will not be acquiring any stock units at all from any stockholders in Cumberland Holdings Limited, in consequence of acceptances received pursuant to the take-over bid. 20 30

I note that you have sent a copy of your letter under reply to Messrs. Norton Smith & Co. Whilst I naturally have no reason to object to their being informed of its contents, I think I should make it plain that Cumberland cannot be expected to bear any additional legal expenses which may arise in consequence of Messrs. Norton Smith & Co. being brought into the matter again at this stage. Their instructions from the company were purely and simply to advise the Board in connection with the Part A and Part B statements, and they have already carried out those instructions and rendered a very substantial bill to the company in respect of them. They are no longer being instructed by the company, and any further bills from them must be for the account of the person seeking their advice. 40

Yours faithfully,
L. Adler
LAWRENCE J. ADLER
Chairman

50

Exhibit 24 - Letter
to Mr. Donohoo,
1311. 3 January, 1975.

8 January, 1975.

The Chairman of Directors,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY. 2000

Dear Mr. Adler,

Thank you for your letter of 3 inst.

Item 1 - I think referring to this matter as "a genuine misunderstanding" is an over simplification, but let us leave it at that. 10

Item 3 - Your offer to "take official note of" my comments, although appreciated, is not really satisfactory, I again request that the minutes of the meeting of 14 August, 1974, record the fact that I voted against the resolution to increase the company's dividend.

Item 4 - I am advised that the law requires minutes of meetings of directors, "informal" or otherwise, to be entered in books kept for that purpose. I agree that the practice of Cumberland has not, in the past, conformed to that requirement. I would suggest that henceforth minutes of all meetings of directors of Cumberland be kept. Such minutes should record all questions discussed and the views expressed on them by the directors, irrespective of whether such discussions result in the adoption of formal resolutions. Where there is nothing discussed at a meeting I see no reason why the holding of the meeting and the fact that nothing was discussed thereat should not be recorded. Therefore, I am unable to accept your proposal that henceforth meetings of the Board at which no formal resolutions are adopted should be treated as "informal" meetings and that no records be kept of them. This proposal seems to me to be not only contrary to the requirements of the Companies Act, involving as it does a potential offence thereunder, but also likely to perpetuate the present unacceptable situation whereby inadequate or inaccurate records of Board Meetings are being kept. 20
30
40

Item 5 - Thank you for the information that FAI has not acquired any stock units pursuant to the take-over offer.

I am surprised you declined to give me this

Exhibit 24 - Letter
to Mr. Adler,

Exhibit 24 - Letter
to Mr. Adler,
8 January, 1975

information earlier. After all I could eventually establish the number of acceptors, if any, by reference to our stock transfer journals.

I am deeply concerned at your statement that Norton Smith & Co. "are no longer being instructed by the Company".

I cannot accept your contention that "their instructions from the company were purely and simply to advise the Board in connection with the Part A and Part B Statement".

10

-2-

00170

Initially, of course, that was the extent of the company's instructions to Norton Smith & Co. Subsequently however, as you will recall, it was agreed by the Board at its meeting of 15 November, 1974, that Norton Smith & Co. be instructed to review and approve a draft of the minutes of that meeting. To date this matter has not yet been satisfactorily resolved. I have received a message from Mr. Walker that he agrees with my proposed amendments to the draft minutes of that meeting.

20

As I have indicated in Item 4 above, I am concerned that inaccuracies in Board minutes should not be permitted to occur, a concern that I am sure you share. I am confident therefore that you will agree that Mr. Walker should be present at the Board meeting at which the draft minutes of the 15 November, meeting are considered for approval and that the company avail itself of his impartial advice should there be any disagreement concerning the contents of the minutes. Naturally, the company would bear any legal fees involved in the fulfillment by Mr. Walker of his instructions from the Board in this regard.

30

If you disagree with the foregoing I confess I would feel tempted to conclude therefrom that you are intent upon using your majority on the Board to have the minutes adopted in their present form in spite of the inaccuracies therein, and that to this end your refusal to allow the company to continue to retain the services of Mr. Walker until this question is resolved is calculated to

40

Exhibit 24 - Letter
to Mr. Adler,
8 January, 1975

1313.

Exhibit 24 - Letter
to Mr. Adler,
8 January, 1975

prevent Mr. Walker from giving the next meeting of
the Board impartial advice as to what occurred at
the Board meeting of 15 November,

Yours faithfully,

G.D.

Glen L.A. Donohoo.

c.c. Mr. John Belfer
Norton Smith & Co.

10

1314. Exhibit 24 - Letter
to Mr. Adler,
8 January, 1975

CUMBERLAND HOLDINGS LIMITED 00171
11 Johnston St., Annandale 2038 . Telephone 51.8242
FAI Insurance Group, FAI Building, 185 Macquarie
Street, Sydney. 2000

LJA/WV

14th January, 1975.

Mr Glen L.A. Donohoo,
17th Floor,
1 York Street,
SYDNEY. N.S.W. 2000

Dear Mr Donohoo:

10

I have received your letter of 8th January and will place it on the agenda for consideration at our next Board meeting. I will refrain from commenting further on it in the meantime because quite frankly I feel that the present correspondence is not making any contribution at all to the promotion of the profitability and progress of the company and any unnecessary prolongation of it can only have the opposite effect.

I also confirm that our regular monthly Board meeting has been postponed, at your request, from the 15th instant, and will now take place at 9 a.m. on the 22nd instant.

20

Yours faithfully,

L. Adler
L.J. ADLER,
Chairman.

A member of the FAI Insurance Group

CUMBERLAND HOLDINGS LIMITED - RETURN FOR SIX MONTHS ENDED DEC. 31st, 1974

	<u>JULY.</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>ADJ.</u>	<u>TOTAL.</u>
(1) ANNANDALE	1,901	5,153	7,413	4,935	3,961	5,053	-1,178	27,238
(2) ARMON	856	3,634	4,645	3,313	3,321	3,703	-1,098	18,374
(3) BELGRAVE	(-270)	1,864	2,641	3,132	3,827	4,893	-456	15,631
(4) CANTERBURY	2,058	5,345	6,484	4,637	3,035	5,105	-1,221	25,443
(5) CREST	1,809	1,825	3,343	2,326	599	3,425	-892	12,435
(6) ELLSMORE	1,513	2,812	3,842	2,593	416	3,190	+420	14,786
(7) STANMORE	736	3,285	4,508	2,557	3,810	3,862	-1,305	17,453
(8) BUENA VISTA	(-894)	1,703	4,092	364	4,119	4,369	-262	13,491
CUMBERLAND	1,525	1,975	2,030	2,083	1,973	2,003	-	11,589
	<u>9,234</u>	<u>27,596</u>	<u>38,998</u>	<u>25,940</u>	<u>25,061</u>	<u>35,603</u>	<u>-5,992</u>	<u>156,440</u>
	8.63	25.81	38.22	24.50	22.60	32.11		23.77
(9) BELLEVUE	<u>1,636</u>	<u>4,240</u>	<u>(-3,044)</u>	<u>(1,882-)</u>	<u>5,280</u>	<u>1,577</u>	<u>-1,746</u>	<u>6,061</u>
TOTAL	10,870	31,836	35,954	24,058	30,341	37,180	-7,738	162,501

1316.

Exhibit 87
Return to
31.12.1974

Handwritten notes:

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- 2nd 1/2*
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- 4th 1/2*
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- 96th 1/2*
- 97th 1/2*
- 98th 1/2*
- 99th 1/2*
- 100th 1/2*

<u>DATE</u>	<u>JULY 1974</u>		<u>LAST SALE</u>	
	<u>BUYER</u>	<u>SELLER</u>		
1. 7.74	1.25	1.50		
2. 7.74	1.25	1.50	1.25	
3. 7.74	1.25	1.50	1.25	
4. 7.74	1.25	1.50		
5. 7.74	1.25	1.50		
8. 7.74	1.25	1.50		
9. 7.74	1.25	1.50		
10. 7.74	1.25	1.50		10
11. 7.74	1.25	1.50	1.25	
12. 7.74	1.25	-	1.25	
15. 7.74	1.25	-		
16. 7.74	1.23	1.28	1.25	
17. 7.74	1.23	1.28		
18. 7.74	-	1.28		
19. 7.74	-	1.20		
22. 7.74	-	1.20		
23. 7.74	-	1.20		
24. 7.74	-	1.20		20
25. 7.74	-	1.20		
26. 7.74	-	1.20		
29. 7.74	-	1.20		
30. 7.74	-	1.20		
31. 7.74	0.50	1.20		

<u>DATE</u>	<u>AUGUST 1974</u>		<u>LAST SALE</u>	
	<u>BUYER</u>	<u>SELLER</u>		
1. 8.74	50	1.20		
2. 8.74	50	1.20		
6. 8.74	50	1.20		30
7. 8.74	-	0.70		
8. 8.74	-	0.70		
9. 8.74	-	0.70		
12. 8.74	-	0.70		
13. 8.74	-	0.70		
14. 8.74	-	0.70		
15. 8.74	-	1.00	70	
16. 8.74	-	-		
19. 8.74	50	1.00		
20. 8.74	50	1.00		40
21. 8.74	50	1.00		
22. 8.74	50	1.00		
23. 8.74	50	1.00		
26. 8.74	50	1.00		
27. 8.74	50	1.00		
28. 8.74	50	1.00		
29. 8.74	50	1.00		
30. 8.74	50	1.00		

Exhibit 87 - List of
Movements in Shares

SEPTEMBER 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
2. 9.74	50	1.00	
3. 9.74	50	1.00	
4. 9.74	50	1.00	
5. 9.74	50	1.00	
6. 9.74	50	0.70	
9. 9.74	-	0.65	10
10. 9.74	-	0.65	
11. 9.74	-	0.65	
12. 9.74	-	0.60	
13. 9.74	-	0.60	
16. 9.74	-	0.60	
17. 9.74	-	0.60	
18. 9.74	-	0.60	
19. 9.74	-	0.60	
20. 9.74	-	0.60	
23. 9.74	-	0.60	20
24. 9.74	-	0.60	
25. 9.74	-	0.60	
26. 9.74	-	0.60	
27. 9.74	-	0.60	
30. 9.74	-	0.60	

OCTOBER 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1.10.74	-	-	
2.10.74	-	51	
3.10.74	-	51	30
4.10.74	-	51	
8.10.74/31.10.74	NO MARKET		

NOVEMBER 1974

NO MARKET

DECEMBER 1974

NO MARKET

JANUARY 1975

NO MARKET

Exhibit 87 - List of
Movements in Shares

FEBRUARY 1975

N O M A R K E T

MARCH 1975

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
3. 3.75	-	-	
4. 3.75	-	1.00	
5. 3.75	-	1.00	
6. 3.75	-	1.00	
7. 3.75/28. 3.75	N O	M A R K E T	10

APRIL 1975

N O M A R K E T

MAY 1975

N O M A R K E T

JUNE 1975

N O M A R K E T

JULY 1975

N O M A R K E T

AUGUST 1975

20

N O M A R K E T

Exhibit 87 - List of
Movements in Shares

SEPTEMBER 1975

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1. 9.75	-	-	
2. 9.75	-	-	
3. 9.75	-	-	
4. 9.75	40	-	
5. 9.75	40	-	
8. 9.75	40	-	10
9. 9.75	40	-	
10. 9.75	40	-	
11. 9.75	40	-	
12. 9.75	40	-	
15. 9.75	40	-	
16. 9.75	40	-	
17. 9.75	40	-	
18. 9.75	40	-	
19. 9.75	40	-	
22. 9.75	40	-	20
23. 9.75	40	-	
24. 9.75	40	-	
25. 9.75	40	-	
26. 9.75	40	-	
29. 9.75	40	-	
30. 9.75	40	-	

OCTOBER 1975

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1.10.75	40	-	
2.10.75	40	-	30
3.10.75	40	-	
7.10.75	40	-	
8.10.75	40	-	
9.10.75	40	-	

FAI INSURANCES LIMITED

THE PETITIONER AND THE COMPANY AGREE that the monthly last sale prices and the monthly turnovers of FAI Insurances Limited shares on the Sydney Stock Exchange during the period December 1973 to August 1975 inclusive was as follows:-

	<u>Month</u>	<u>Last Sale Price</u>	<u>Turnover</u>	
1973	Dec.	\$1.70	2,600	
1974	Jan.	1.70	5,600	
	Feb.	1.60	5,900	10
	March	1.58	3,120	
	April	1.14	3,500	
	May	-	-	
	June	0.95	760	
	July	-	-	
	Aug.	0.70	1,083	
	Sept.	0.60	3,500	
	Oct.	0.57	1,381	
	Nov.	0.55	11,367	
	Dec.	0.50	73,528	20
1975	Jan.	0.50	28,500	
	Feb.	0.51	200	
	March	0.45	2,436	
	April	0.35	3,541	
	May	-	-	
	June	0.30	6,342	
	July	0.25	11,075	
	Aug.	0.25	4,110	

Exhibit 88 - Stock
Exchange Quotes,
FAI Shares

18. We are convinced that Adler's decision to terminate the relationship between Souls and Cumberland, coming as it did exactly at the same time as Adler's family interests disposed of their Cumberland shareholdings

to FAI, was part of a scheme to acquire the remaining 20% in Cumberland not already held by FAI. It is our belief that Adler had decided that our stockholdings in Cumberland were more valuable to FAI than was our continued holding of the stock units and our retention as a supplier to Cumberland. We assume that Adler felt that if Souls were dismissed as a supplier we would more readily accept any takeover offer made in respect of our holding in Cumberland, particularly if that holding was threatened with delisting from the Sydney Stock Exchange. It is therefore our belief that, far from having substantial complaints against the quality of service provided by Souls, Adler's motive for terminating the arrangements between Souls and Cumberland was much more directed to the acquisition of Souls' holding in Cumberland at a deflated price. If Counsel considers it necessary, we shall arrange for the managers of the respective Souls' branches to attend in conference with Counsel to discuss the allegations made by Adler against the branches, although some of these managers may now have left the employment of Souls.

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EXTRACTED FROM CUMBERLAND HOLDINGS SHARE TRANSFER JOURNAL

<u>Year Ended</u>	<u>No. of Sellers</u>	<u>No. of Buyers</u>	<u>No. of Units</u>
30.6.61	21	11	76,500
30.6.62	27	18	30,200
30.6.63	36	17	29,500
30.6.64	33	11	23,900
30.6.65	26	13	25,200
30.6.66	22	10	21,500
30.6.67	21	4	18,000
30.6.68	21	6	9,800
30.6.69	42	9	42,400
30.6.70	54	26	52,800
30.6.71	82	34	147,400
30.6.72	34	13	109,600
30.6.73	23	3	30,200
30.6.74	12	4	8,400
30.6.75	19	5	61,300

10

Buyers and/or sellers appearing more than once in a year have been treated as one buyer or seller in that year.

20

00159

2 January, 1975.

The Chairman of Directors,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY. 2000

Dear Mr. Adler,

Would you please let me have a reply to my letter of 19 December, 1974 seeking certain amendments to the draft of the minutes of the meeting of directors held on 15 November, 1974.

10

Yours faithfully,

GD

Glen L.A. Donohoo

c.c. Mr. John Belfer,
Norton Smith & Co.

1324. Exhibit 26 - Letter
from Donohoo to
Cumberland - 2.1.75.

THE SYDNEY STOCK EXCHANGE LIMITED
20 O'Connell Street, Sydney, N.S.W., 2000
G.P.O. Box No. 1360 SYDNEY, N.S.W., 2001
Telephone: 231.0066
Cables: Stockex Telex: AA20630 -
AA 22273.

CREST

10th January, 1975.

In reply please
quote
EB:RMG

The Chairman,
F.A.I. Insurances Limited,
185 Macquarie Street,
SYDNEY. N.S.W. 2000.

13.JAN.1975

10

Dear Sir,

CUMBERLAND HOLDINGS LIMITED

We refer to your letter of the 6th December, last, and
in particular to the final paragraph thereof.

Might we enquire if your Company has made any decision
as to whether or not an Invitation will be made to the
minority shareholders in Cumberland Holdings Limited.

Your advices would be appreciated.

20

Yours faithfully,

P.W. Mitchelhill

P. W. MITCHELHILL
MANAGER - COMPANIES

All communications should be addressed to the
Secretary.

1325. Exhibit 72 - Copy
Letter to FAI -
10th January 1975.

IN THE SUPREME COURT)
 OF NEW SOUTH WALES) No. 707 of 1975
 EQUITY DIVISION)

IN THE MATTER of CUMBERLAND
HOLDINGS LIMITED

~~PIKIKKIFF~~

IN THE MATTER of THE COMPANIES
ACT, 1961

~~DEFEKXKXKX~~

SUBPOENA FOR PRODUCTION

To The Secretary,
 The Sydney Stock Exchange Limited,
 of 20 O'Connell Street,
 Sydney

10

THE COURT ORDERS that you shall attend and produce
 this subpoena and the documents and things described in
 the schedule -

* Amend (a) before the court* of the Chief Judge in Equity,
 as
 req- (b) at No. 10 Court, Mena House, 225 Macquarie
 uired. Street, Sydney

(c) on 17th October 1975 at 10.00 a.m.* and until
 you are excused from further attending; but -

20

- (i) you need not attend or produce any docu-
 ment on any day unless reasonable expenses
 have been paid or tendered to you;
- (ii) if you are not a party to these proceedings,
 instead of so attending you may produce this
 subpoena and the documents and things des-
 cribed in the schedule to a clerk of the
 Court at the above place not later than the
 day before the first day on which you are
 required to attend; and
- (iii) if, as an officer of a bank, you are re-
 quired by this subpoena to produce a
 banker's book, and Part IV of the Evidence
 Act, 1898, applies, you need not produce
 it if you produce proof of the relevant
 entries in it in accordance with that
 Part.

30

SCHEDULE

All notes, memoranda, correspondence, minutes and other
 documents relating to the listing of ordinary and

Exhibit 72 - Subpoena

preference stock units of Cumberland Holdings Limited
on the Sydney Stock Exchange or relating to trans-
actions on or off the said Stock Exchange in such
stock units.

Dated 16th October, 1975

By the Court:

D. Booth (L.S.)

Clerk of the Court.

NOTE: If you do not comply with this subpoena
you may be arrested.

10

Issued at the request of

the solicitor for the

IN THE SUPREME COURT
OF NEW SOUTH WALES
EQUITY DIVISION
No. 707 of 1975

~~XXXXXXXXXX~~

IN THE MATTER of CUMBERLAND
HOLDINGS LIMITED

~~XXXXXXXXXX~~

IN THE MATTER of THE COMPANIES
ACT, 1961

10

SUBPOENA FOR PRODUCTION

Solicitor's
name: Allen Allen & Hemsley,

Address: 2 Castlereagh Street,
Sydney 2000

Telephone No.: 232 0315

FAI INSURANCES LIMITED

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD ON THE 12TH FLOOR, FAI INSURANCE BUILDINGS,
185 MACQUARIE STREET, SYDNEY, ON FRIDAY,
10TH JANUARY, 1975, AT 10:30 A.M.

PRESENT: L.J. ADLER (Chairman)
T.E. ATKINSON
J. BELFER
PROFESSOR J.R. WILSON

APOLOGIES: J.A.J. BARRINGTON 10
R.L. HERMAN

MINUTES OF PREVIOUS MEETING: The Minutes of the Directors' Meeting held on 13th December, 1974, were confirmed and signed by the Chairman.

BOARD MEETINGS OF WHOLLY OWNED SUBSIDIARIES: It was noted that the Boards of the various wholly owned subsidiaries of this Company are made up of all or some of the Directors of this Company with no additional outside representatives. It was accordingly agreed that on all occasions where the Board of this Company is dealing with business or matters relative to a wholly owned subsidiary, the Board Meetings of this Company shall be deemed also to be Board Meetings of the Subsidiary concerned insofar as that particular item is concerned and the Secretary is directed to prepare formal minutes of Directors' Meetings of the subsidiary concerned on that basis. 20

APPOINTMENT OF ALTERNATIVE DIRECTOR: Professor Wilson notified the Meeting that he was proceeding overseas until towards the end of January, 1975, and requested the approval of the Directors in appointing Mr L.J. Adler to be his alternate Director during the period of his absence. It was unanimously RESOLVED that such approval be given. 30

CUMBERLAND HOLDINGS LIMITED: It was agreed that until the dispute with Washington H. Soul Pattinson & Co. Limited has been resolved and the financial repercussions on the Company of the Darwin cyclone can be more accurately assessed, the Company should defer consideration of the making of any further take-over offers or invitations in respect of the outstanding shares in Cumberland Holdings Limited. It was further agreed that unless the Stock Exchange require 40

an announcement to be made by the Company on the subject, no such announcement should be made pending the final decision of the Board, but the Chairman should be authorised to deal with that matter at his discretion, should the occasion arise.

The Chairman informed the Meeting of difficulties

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TA JW JB

- 2 -

which were being created by Mr Donohoo in his capacity as a Director of Cumberland Holdings Limited, and it was unanimously agreed that this situation should not be allowed to continue any longer than necessary. Counsel had previously been of the opinion that it would be unwise for the Company to seek to remove Mr Donohoo from the Cumberland Board at this juncture, but in the light of Mr Donohoo's latest activities, further advice was now being sought from Counsel on the subject. It was unanimously RESOLVED that unless Counsel was strongly of the opinion that the proposed course of action would be unwise, the Board of Fire and All Risks Insurance Company Limited should be requested to take all necessary steps with the minimum of delay to secure the appointments of Mr Atkinson and Professor Wilson to the Board of Cumberland Holdings Limited and the removal of Mr Donohoo from the Board.

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DARWIN
CYCLONE
DISASTER:

The Chairman informed the Meeting that although in respect of all other classes of business, the potential losses which the Company might incur in respect of the Darwin cyclone would be relatively insignificant, a very substantial loss might arise in respect of the Fire and Householders' business which the Company had underwritten. It was quite impossible at this stage to give even a rough estimate of the figure which would be involved, but it could be quite significant. Consideration had already been given to the making of some form of Stock Exchange announcement on the subject, but in view of

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the impossibility of making any accurate assessment of the situation at this stage, the Directors felt that it could not be in the interest of the Company to make an announcement. The opinion of Senior Counsel was, however, going to be sought within the course of the next few days. It was agreed that unless Counsel advised to the contrary, no announcement should be made until the situation had been clarified and a reasonably accurate estimate of losses could be made. In the meantime, it was agreed that the business of the Group should be continued along normal lines, but that any projects involving substantial long term investments should be referred to the Board for consideration before being undertaken.

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HOBART
BRIDGE
DISASTER:

The Chairman advised the Meeting that the Group had a share in the insurance of the S.S. "Lake Illawarra", and also in policies covering the Hobart Bridge, but that after taking reinsurance into consideration the overall loss to the Group would not exceed \$2,000.

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TA JW JB

- 3 -

QUEENSLAND
BRANCH -
GENERAL
MANAGER'S
REPORT:

The report of the General Manager dated 23rd December, 1974, regarding his visit to the Queensland Branch was tabled and considered and it was agreed that his recommendations covered the present situation very adequately.

30

SAINT PRO-
PERTIES
PTY.
LIMITED:

The Chairman informed the Meeting of a proposal which had been received for a lease-back of one of the Saint Companies' properties to Ozapaper Australia Limited, which would involve the Group in expenditure somewhat in excess of \$100,000, over the next few months. It was agreed that in view of the enhanced property value and satisfactory rent return, the project be approved and undertaken.

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VETRO
GLASS
LIMITED:

The Chairman informed the Meeting that with the approval of the other members of the Board he had accepted a Directorship of Vetro Glass Limited, and was accordingly to

be considered as interested in contracts or arrangements, which might subsequently be proposed between that Company and the Group. He explained that one of the first of such arrangements might be in respect of repairs of property, etc. damaged in Darwin during the cyclone and that he would hope to be able to arrange for Vetro Glass to supply windscreens and other materials to the Group on terms advantageous to both parties.

10

LOSS OF
STATUTORY
RECORDS:

The Chairman informed the meeting that all the Statutory Records of the Company appeared to have been lost or mislaid. The loss must have been of recent occasion, because the Company's Auditor had sighted the records in the course of auditing the Annual Accounts for the year ended 30th June, 1974. The Secretary had reported the loss to the Commissioner for Corporate Affairs, Victoria, and had enquired whether the Commissioner required any specific action to be taken. No reply had yet been received and in the meantime, the Secretary had been instructed to re-constitute the records as truly and accurately as possible and the necessary work in this regard was now being undertaken.

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POSSIBLE
TEHERAN
BRANCH:

The Chairman informed the Meeting that the General Manager had been making some preliminary enquiries and studies into the possibility of the Company opening a Branch in Teheran. All available information to date has indicated that business activities in Teheran are becoming increasingly important in the light of the vast inflow of wealth into Iran following the increases in oil prices over the past year.

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It was agreed that the potential appeared to be sufficiently attractive to justify a more detailed investigation into the feasibility of a Teheran Branch of the Company and that the General Manager

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TA JW JB

- 4 -

be authorised to deal with the matter as soon as practicable.

Exhibit 73 - Copy
Minutes - 10.1.75.

Signed as a correct record.

..... L.J. Adler
CHAIRMAN

TA JB

Exhibit 73 - Copy
Minutes - 10.1.75

10/1/75

Office of L.J. Adler
The Secretary
FAI Insurances Ltd

Having had the approval of a majority of the Board
of Directors of FAI Insurances Ltd I hereby appoint
Lawrence James Adler as my alternate director for the
period 11th to 23rd January 1975.

10

J.R. Wilson

FAI
INSURANCE
GROUP

00177
Telegraphic Address: "Fainsur"
Telex: Fainsur 21755

FAI Insurances Limited
Australian and International Insurances Ltd.
Fire and all Risks Insurance Company Limited
Car Owners' Mutual Insurance Company Limited
Falkirk Assurance Society Limited

Head Office: FAI Insurance Building, 185 Macquarie
Street, Sydney 2000 . Telephone 221 1155

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LJA/MT

22nd January, 1975.

Mr. Glen L. A. Donohoo,
17th Floor,
1 York Street,
SYDNEY. N.S.W. 2000.

Dear Mr. Donohoo,

Washington H. Soul Pattinson & Co. Limited, a
Company of which you are a Director and whose represent-
ative you are on the Board of Cumberland Holdings
Limited threatened to take legal proceedings to have
Cumberland Holdings Limited compulsorily wound-up unless
FAI Insurances Limited made a cash offer to acquire the
outstanding shares in Cumberland Holdings Limited at
the prices prevailing in July, 1974. As I have no doubt
you are aware, FAI has declined to make such an offer.

20

Although I have been advised by Senior Counsel that
it is clear that the proceedings which Washington H.
Soul Pattinson & Co. Limited have threatened to insti-
tute against Cumberland Holdings Limited would not be
successful, the existence of the threat to present such
a petition, naturally puts you in a position where your
interests as a Director of Washington H. Soul Pattinson
& Co. Limited are in direct and irreconcilable conflict
with your interests as a Director of Cumberland Holdings
Limited. In addition to that conflict, the recent cor-
respondence between us has indicated a serious lack of
harmony to say the least, between yourself and the

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2..

FAI
INSURANCE
GROUP

Continuation Sheet No. 2.
00178

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Mr. G.L.A. Donohoo

22nd January, 1975

other members of the Cumberland Board. It is obvious
Exhibit 28 - Letter
Calling for Resigna-
tion -

1335.

Exhibit 28 - Letter
Calling for Resigna-
tion

that a Company cannot be run satisfactorily when its Board is split into hostile factions.

In the circumstances, I would suggest that the only proper course is for you to resign your Office as a Director of Cumberland Holdings Limited.

Unless you are prepared to do so, FAI Insurances Limited will have no alternative but to arrange for an Extraordinary General Meeting of Cumberland Holdings Limited to be convened as soon as possible to seek your removal.

10

Yours truly,

L.J. Adler

LAWRENCE J. ADLER

CUMBERLAND HOLDINGS LIMITED

MINUTES OF A MEETING OF THE DIRECTORS HELD AT FAI
INSURANCE BUILDING, 185 MACQUARIE STREET, SYDNEY on
WEDNESDAY, 22nd JANUARY, 1975 at 9.00 a.m.

PRESENT: Mr. L.J. ADLER (Chairman)
Mr. J.A. BELFER
Mr. G.L.A. DONOHOO

APPOINTMENT
OF A NEW
DIRECTOR:

It was resolved pursuant to Article 89 of the Articles of Association of the Company to appoint THOMAS ERIC ATKINSON as an additional Director of the Company until the next ordinary meeting of the Company. Mr. Donohoo voted against the resolution. Mr. Atkinson was then invited to join the meeting and did so. 10

APPOINTMENT
OF A NEW
DIRECTOR:

It was resolved pursuant to Article 89 of the Articles of Association of the Company to appoint Professor JAMES REUBEN WILSON as an additional Director of the Company until the next ordinary meeting of the Company. Mr. Donohoo voted against the resolution. 20

CONFIRMATION
OF MINUTES
OF PREVIOUS
MEETING:

The Chairman tabled a revised draft of the Minutes of the Directors' Meeting of the 15th November, 1974. Mr. Donohoo protested that he had not been given a copy of them prior to the Meeting and asked for time to consider any amendments to them which he thought necessary. 30

After adjourning for approximately one hour and re-convening, it was agreed to adjourn the meeting until Tuesday, 28th January, 1975 at 10.00 a.m., same place.

The Meeting then adjourned.

Signed as a true copy.

L.J. Adler
.....
Chairman

JB
GD

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Exhibit 29 - Copy of
Minutes of Meeting -
22.1.75

CUMBERLAND HOLDINGS LIMITEDMINUTES OF MEETING OF DIRECTORS HELD AT FAI INSURANCE
BUILDING, 185 MACQUARIE STREET, SYDNEY, ON TUESDAY 28TH
JANUARY, 1975 AT 10.00 A.M.

PRESENT: Mr. L.J. Adler (Chairman)
Mr. T.E. Atkinson
Mr. J.A. Belfer
Mr. G. Donohoo
Professor J.R. Wilson

10

MINUTES
DIRECTORS
MEETING
HELD 15TH
NOVEMBER,
1974:

The Chairman proposed that the revised draft of the Minutes of this Meeting as submitted at the Meeting held on 22nd January, 1975, be approved.

Mr. Donohoo informed the Meeting that he wished to move by way of amendment that the said Minutes be confirmed subject to eight separate amendments. It was unanimously agreed that each of the eight proposed amendments be treated as being the subject of a separate motion and the same were then accordingly moved by Mr. Donohoo and determined as follows:

20

Motion No. 1

At page one - After the paragraph ending with the words "FAI Insurances Limited" insert the following paragraph -

'At the Chairman's request, Mr. Walker addressed the meeting and advised of certain information discussed at a previous conference with L.J. Adler, T.E. Atkinson and W. Sinclair. Mr. Walker said that the description of the preference shares, i.e. 8% cumulative preference non-participating stock units and 8% cumulative redeemable preference non-participating stock units, was not in accordance with the Company's Memorandum and Articles of Association, the word non-participating should not have been included in the description of such shares and "cumulative" and "redeemable" were juxtaposed. The technical errors would enable a shareholder wishing to "ambush" the takeover scheme in the courts to begin proceedings but more would probably be needed'.

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Motion defeated, the Chairman and Mr. Belfer voting against it, Mr. Donohoo voting for it, and Mr. Atkinson and Professor Wilson abstaining.

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Exhibit 29 - Copy of
Minutes of Meeting -

Motion No. 2

At page one - After the paragraph ending with the words "open to the Board for recommendation" insert the

00180

following paragraphs -

"Mr. Donohoo asked Mr. Walker -

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'Are Mr. Adler and Mr. Belfer entitled to vote on this matter? I know of another case when there were common directors to the offeror company and offeree company. The common directors did not attend the meeting at which the offer was discussed nor did they vote on it.

Mr. Walker and Mr. Sinclair stated that both the two common directors of the company were legally qualified to vote on the resolution forming the recommendation contained in the Part B Statement".

20

Motion carried, the Chairman, Mr. Belfer and Mr. Donohoo all voting for it, Mr. Atkinson and Professor Wilson abstaining.

Motion No. 3

At page one - Delete the paragraph commencing with the words "L.J. Adler and then D. Walker" and insert the following paragraphs -

'L.J. Adler and then D. Walker read to the meeting a draft of the proposed Part B Statement prepared by Mr. Sinclair. Mr. Donohoo then tabled a letter dated 14th November, 1974 addressed to the Chairman of Directors, a copy of which is attached. In his letter Mr. Donohoo stated that a subsidiary of FAI had recently paid the Adler Family and Adler Family Companies \$1.25 cash for ordinary stock units in Cumberland and 50 cents cash for preference stock units.

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Mr. Donohoo then stated -

"FAI must consider the price of \$1.25 to be fair. In support of my contention I table

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

a copy of our Transfer Journals with details of the transactions plus searches plus a copy for inclusion in our minutes".

The Chairman stated -

"The facts are not in doubt".

Mr. Donohoo stated -

"Mr. Walker - In the light of these transactions are we required to make mention of these matters in our Part B Statement pursuant to Section 180G(2) of the Companies Act." 10

Motion defeated, the Chairman and Mr. Belfer voting against it, Mr. Donohoo voting for it, and Mr. Atkinson and Professor Wilson abstaining.

00181

Motion No. 4 20

At page 2 - after the motion that lapsed for want of a seconder commencing with the words "I move that the Board of this Company requests the Sydney Stock Exchange Limited" insert the following paragraphs -

'Mr. Donohoo then stated -

"In my opinion there has been an unusual pattern in our share market quotations over recent months. In support of my contention I table a copy of the share quotations for our ordinary shares extracted from the Financial Review." 30

A copy of the share quotations is attached.

Mr. Donohoo continued

"To protect our shareholders who will be guided by the high and low prices of our shares during 1974 as quoted in the Financial Review daily, I would like to ask Mr. Walker what action we as a Board should take in this regard." 40

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

At this point the Chairman pointed out that it was not proper to ask Mr. Walker and that if Mr. Donohoo wanted to pursue the matter, he should put a motion to the meeting'.

Motion defeated, the Chairman and Mr. Belfer voting against it, Mr. Donohoo voting for it, and Mr. Atkinson and Professor Wilson abstaining.

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Motion No. 5

At page 2 - After the motion that lapsed for want of a seconder commencing with the words "I move that we instruct Mr. Walker to write to the Commissioner of Corporate Affairs" insert the following paragraph -

'Mr. Donohoo then asked Mr. Walker what, in view of the composition of the Board and the result of the motions he had put to the meeting, he could do to discharge his responsibilities as a director.

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Mr. Walker stated that

(a) the Minutes should reveal and record Mr. Donohoo's actions, (b) Mr. Donohoo is entitled to approach the Corporate Affairs Commission in his personal capacity as a director, (c) Mr. Donohoo is entitled to approach the committee of the Sydney Stock Exchange concerning his question about the possible contravention of Section 5 (10)(e) of the Listing Manual.'

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00182

Motion carried, the Chairman, Mr. Belfer and Mr. Donohoo all voting for it, Mr. Atkinson and Professor Wilson abstaining.

Motion No. 6

At page 3 - After the motion that commences with the words "I move that as it is usual practice with reputable companies" insert the following paragraph -

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"The Chairman then held that the aforementioned motion lapsed for want of a seconder."

Exhibit 29 - Copy of
Minutes of Meeting -

1341. 28.1.75.

Motion carried, the Chairman, Mr. Belfer and Mr. Donohoo all voting for it, Mr. Atkinson and Professor Wilson abstaining.

Motion No. 7

At page 3 - Delete the paragraph commencing with the words "The Chairman then stated" and insert the following -

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"The Chairman objected to the emphasis put on the word "reputable" by Mr. Donohoo in moving the motion. Mr. Donohoo apologised for the emphasis. The Chairman stated that the share purchases are fully minuted in FAI and not improper as far as he was concerned. The price of \$1.25 which was paid for the ordinary shares was the quoted market sale price for the shares on the date when the transactions in question took place. There had never been any question of any of the sellers being paid a price for their shares different from the then ruling market price. Unfortunately since that time and through no conceivable fault of the Offeror corporation, that level of prices had ceased to apply and the current level was in the order of 50 cents per stock unit. It would be most misleading if the Board were to have regard to transactions based on a price level which no longer existed in considering their attitude to the present proposed offer. The Chairman then discussed the takeover offer, the reasons for it and in particular pointed out that due to the common directorship of both the offeree and offeror company, great lengths were taken to comply with all Acts, Laws, Regulations, etc. The Chairman also pointed out that all directors have a responsibility to properly discharge their duties. Mr. Donohoo then asked the Chairman did he think that the shareholders were getting a fair deal from the offer, to which the Chairman replied that he genuinely and sincerely thought that it was an exceptionally fair deal.

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Mr. Donohoo stated that in his opinion the shareholders of the company should keep their shares as a net tangible asset of each

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

Cumberland share is substantially in excess of the net tangible asset backing of the offeror company's shares. Mr.

Adler then stated that he did not agree with Mr. Donohoo's views and he "does not give a damn" about the success of the offer.'

00183

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Motion defeated, the Chairman and Mr. Belfer voting against it, Mr. Donohoo voting for it, and Mr. Atkinson and Professor Wilson abstaining.

Motion No. 8

At page 3 - After the words contained in Motion No. 7, -

"Mr. Donohoo then stated -

'Mr. Walker, in view of the unusual circumstances that exist in this takeover offer, would I be justified in seeking such a report say from Hill Samuel Limited and if so would I be entitled to charge the expense to our Company under Section 180P of the Companies Act.'

20

Mr. Walker replied at the request of the Chairman, that the onus was on Mr. Donohoo to prove that such expenses were reasonably incurred in accordance with the Section but it was arguable that the Section applied only to expenses incurred following a Board decision."

30

Motion carried, the Chairman, Mr. Belfer and Mr. Donohoo all voting for it, Mr. Atkinson and Professor Wilson abstaining.

The Chairman then moved by way of amendment to his previous motion that the said Minutes be confirmed subject to the following amendment -

At page 2 - after the motion that lapsed for want of a seconder commencing with the words

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Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

"I move that the Board of this Company re-
quests the Sydney Stock Exchange Limited"
insert the following -

"Mr. Donohoo also tabled a copy of the share
quotations for the ordinary shares of the
Company, extracted from the Financial Re-
view."
10

Motion carried, the Chairman, Mr. Belfer
and Mr. Donohoo all voting for it,
Mr. Atkinson and Professor Wilson abstaining.

It was agreed that a clean copy of the
Minutes of the said Meeting incorporating
the various amendments which have been ap-
proved, be prepared and circulated to all
directors before the next Board meeting and
that such copy then be signed by the Chair-
man for insertion in the Minute Book.
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00184

MINUTES
DIRECTORS
MEETINGS
8TH NOVEMBER
1974 AND 22ND
JANUARY 1975:
The Minutes of the said Meetings were per-
used by all directors and signed by the
Chairman as a true and correct record of the
proceedings thereat.

DECEMBER
RESULTS:
The results for December were tabled and
analysed.

BUENA VISTA
NURSING
HOME:
The Chairman reported that final ap-
proval from the Council was expected to be
received shortly for the reconstruction work
and additions to this nursing home. A con-
tract has now been entered into for a fixed
price of \$155,000. The Bank of New South
Wales have agreed to an initial line of
credit of \$100,000 towards the cost involved
and the work is scheduled for completion
within 22 weeks of commencement. The Board
approved the arrangements which had been
made.
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CASH FLOW
PROJECTIONS:
It was agreed that these would be
produced for the next monthly Board
Meeting.

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

Exhibit 29 - Copy of
Minutes of Meeting -
28.1.75.

The Meeting closed at 11.20 a.m.

Signed as a true record,

..... L.J. Adler
.....
CHAIRMAN

JB GD

FAI INSURANCES LIMITED

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD ON THE 12TH FLOOR, FAI INSURANCE BUILDING
185 MACQUARIE STREET, SYDNEY, ON TUESDAY, 28TH
JANUARY, 1975, AT 3:00 P.M.

PRESENT: L.J. ADLER (Chairman)
T.E. ATKINSON
J. BELFER
PROFESSOR J.R. WILSON

APOLOGIES: J.A.J. BARRINGTON 10
R.L. HERMAN

CUMBERLAND HOLDINGS LIMITED: The Chairman reported that Senior Counsel had now advised that he could see no legal difficulties or disadvantages arising in the event of the proposed removal of Mr Donohoo from the Cumberland Board. It was accordingly agreed that the Board of Fire and All Risks Insurance Company Limited be requested to proceed with the necessary steps to deal with this without delay. 20

The Chairman also reported that there still appeared to be no way in which the dispute with Washington H. Soul Pattinson & Co. Limited could be resolved amicably in the foreseeable future and it was accordingly RESOLVED that the Stockholders of Cumberland Holdings Limited and The Sydney Stock Exchange Limited should now be formally advised that this Company does not intend to issue any invitation to Cumberland Stockholders to sell their units to this Company. Draft circular letter to be sent by the Chairman to Cumberland Stockholders advising them of the foregoing matters, was tabled and approved and it was RESOLVED that the Chairman be authorised to sign it for despatch forthwith. 30

The Meeting closed at 4.00 p.m.

Signed as a correct record.

L.J. Adler
.....
CHAIRMAN 40

TA JB JW JB

FIRE AND ALL RISKS INSURANCE COMPANY LIMITED

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD ON THE 12TH FLOOR, FAI INSURANCE BUILDING
185 MACQUARIE STREET, SYDNEY, ON TUESDAY, 28TH
JANUARY, 1975, AT 4:00 P.M.

PRESENT: L.J. ADLER (Chairman)
T.E. ATKINSON
J. BELFER
PROFESSOR J.R. WILSON

APOLOGIES: J.A.J. BARRINGTON
R.L. HERMAN

10

CUMBERLAND HOLDINGS LIMITED: The Board noted the request of the Board of FAI Insurances Limited that this Company takes such steps as may be necessary to secure the removal of Mr Glen L.A. Donohoo from the Board of Cumberland Holdings Limited as soon as practicable. It was agreed that in the light of Mr Donohoo's refusal to resign from the Board voluntarily, the appropriate action to be taken would be for this Company to requisition an Extraordinary General Meeting of Cumberland Holdings Limited for the purpose of moving a resolution for Mr Donohoo's removal, pursuant to Section 120 of the Companies Act, 1961.

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A draft letter to be sent by this company to the Directors of Cumberland Holdings Limited requisitioning such a meeting was tabled and approved and it was RESOLVED that the Secretary be authorised to sign and despatch the same forthwith.

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The Meeting closed at 4.30 p.m.

Signed as a correct record.

L. Adler
.....
CHAIRMAN

JB
TA JW

29th January, 1975

TEA:HV

The Directors
Cumberland Holdings Limited
185 Macquarie Street
SYDNEY. N.S.W. 2000

Dear Sirs,

We, Fire & All Risks Insurance Co. Limited, being a member of your Company holding at the date hereof not less than one-tenth of your paid up capital as at this date which carries the right of voting at general meetings, hereby require you, pursuant to Section 137(1) of the Companies Act 1961 of New South Wales as amended, to convene an Extraordinary General Meeting of Cumberland Holdings Limited to be held as soon as practicable but in any case not later than two months after the receipt by you of this requisition, for the following object:

10

To consider, and if thought fit to pass, the following resolution as an ordinary resolution:

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"Resolved that, pursuant to the powers in that behalf vested in the Company under Section 120(1) of the Companies Act 1961 of New South Wales as amended, Glen L.A. Donohoo be and he is hereby removed as a Director of the Company with immediate effect".

Yours faithfully,
By Order of the Board
FIRE & ALL RISKS INSURANCE CO.
LTD.

30

RM
.....
SECRETARY



Notice of Annual General Meeting
and
1975
Annual Reports and Accounts

CUMBERLAND HOLDINGS LIMITED

Directors:

Lawrence J. Adler	Chairman
J. Belfer, B.Com., F.C.A.	Principal of J. Belfer & Company, Chartered Accountants
T. E. Atkinson	Company Director
Professor J. R. Wilson, M.Ec.	Sydney University

General Manager:

J. A. J. Barrington

Secretary:

Robert L. Herman

Registered Office:

FAI Insurance Building
185 Macquarie Street
Sydney, NSW

Bankers:

Bank of New South Wales
The Commercial Bank of Australia Limited

Auditors:

Gibbings and Webb, Chartered Accountants

CUMBERLAND HOLDINGS LIMITED

DIRECTORS' REPORT TO THE MEMBERS

Your Directors present their Annual Report together with the audited balance sheet and profit and loss account of the company and its subsidiary for the year ended 30th June, 1975.

1. Financial Results

The consolidated results for the year compared with those for the preceding year were as follows:

	Year Ended 30th June	
	1975	1974
Trading profit for the year	312,420	248,925
Profit (loss) in subsidiary attributable to minority shareholder	<u>16,377</u>	<u>(10,985)</u>
	296,043	259,910
Less: Provision for income tax	<u>116,860</u>	<u>136,990</u>
Net profit for the year	<u>179,183</u>	<u>122,920</u>
Contribution to the net profit after tax for the year was as follows:		
Cumberland Holdings Limited	157,081	124,300
Bellevue Private Hospital Pty Limited	<u>22,102</u>	<u>(1,380)</u>
	<u>179,183</u>	<u>122,920</u>

2. Directors

The names of the directors in office at the date of this report are as follows:

Lawrence J. Adler (Chairman)
Thomas E. Atkinson
John Belfer, B.Com., F.C.A.
Professor James R. Wilson, M.Ec.

Mr J. Belfer retires by rotation and, being eligible, offers himself for re-election.

Messrs Atkinson and Wilson, who were appointed directors on the 22nd January, 1975, retire in accordance with the company's Articles of Association and, being eligible, offer themselves for re-election.

Since the end of the previous financial year, no director has received or become entitled to receive a benefit by reason of a contract made by the company or a related corporation with the director or with a firm of which he is a member or with a company in which he has a substantial financial interest.

The closing date for the receipt of nominations for the office of director will be eleven days before the date of the holding of the next Annual General Meeting.

3. Dividends

Final dividends of 4% on preference stock and 6% on ordinary stock totalling \$34,801 were paid on the 17th October, 1974, and were provided for in the accounts for the year ended 30th June, 1974.

Interim dividends of 4% on preference stock and 6% on ordinary stock totalling \$34,801 were paid on the 3rd April, 1975.

Final dividends of 4% on preference stock and 7% on ordinary stock (making a total of 8% on preference stock and 13% on ordinary stock for the year) have been recommended by the directors making a total for the year of \$73,390, and are provided for in the accounts for the year ended 30th June, 1975.

There is however, a petition seeking the compulsory winding up of the company issued by Washington H. Soul Pattinson & Company Limited which is awaiting hearing in the Supreme Court of New South Wales. While the directors of the company have been advised by Senior Counsel that the matters relied on in that petition would not, even if established, justify the winding up order, they have also been advised that while that petition remains pending it would not be proper for any final dividend to be paid. This is in case the dividend should become repayable by reason of the operation of Section 227 of the Companies Act, which would render payments of dividends void against any liquidator who may be appointed, unless the Court otherwise orders.

It is not yet known when the winding up petition will finally be disposed of and in the circumstances the holding of the Annual General Meeting of the Company will be postponed until a date towards the end of 1975 by which time it is hoped that judgement in the matter will have been delivered. Members will be advised of further developments and of the date of the Annual General Meeting as soon as possible.

4. Capital and Reserves

The interest of shareholders of Cumberland Holdings Limited in the capital and reserves at the 30th June, 1975, totalled \$1,603,495 compared with \$1,257,847 a year earlier.

Based on independent valuations received from A. Norton Pty Limited, members of the Real Estate Institute of New South Wales, dated 18th June, 1975, the company's freehold properties were revalued and the amount of \$251,085 transferred to assets revaluation reserve.

The directors have obtained separate independent valuations, from A. Norton Pty Limited, members of the Real Estate Institute, for buildings and as these valuations were made on the 30th June, 1975, the directors have not deemed it necessary to provide depreciation for the period to 30th June, 1975. The value of the buildings was \$1,885,000. It is not practicable to obtain a separate valuation for the building at 132 Victoria Road, Bellevue Hill, N.S.W. as this building was and still is in the course of reconstruction.

5. Share Capital and Debenture Borrowing

No new shares or debentures were issued during the year.

6. Management and Staff

The directors gratefully acknowledge the loyalty and support of the management and all members of the staff in carrying out their duties in such an active and demanding year. The results achieved are a fitting tribute to their fine efforts.

7. Principal Activity

The principal activity of the company is in the ownership and management of geriatric nursing homes and private hospitals. The directors believe, given normal business conditions, that the sensible progress planned for the company can be achieved.

8. Petition for Winding Up

Although the winding up petition referred to in paragraph 3 above, does not make any allegations of insolvency or financial embarrassment against the company, the directors are satisfied that the publicity given to it has exposed and is continuing to expose the company to material damage to its business and profitability. The Management has made and is continuing to make strenuous efforts to contain the situation and to make good the damage caused. Your directors wish to extend on your behalf thanks and appreciation to all concerned in these efforts.

9. General

In accordance with the requirements of the Companies Act, 1961, of New South Wales, it is stated that: -

- (a) Prior to the preparation of the company's accounts for the period, the directors took reasonable steps to ascertain:
 - (i) what action had been taken in relation to the writing off of bad debts and the creation of a provision for doubtful debts; to cause all known bad debts to be written off and adequate provision to be made for all doubtful debts.
 - (ii) whether any current assets other than book debts, were unlikely to realise in the ordinary course of business their value as shown in the accounting records of the company.

At the date of this report the directors are not aware of any circumstances which would render the amount written off for bad debts or the amount of the provision for doubtful debts in the company or its subsidiary inadequate to any substantial extent, nor which would render the values attributed to current assets in the consolidated accounts misleading.

- (b) At the date of this report there is:
 - (i) no charge on the assets of the company or its subsidiary which has arisen since the end of the financial year which secures the liabilities of any person or corporation.
 - (ii) no contingent liability which has arisen in respect of the company or its subsidiary since the end of the financial year other than in the normal course of business.
- (c) No contingent liability or other liability has become enforceable or is likely to become enforceable within the period of twelve months after 30th June, 1975, which, in the opinion of the directors, will or may substantially affect the ability of the company or its subsidiary to meet their obligations as and when they fall due.
- (d) At the date of this report, the directors are not aware of any circumstances not otherwise dealt with in this report or the accompanying accounts which would render any amount stated in the consolidated accounts misleading.
- (e) Save as referred to in paragraph 8 above, the results of the operations of the company and its subsidiary were not, in the opinion of the directors, substantially affected by any item, transaction or event of a material and unusual nature.
- (f) Save as referred to in paragraph 8 above, no item, transaction or event of a material and unusual nature has arisen in the interval between 30th June, 1975, and the date of this report which in the opinion of the directors will affect substantially the results of the operations of the company or its subsidiary for the year ending 30th June, 1976.

For and on behalf of the Board,
Lawrence J. Adler
Chairman
J. Belfer
Director

5th September 1975

CUMBERLAND HOLDINGS LIMITED

STATEMENT PURSUANT TO SECTION 162 (12) OF THE COMPANIES ACT

I, Robert Lawrence Herman, being the Officer in Charge of the preparation of the accompanying accounts of Cumberland Holdings Limited and group accounts of Cumberland Holdings Limited and its subsidiary, for the year ended 30th June, 1975, state that, to the best of my knowledge and belief, such accounts and group accounts give a true and fair view of the matters required by Section 162 of the Companies Act, 1961, to be dealt with therein.

Signed at Sydney this 5th day of September, 1975.

R. HERMAN
Principal Accounting Officer

STATEMENT BY DIRECTORS

In the opinion of the directors of Cumberland Holdings Limited the accompanying balance sheet is drawn up so as to give a true and fair view of the state of affairs of the company as at 30th June, 1975, and the accompanying profit and loss account is drawn up so as to give a true and fair view of the profit of the company for the year ended 30th June, 1975.

It is also the opinion of the directors that the accompanying group accounts of Cumberland Holdings Limited and its subsidiary company are drawn up so as to give a true and fair view of

- (a) the profit of the company and its subsidiary as at 30th June, 1975.
- (b) the state of affairs of the company and its subsidiary as at 30th June, 1975, so far as they concern members of the holding company.

Signed at Sydney this 5th day of September, 1975.

On behalf of the Board,
LAWRENCE J. ADLER
J. BELFER
Directors

AUDITORS' REPORT TO THE MEMBERS OF CUMBERLAND HOLDINGS LIMITED

In our opinion

- (a) the accompanying balance sheets and accounts of the company and of the group are properly drawn up in accordance with the provisions of the Companies Act, 1961, so as to give a true and fair view of the state of affairs of the company and the group at 30th June, 1975, the results of the year then ended and the other matters required by Section 162 to be dealt with in the accounts.
- (b) the accounting and other records and registers of the company and of its subsidiary have been properly kept in accordance with the provisions of that Act.

Signed at Sydney this 8th day of September, 1975.

GIBBINGS & WEBB
E. F. K. WEBB
Chartered Accountants
Registered under the Public
Accountants Registration
Act, 1945, as amended

**CUMBERLAND HOLDINGS LIMITED
AND SUBSIDIARY COMPANY**

CONSOLIDATED BALANCE SHEET AT 30th JUNE, 1975

	\$	1975 \$	1974 \$
AUTHORISED CAPITAL			
1,000,000 ordinary stock units of 50 cents each	...	500,000	500,000
1,000,000 8% cumulative preference stock units of 50 cents each	...	<u>500,000</u>	<u>500,000</u>
		<u>1,000,000</u>	<u>1,000,000</u>
ISSUED CAPITAL			
757,536 ordinary stock units each fully paid	...	378,768	378,768
303,768 8% cumulative preference non participating stock units each fully paid	...	151,884	151,884
300,000 8% cumulative redeemable preference non participating stock units each fully paid (redeemable at option of company)	...	<u>150,000</u>	<u>150,000</u>
		680,652	680,652
RESERVES AND UNAPPROPRIATED PROFITS			
Reserves —			
Assets revaluation (Note 1)	...	688,753	437,668
Assets realisation	...	9,059	9,059
Share premium	...	7,500	7,500
Excess of net tangible assets acquired over cost of investment in subsidiary company	...	61,138	61,138
Unappropriated profits	...	<u>156,393</u>	<u>61,830</u>
		<u>922,843</u>	<u>577,195</u>
Interest of shareholders of Cumberland Holdings Limited	...	1,603,495	1,257,847
Interest of minority shareholder in subsidiary	...	<u>81,091</u>	<u>64,714</u>
		<u>1,684,586</u>	<u>1,322,561</u>
REPRESENTED BY			
FIXED ASSETS			
Freehold Property —			
at independent valuation (Note 1)	...	2,750,804	2,268,035
at cost	...	<u>216,711</u>	<u>141,301</u>
		2,967,515	2,409,336
Furniture and equipment - at cost	...	341,094	326,673
Less: provision for depreciation	...	<u>104,978</u>	<u>82,314</u>
		<u>236,116</u>	<u>244,359</u>
		3,203,631	2,653,695

	1975	1974
	\$	\$
	3,203,631	2,653,695
CURRENT ASSETS		
Cash on hand	2,925	3,520
Trade debtors	243,291	172,069
Less: provision for doubtful debts (Note 2)	<u>5,250</u>	5,179
Other debtors and prepayments	6,635	5,753
Loan – secured	–	1,498
Less: income yet to mature	–	134
Deposit	<u>100</u>	<u>100</u>
	<u>247,701</u>	<u>177,627</u>
INTANGIBLE ASSETS		
Goodwill on purchase of private hospital – at cost	–	5,806
Preliminary expenses – at cost	–	<u>23,776</u>
		<u>29,582</u>
TOTAL ASSETS	3,451,332	2,860,904
Less:		
CURRENT LIABILITIES AND PROVISIONS		
Trade creditors and accruals	317,707	112,069
Bank overdraft (secured in full)	44,347	203,480
Bank loans (secured in full)	123,000	155,000
Registered first mortgage debenture stock (maturing on or before 30th June, 1976 – secured in full)	12,650	24,000
Provision for income tax (Note 4)	116,860	138,000
Provision for long service leave	7,612	3,265
Provision for property maintenance	8,982	6,082
Provision for proposed dividends	38,589	34,801
Trade debtors credit balances	<u>15,025</u>	–
	<u>684,772</u>	<u>676,697</u>
	2,766,560	2,184,207
LONG TERM LIABILITIES		
Mortgage loans (secured in full) (Note 5)	596,250	701,250
Registered first mortgage debenture stock (secured in full) (Note 5)	49,950	53,550
Loan (unsecured)	65,345	65,345
Amount owing to parent company	367,179	41,501
Deposit received (unsecured)	<u>3,250</u>	–
	<u>1,081,974</u>	<u>861,646</u>
	<u>1,684,586</u>	<u>1,322,561</u>

**CUMBERLAND HOLDINGS LIMITED
AND SUBSIDIARY COMPANY**

**CONSOLIDATED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30th JUNE, 1975**

	1975		1974
	\$	\$	\$
Trading profit for the year before income tax (Note 6)		312,420	248,925
<i>Less:</i> provision for income tax (Note 4)		116,860	136,990
Net profit for the year		195,560	111,935
Profit (loss) in subsidiary company attributable to minority shareholder		16,377	(10,985)
Net profit for the year		179,183	122,920
<i>Add:</i> unappropriated profits from prior years	61,830		4,724
overprovision of taxation prior years	18,352	80,182	—
		259,365	127,644
<i>Less:</i>			
Preliminary expenses	23,776		—
Goodwill on purchase of private hospital	5,806		—
		29,582	—
		229,783	127,644
<i>Less:</i>			
Interim dividends —			
Preference 4% (4% 1974)	12,075		12,075
Ordinary 6% (5% 1974)	22,726	34,801	18,938
Proposed final dividends —			
Preference 4% (4% 1974) making a total of 8% (8% 1974) for the year	12,075		12,075
Ordinary 7% (6% 1974) making a total of 13% (11% 1974) for the year	26,514	38,589	22,726
		73,390	65,814
Unappropriated profits carried forward		156,393	61,830

**CUMBERLAND HOLDINGS LIMITED
AND SUBSIDIARY COMPANY**

**CONSOLIDATED STATEMENT OF SOURCE AND APPLICATION OF FUNDS
FOR THE YEAR ENDED 30th JUNE, 1975**

Funds were Provided by:	1975		1974	
	\$	\$	\$	\$
Trading profit for the year		312,420		259,910
Less: Provision for income tax		<u>116,860</u>		<u>136,990</u>
		195,560		122,920
<i>Add:</i> Items not involving an outlay of funds				
Depreciation of fixed assets	22,664		23,896	
Provision for:				
Doubtful debts	71		1,063	
Property maintenance	2,900		6,082	
Provision for long service and annual leave	<u>4,347</u>	29,982	<u>14,724</u>	45,765
Overprovision of tax - prior years		18,352		-
Increases in:				
Loans and debenture stock		330,292		91,652
Trade creditors		205,638		43,741
Decrease in cash on hand		<u>595</u>		-
		<u>708,419</u>		<u>304,078</u>
 Funds were Applied to:				
Purchase of freehold property and equipment		321,515		426,897
Increase in trade debtors and other debtors		57,079		42,435
Decreases in:				
Bank overdraft and loan		191,133		(170,086)
Mortgage loans and debentures		119,950		-
Tax provision		21,140		(63,000)
Dividend paid		69,602		62,026
Goodwill on purchase of private hospital		-		5,806
		<u>780,419</u>		<u>304,078</u>

CUMBERLAND HOLDINGS LIMITED

BALANCE SHEET AT 30th JUNE, 1975

	1975	1975	1974
	\$	\$	\$
AUTHORISED CAPITAL			
1,000,000 ordinary stock units of 50 cents each		500,000	500,000
1,000,000 8% cumulative preference stock units of 50 cents each		<u>500,000</u>	<u>500,000</u>
		<u>1,000,000</u>	<u>1,000,000</u>
ISSUED CAPITAL			
757,536 ordinary stock units each fully paid		378,768	378,768
303,768 8% cumulative preference non participating stock units each fully paid		151,884	151,884
300,000 8% cumulative redeemable preference non participating stock units each fully paid (redeemable at option of company)		<u>150,000</u>	<u>150,000</u>
		680,652	680,652
RESERVES AND UNAPPROPRIATED PROFITS			
Reserves –			
Assets revaluation (Note 1)		669,382	418,297
Assets realisation		9,059	9,059
Share premium		7,500	7,500
Unappropriated profits		<u>135,671</u>	<u>63,210</u>
		<u>821,612</u>	<u>508,066</u>
SHARE CAPITAL AND RESERVES		<u>1,502,264</u>	<u>1,178,718</u>
REPRESENTED BY: –			
FIXED ASSETS			
Freehold Property –			
at independent valuation (Note 1)		2,321,039	1,838,270
at cost		<u>216,711</u>	141,301
		2,537,750	1,979,571
Furniture and equipment - at cost		265,229	253,375
Less: provision for depreciation		<u>84,020</u>	<u>66,749</u>
		181,209	186,626
INVESTMENT IN SUBSIDIARY COMPANY			
Shares at cost		50,300	50,300
Advance		<u>178,652</u>	<u>146,677</u>
		238,952	196,977
		<u>2,947,911</u>	<u>2,363,174</u>

	1975	1974
	\$	\$
	2,947,911	2,363,174
CURRENT ASSETS		
Cash on hand	2,725	3,320
Trade debtors	157,105	112,783
Less: provision for doubtful debts (Note 2)	<u>4,100</u>	4,033
Other debtors and prepayments	6,143	5,655
Loan -- secured	—	1,498
Less: income yet to mature	<u>—</u>	<u>134</u>
INTANGIBLE ASSETS	161,873	119,089
Goodwill on purchase of private hospital — at cost	—	5,806
Preliminary expenses — at cost	—	<u>23,776</u>
		<u>29,582</u>
TOTAL ASSETS	3,109,784	2,511,845
Less:		
CURRENT LIABILITIES AND PROVISIONS		
Trade creditors and accruals	281,049	93,709
Bank overdraft (secured in full)	20,027	133,168
Bank loans (secured in full)	105,000	105,000
Registered first mortgage debenture stock (maturing on or before 30th June, 1976 — secured in full)	12,650	24,000
Provision for income tax (Note 4)	106,219	138,000
Provision for long service leave	7,612	3,265
Provision for property maintenance	6,482	4,882
Provision for proposed dividends	38,589	34,801
Trade debtors credit balance	<u>13,263</u>	<u>—</u>
	590,891	536,825
	2,518,893	1,975,020
LONG TERM LIABILITIES		
Mortgage loans (secured in full) (Note 5)	596,250	701,250
Registered first mortgage debenture stock (secured in full)	49,950	53,550
Amount owing to parent company	367,179	41,502
Deposit received (unsecured)	<u>3,250</u>	<u>—</u>
	1,016,629	796,302
	<u>1,502,264</u>	<u>1,178,718</u>

CUMBERLAND HOLDINGS LIMITED

**PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED
30th JUNE, 1975**

	1975		1974
	\$	\$	\$
Trading profit for the year before income tax (Note 6)		263,300	261,290
<i>Less:</i> provision for income tax		<u>106,219</u>	<u>136,990</u>
Net profit for the year		157,081	124,300
<i>Add:</i> unappropriated profits from prior years	63,210		4,724
income tax overprovided previous years	<u>18,352</u>	<u>81,562</u>	<u>—</u>
		238,643	129,024
<i>Less:</i>			
Preliminary expenses	23,776		—
Goodwill on purchase of private hospital	<u>5,806</u>		—
		<u>29,582</u>	<u>—</u>
		209,061	129,024
<i>Less:</i>			
Interim dividends			
Preference 4% (4% 1974)	12,075		12,075
Ordinary 6% (5% 1974)	<u>22,726</u>	34,801	18,938
Proposed final dividends -			
Preference 4% (4% 1974) making a total of 8% (8% 1974) for the year	12,075		12,075
Ordinary 7% (6% 1974) making a total of 13% (11% 1974) for the year	<u>26,514</u>	<u>38,589</u>	<u>22,726</u>
		<u>73,390</u>	<u>65,814</u>
Unappropriated profits carried forward		<u>135,671</u>	<u>63,210</u>

**CUMBERLAND HOLDINGS LIMITED
AND SUBSIDIARY COMPANY**

**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30TH JUNE 1975**

1. Based on independent valuations received from A. Norton Pty Limited, members of the Real Estate Institute of New South Wales, dated 18th June, 1975, the company's freehold properties were revalued and the amount of \$251,085 transferred to assets revaluation reserve.

The directors have obtained separate independent valuations, from A. Norton Pty. Limited, members of the Real Estate Institute, for buildings and as these valuations were made on the 30th June, 1975, the directors have not deemed it necessary to provide depreciation for the period to 30th June, 1975. The value of the buildings was \$1,885,000.

It is not practicable to obtain a separate valuation for the building at 132 Victoria Road, Bellevue Hill, N.S.W. as this building was and still is in the course of reconstruction.

2.	<i>Consolidated</i>		<i>Holding Company</i>	
	1975	1974	1975	1974
	\$	\$	\$	\$
Provision for doubtful debts:				
Previously provided	5,179	4,116	4,033	4,116
Provided from profits	<u>71</u>	<u>1,063</u>	<u>67</u>	<u>(83)</u>
	<u>5,250</u>	<u>5,179</u>	<u>4,100</u>	<u>4,033</u>
3.	A commitment for capital expenditure in the sum of approximately \$150,000 exists being the balance of renovation costs in respect of the Buena Vista Private Hospital, 132 Victoria Road, Bellevue Hill, N.S.W.			
4.	Provision for income tax:			
Overprovided from previous years	—	1,010	—	1,010
Provided from profits	<u>116,860</u>	<u>136,990</u>	<u>106,219</u>	<u>136,990</u>
	<u>116,860</u>	<u>138,000</u>	<u>106,219</u>	<u>138,000</u>
5.	LONG TERM LIABILITIES			
(i)	Mortgage Loans			
	Date Payable:			
Later than	Within			
One Year	Two Years	416,250	105,000	416,250
Two Years	Five Years	120,000	496,250	120,000
Five Years	—	<u>60,000</u>	<u>100,000</u>	<u>60,000</u>
		<u>596,250</u>	<u>701,250</u>	<u>596,250</u>
(ii)	Debentures held by Other Persons:			
	Date Payable:			
Later than	Within			
One Year	Two Years	13,150	8,800	13,150
Two Years	Five Years	32,200	40,150	32,200
Five Years	—	<u>4,600</u>	<u>4,600</u>	<u>4,600</u>
		<u>49,950</u>	<u>53,550</u>	<u>49,950</u>
6.	Profit for Year.			
	Included in the profit for the year before income tax are the following items of expense.			
	Expenses:			
Interest - Fire and All Risks Insurance Company Limited	7,066	2,500	7,066	2,500
Other persons and corporations	<u>147,664</u>	<u>102,067</u>	<u>138,203</u>	<u>89,681</u>
	<u>154,730</u>	<u>104,567</u>	<u>145,269</u>	<u>92,181</u>
Depreciation of fixed assets	<u>22,664</u>	<u>23,896</u>	<u>17,271</u>	<u>18,119</u>
Bad debts written off in respect of trade debtors	<u>8,274</u>	<u>2,678</u>	<u>5,439</u>	<u>2,678</u>

	<i>Consolidated</i>		<i>Holding Company</i>	
	1975	1974	1975	1974
	\$	\$	\$	\$
Directors' emoluments (excluding payments by way of fixed salaries):				
Full time director	3,000	3,000	3,000	3,000
Other directors	<u>3,000</u>	<u>3,000</u>	<u>3,000</u>	<u>3,000</u>
	6,000	6,000	6,000	6,000
Auditors' remuneration:				
Audit of the accounts	2,800	1,200	2,200	800
Other services	<u>395</u>	<u>580</u>	<u>332</u>	<u>380</u>
	3,195	1,780	2,532	1,180

No other benefits were received by the auditors in respect of their services to the company.

7. Directors' emoluments paid by the Company and its Related Corporations (Excluding payments by way of fixed salaries):

Directors in full time employment	10,000	10,000	10,000	10,000
Other directors	<u>12,500</u>	<u>12,000</u>	<u>12,500</u>	<u>12,000</u>
	22,500	22,000	22,500	22,000

8. The ultimate holding company is FAL Insurance Limited incorporated in Victoria.

9. Information pursuant to Stock Exchange Listing Requirements as at 5th September, 1975.

- (i) Ordinary stockholders totalled 139 with voting rights of one vote for each stock unit held.
8% cumulative preference stockholders totalled 18 with voting rights as under.
8% cumulative redeemable preference stockholders totalled 62 with voting rights as under.

Preference stockholders do not have the right to vote at any general meeting unless such meeting is convened for the purpose of reducing the capital of or winding up the company or sanctioning the sale of the undertaking or where a proposition or resolution to be submitted to the meeting proposes an alteration of the rights or privileges attaching to the preference stock unit or unless at the date of the meeting the dividends on the preference stock units have been in arrears for more than six months in each of which cases the preference stock units shall confer upon the holder voting rights pari passu with the voting rights of ordinary stockholders.

(ii)

	<i>No. of Units</i>	<i>%</i>
Twenty largest stockholders:		
Ordinary	704,298	92.97
8% cumulative preference	303,768	100.00
8% cumulative redeemable preference	280,700	93.57

(iii) Distribution schedule of each class of quoted security.

	Ordinary	8% Cumulative Preference	8% Cumulative Redeemable Preference
1 - 1000	116	12	45
1001 - 5000	20	3	15
5001 - 10000	1	1	-
10001 - and over	2	2	2

CUMBERLAND HOLDINGS LIMITED

Largest Listed Nursing Home Proprietors in New South Wales

NURSING HOMES SITUATED AT:

NURSING HOMES:

Annandale Nursing Home
76 Johnston Street, Annandale
Telephone 56 6591

Armon Nursing Home
42 Croydon Street, Petersham
Telephone 560 9877

Belgrave Nursing Home
26 Belgrave Street, Kogarah
Telephone 587 5626

Canterbury District Nursing Home
20 Albert Street, Campsie
Telephone 789 3825

Crest Nursing Home
11 Johnston Street, Annandale
Telephone 519 6479

Ellsmore Nursing Home
19 Evans Street, Waverley
Telephone 387 1529

Stannmore Nursing Home
66 Cambridge Street, Stannmore
Telephone 519 3926

SURGICAL HOSPITALS:

Bellevue Private Hospital
1A Edward Street, Bondi
Telephone 30 5227

Buena Vista Private Hospital
132 Victoria Road, Bellevue Hill
Telephone 36 4739

YOUR INSPECTION AND SUPPORT IS INVITED

1363.

Exhibit 77 - Annual Reports
and Accounts, 1975

**FAI
INSURANCE
GROUP**

00189
Telegraphic Address: "Fainsur"
Telex: Fainsur 21755

**FAI Insurances Limited
Australian and International Insurances Ltd.
Fire and all Risks Insurance Company Limited
Car Owners' Mutual Insurance Company Limited
Falkirk Assurance Society Limited**

**Head Office: Fai Insurance Building, 185 Macquarie
Street, Sydney 2000 . Telephone 221 1155**

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LJA:HV

January 29, 1975

**Mr. G.L.A. Donohoo
17th Floor
No. 1 York Street
SYDNEY, N.S.W. 2000**

Dear Mr. Donohoo,

**The undertaking received from you yesterday has
expired at 10.00 a.m. this morning and in the absence
of its renewal at that time, please note that it is no
longer in force and of effect between us.**

20

Yours faithfully,

L.J. Adler

**Lawrence J. Adler
CHAIRMAN**

Telegraphic Address: "Fainsur"
Telex: Fainsur 21755

**FAI
INSURANCE
GROUP**

Fai Insurances Limited
Australian and International Insurances Ltd.
Fire and All Risks Insurance Company Limited
Car Owners' Mutual Insurance Company Limited
Falkirk Assurance Society Limited

Head Office: Fai Insurance Building, 185 Macquarie
Street, Sydney 2000 . Telephone 221 1155

10

TEA:HV

29th January, 1975

The Directors
Cumberland Holdings Limited
185 Macquarie Street
SYDNEY, N.S.W. 2000

Dear Sirs,

We, Fire & All Risks Insurance Co. Limited, being
a member of your Company holding at the date hereof
not less than one-tenth of your paid up capital as at
this date which carries the right of voting at general
meetings, hereby require you, pursuant to Section 137
(1) of the Companies Act 1961 of New South Wales as
amended, to convene an Extraordinary General Meeting of
Cumberland Holdings Limited to be held as soon as
practicable but in any case not later than two months
after the receipt by you of this requisition, for the
following object:

20

To consider, and if thought fit to pass, the
following resolution as an ordinary resolution:

"Resolved that, pursuant to the powers in that
behalf vested in the Company under Section 120(1)
of the Companies Act 1961 of New South Wales as
amended, Glen L.A. Donohoo be and be is hereby re-
moved as a Director of the Company with immediate
effect.

30

Yours faithfully,
By Order of the Board
FIRE & ALL RISKS INSURANCE CO. LTD.

RH

.....
SECRETARY

40

Exhibit 30 - Copy of
Letter to Cumberland -
1365. 29.1.75.

FAI
INSURANCE
GROUP

Telegraphic Address: "Fainsur"
Telex: Fainsur 21755

00190

Fai Insurances Limited
Australian and International Insurances Ltd.
Fire and All Risks Insurance Company Limited
Car Owners' Mutual Insurance Company Limited
Falkirk Assurance Society Limited

Head Office: Fai Insurance Building, 185 Macquarie
Street, Sydney 2000 . Telephone 221 1155

10

29 January 1975

To The Ordinary Stockholders
and The Preference Stockholders
of CUMBERLAND HOLDINGS LIMITED

Dear Stockholders,

On the 6th December, 1974, when I informed you that FAI Insurances Limited (FAI) were withdrawing their take-over offer for your stock units in Cumberland Holdings Limited (CHL), I indicated that FAI were exploring the possibility of replacing the offer with an invitation to you to sell your units to FAI. Since that date I have received a threat from Washington H. Soul Pattinson & Company Limited (WHSP) that if FAI did not make a cash offer for CHL stock units at prices prevailing in July, 1974, WHSP would issue a petition to the Supreme Court for the compulsory winding-up of CHL. In view of the present state of the economy and the Stock Market, FAI are not prepared to make such an offer and have so advised WHSP.

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30

Senior Counsel has advised FAI that the threatened petition against CHL would not be successful and it will be strenuously opposed. In the circumstances, however, FAI are formally advising you that they will not be issuing any invitation to you to sell your stock units in CHL to them.

In order further to strengthen the Board of CHL, Mr. T.E. Atkinson and Professor J.R. Wilson, two of the Directors of FAI, have been appointed to the Cumberland Board. FAI do not consider that it is proper for Mr Glen L.A. Donohoo, who at present sits on the Board of CHL as the representative of WHSP, to continue to be a member of the CHL Board in

40

.....

Exhibit 31 - Copy
Circular to Cumberland
Stockholders

1366.

Exhibit 31 - Copy
Circular to Cumber-
land Stockholders

00191

FAI
INSURANCE
GROUP

Continuation Sheet No. 2

view of the threatened proceedings against CHL. FAI are therefore arranging for an Extraordinary General Meeting of CHL to be convened as soon as practicable to vote on a resolution to terminate his Directorship pursuant to Section 120 of the Companies Act 1961 of New South Wales.

10

Yours faithfully,

L.J. Adler
LAWRENCE J. ADLER

Phone: 241-3871

17th Floor
1 York Street
Sydney 2000

29 January, 1975.

To: The Ordinary Stockholders and
Preference Stockholders of
Cumberland Holdings Limited.

00194

Dear Stockholder,

Mr. L.J. Adler is Chairman of both FAI Insurances Limited (FAI) and Cumberland Holdings Limited (Cumberland).

10

In July, 1974 FAI purchased from Mr. Adler's family and family companies ordinary stock units in Cumberland at \$1.25 cash in off-market transactions.

I believe, this was calculated to and did, in fact, jeopardise the Stock Exchange listing of Cumberland's stock units.

With the de-listing threat hanging over the heads of Cumberland minority stockholders, FAI then made an offer for your Cumberland stock units that was totally inadequate being worth considerably less than half what FAI had recently paid in cash to Mr. Adler's family and family companies.

20

Because I stood up for the minority stockholders, my action being vindicated by the complete failure of FAI's inadequate offer, I now find FAI is forcing me off the Board.

This will mean the minority stockholders who own 20% of the ordinary capital and 77% of the preference capital will have no voice on the Board of Cumberland which will then consist of four directors all of whom are directors of FAI. Two of these directors were appointed only this week.

30

I shall leave it to stockholders to imagine what Mr. Adler's motives are in wanting me off the Board.

Exhibit 32 - Copy
Circular from Donohoo
to Cumberland Stock-
holders

1368.

**Exhibit 32 - Copy
Circular from Donohoo
to Cumberland Stock-
holders**

**I look forward to your continued support in
opposing Mr.Adler's latest ploy.**

Yours faithfully,

G, Donohoo

Glen L.A. Donohoo

Director

Cumberland Holdings Limited.

10

**c.e. The Sydney Stock Exchange Limited
Corporate Affairs Commission of N.S.W.**

CUMBERLAND HOLDINGS LIMITED

Registered Office:
 Fai Insurance Building, 185 Macquarie Street, Sydney,
 2000
 Telephone: 221-1155

NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that an Extraordinary General Meeting of Members of Cumberland Holdings Limited will be held at the Institute of Management, 135 Walker Street, North Sydney, on Tuesday, 4th March, 1975, at 10.00 a.m.

10

BUSINESS

To consider, and if thought fit, to pass the following Resolution as an Ordinary Resolution:

"Resolved that, pursuant to the powers in that behalf vested in the Company under Section 120 (1) of the Companies Act, 1961, of New South Wales as amended, Glen L.A. Donohoo be and is hereby removed as a Director of the Company with immediate effect."

20

By Order of the Board of Directors,

R. Herman

R. HERMAN
Secretary

30th January 1975

A member entitled to attend and vote at this Meeting is entitled to appoint not more than two proxies to attend and vote in his stead. Where more than one proxy is appointed, each proxy must be appointed to represent a specified portion of the member's voting rights. The proxy need not be a member of the Company. Proxies must be lodged at 12th Floor, FAI Insurance Building, 185 Macquarie Street, Sydney, not less than 48 hours before the time of the Meeting.

30

A member of the FAI Insurance Group

Exhibit 33 - Copy of
 Notice Extraordinary
 General Meeting -

00197

CUMBERLAND HOLDINGS LIMITED

Registered Office:
Fai Insurance Building, 185 Macquarie Street, Sydney,
2000
Telephone: 221-1155

PROXY

EXTRAORDINARY GENERAL MEETING

I/we

of

10

being a member/members of CUMBERLAND HOLDINGS LIMITED
hereby appoint

of

(or failing him)

of

as my/our proxy to vote for me/us on my/our behalf at
the extraordinary general meeting of the Company to be
held on the 4th day of March, 1975, and at any adjourn-
ment thereof.

ORDINARY RESOLUTION * For Against

20

* Strike out whichever is not desired. Unless other-
wise instructed the proxy may vote as he thinks fit.

As witness my/our hand/s this day of 1975.

Signed by the said)
in the presence of)

Corporations must sign under seal.

A member of the Fai Insurance Group

CUMBERLAND HOLDINGS LIMITED

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD ON THE 12TH FLOOR, FAI INSURANCE BUILDING
185 MACQUARIE STREET, SYDNEY, ON THURSDAY,
30TH JANUARY, 1975, AT 10:00 A.M.

PRESENT: L.J. ADLER (Chairman)
J. BELFER
G.L.A. DONOHOO

IN ATTEND- R.L. HERMAN 10
ANCE:

APOLOGIES: PROFESSOR J.R. WILSON
T.E. ATKINSON

EXTRAORD- The Chairman advised the Meeting and tabled
INARY a letter received from Fire and All Risks
GENERAL Insurance Company Limited (copy attached)
MEETING: wherein Fire and All Risks Insurance Company
Limited has requisitioned the calling of an
extraordinary general meeting to consider
the removal of Mr. G.L.A. Donohoo as a 20
Director of the Company.

The Chairman put a motion to the meeting that
the extraordinary general meeting be held
at 10.00 a.m. on Tuesday, 4th March, 1975,
at the Institute of Management, Walker
Street, North Sydney.

Mr. J. Belfer seconded the motion whilst
Mr Donohoo voted against it.

Mr. Donohoo withdrew his objection after
the Secretary pointed out to him that the 30
Directors were required to call the extra-
ordinary general meeting in terms of Section
137(3) of the Companies Act.

It was RESOLVED that the extraordinary gen-
eral meeting of the company be held at
10.00 a.m. on Tuesday, 4th March, 1975, at
the Institute of Management, Walker Street,
North Sydney.

The Chairman then advised Mr Donohoo that 40
under Section 120(3) of the Companies Act,
he was afforded the opportunity to make
representations, in defence of the proposed

Exhibit 34 - Copy
Minutes of Meeting -
30.1.75.

removal, to shareholders. Mr Donohoo advised the Chairman that he would be consulting his legal advisors on the matter.

Signed as a correct record.

L.J. Adler
.....
CHAIRMAN

JB GD

10

FAI
INSURANCE
GROUP

00198
Telegraphic Address: "Fainsur"
Telex: Fainsur 21755

Fai Insurances Limited
Australian and International Insurances Ltd.
Fire and All Risks Insurance Company Limited
Car Owners' Mutual Insurance Company Limited
Falkirk Assurance Society Limited

Head Office: Fai Insurance Building, 185 Macquarie
Street, Sydney 2000 . Telephone 221 1155

10

4 February 1975

To the Ordinary Stockholders and Preference
Stockholders of Cumberland Holdings Limited

Dear Stockholders,

It had not been my intention to write to you again
prior to the forthcoming Extraordinary General Meeting
of Cumberland Holdings Limited, when you will have the
opportunity of considering Mr Donohoo's position on
the Board of the Company. However, his letter to you
of 29th January last is so misleading and malicious
that my colleagues and I cannot leave it unchallenged.
It is unfortunately the case that if untrue and mis-
leading statements are repeated often and vehemently
enough, people will end up by believing them and this,
I fear, is the danger which you face through Mr
Donohoo's repeated attempts to blacken my own character
and misrepresent the actions and motives of my coll-
eagues and me.

20

Mr Donohoo's latest efforts in this direction are based
on a series of propositions, every one of which is
either totally false or misleading.

30

(1) His principal complaint is that my family and I
received \$1.25 in cash from FAI for each Cumberland
ordinary stock unit sold to FAI in July, 1974, whereas
the other stock holders never had the opportunity to
sell their units at the same price, and in November that
year, were offered only one FAI share for each Cumber-
land ordinary stock unit.

The fact is that in July last at the same time as the
transactions between FAI and my various interests were
under consideration, FAI had also instructed its
brokers to offer to buy ordinary stock units in Cumber-
land on the open market at the same price of \$1.25 per
unit. It was open to any stock holder at that time
to accept the same figure for his ordinary

40

.....
Exhibit 35 - Copy
Circular to Stock-
holders - 4.2.75.

1374.

FAI
INSURANCE
GROUP

Continuation Sheet No. 2

00199

stock units as my family interests received, and a number of stockholders did in fact do so.

Mr Donohoo's complaint that FAI's November offer was worth less than half of the July price which FAI had paid for ordinary stock units deliberately ignores the fact that between July and November of last year, the Australian stock market had suffered one of its worst collapses in living memory and that market prices which were prevailing in July were no longer of any relevance in considering values in November.

10

(2) FAI and I are said to have arranged the share transactions in Cumberland's shares in July 1974 with the deliberate intention of jeopardising the Stock Exchange listing of Cumberland's shares. This is untrue. In point of fact, my colleagues and I had realised for a long time previously that, in view of the small number of stockholders in the Company and the absence of an independent market for its shares, its continued listing was highly improbable, whatever we might try to do to defend it. We did not believe that the July transactions could materially affect the long term position and we still have no doubt but that even if they had not taken place, the Company's continued listing could not have been justified.

20

30

Mr Donohoo talks about the July transactions being "off-market", presumably to lead you to think that there was something sinister and underhand about them. That is nonsense - they were promptly notified to the Exchange and the press in accordance with normal procedure.

(3) Having, as he claims, deliberately jeopardised Cumberland's listing on the Exchange, FAI are then said by him to have deliberately used this as an excuse for trying to acquire your stock at a "totally inadequate" price.

40

I have already commented on the allegation of deliberate jeopardy. The second point is also untrue. My colleagues and I made what we considered to be an eminently fair and reasonable offer. We believed then and still believe, that it was one which it would have been in

your long term interests to accept. Of course, we recognised that on this sort of subject, different people might have different opinions, and we therefore made it quite clear in the offer that FAI had no desire whatever to force anyone who might not agree with our views to sell their units to it.

We resent most strongly Mr Donohoo's implied allegation that in this matter FAI were trying to swindle you. 10

.....

FAI
INSURANCE
GROUP

Continuation Sheet No. 3
00200

(4) FAI is said now to be forcing Mr Donohoo off the Board because he "stood up" for minority shareholders in opposing the FAI takeover offer. This again is totally untrue. As stated in my letter to you of 29th January last, this action is being taken because of the conflict of interests which now exists for him in the light of Washington H. Soul Pattinson's threat to seek the compulsory winding-up of Cumberland. As you know, Mr Donohoo is a Director of Washington H. Soul Pattinson and has been sitting on the Cumberland Board as their representative. Mr Donohoo knew of this matter before writing to you, though he did not think fit to tell you so, or to attempt to answer the point. 20

Mr Donohoo expresses concern that if he is removed from the Cumberland Board, minority shareholders will have "no voice" in the affairs of the Company. My colleagues and I feel that so long as Washington H. Soul Pattinson's threat to seek the compulsory wind-up of the Company is still hanging over its head, it is our duty in the interests of all stockholders to exercise through the Board full control over the situation. Once the threat has been disposed of, however, we will be perfectly willing to examine any suggestions for the long-term composition of the Board which stockholders may care to make. 30 40

Mr Donohoo asks you to imagine what my motives are in wanting him off the Board. Since he is apparently not prepared to accept the truth of what my colleagues and I have already told him on the subject, I cannot think what he himself must imagine my motives to be. He will, however, no doubt have the opportunity to explain this

Exhibit 35 - Copy
Circular to Stock-
holders - 4.2.75.

in due course in the legal proceedings which FAI and
I intend taking against him.

In the meantime, I do urge you not to allow yourselves
to be misled by the false and misleading statements
which he is putting out about FAI and me.

Yours faithfully,

L.J. Adler

10

LAWRENCE J. ADLER
CHAIRMAN

1377. Exhibit 35 - Copy
Circular to Stock-
holders - 4.2.75.

Phone: 241-3871

00206

17th Floor
1 York Street
Sydney 2000

13th February, 1975.

Lawrence J. Adler, Esq.,
Chairman,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY. N.S.W. 2000

10

Dear Mr. Adler,

You will recall that at the Board meeting of Cumberland Holdings Limited held on the 28th January, I asked how, and on what terms, the company's purchase of the nursing home at Kogarah had been financed. At that time neither you nor Mr. Belfer could remember, but you agreed to let me know. This letter is to remind you of my request for this information and to ask that I be furnished with it in good time to consider it before our next Board meeting. I assume you would have no difficulty in complying with this request within 48 hours of receipt of this letter.

20

In addition to the financing of the Kogarah home I would like to review the terms and conditions of the Company's other financing arrangements and would therefore like to peruse the Company's mortgages and its accounting records before the next Board meeting. To this end I would be most grateful if you would notify me within the next few days of a convenient time prior to that meeting when I may have access to those records and documents.

30

As yet no date has been set down by the Board for consideration of the Company's accounts for the half-year ended 31st December, 1974. This must be done before the extraordinary General Meeting set down for 4th March next. The Report for the corresponding period in 1973 was submitted to the Stock Exchange on 20th February, 1974.

Exhibit 36 - Copy
Letter from Donohoo
to Adler - 13.2.75.

1378.

Exhibit 36 - Copy
Letter from Donohoo
to Adler - 13.2.75.

I would therefore request that these accounts be made available for our perusal prior to our next meeting and set down for consideration at it. If you see any difficulty in complying with this request I would be obliged if you would inform me as soon as possible, but in any even within 48 hours of receipt hereof, of what these difficulties are.

10

I would also take this opportunity to remind you that, at our last meeting, you agreed to my request that a cash budget be presented at our next Board meeting. I trust that this decision will be executed.

Yours faithfully,

GD

Glen L. A. Donohoo.

1379. Exhibit 36 - Copy
Letter from Donohoo
to Adler - 13.2.75.

CUMBERLAND HOLDINGS LIMITED

11 Johnston St., Annandale 2038 . Telephone *51-8242

185 Macquarie Street, Sydney 2000 Telephone 221-1155

February 17, 1975

Mr. G.L.A. Donohoo
17th Floor
No 1 York Street
Sydney, NSW 2000

00210

Dear Mr. Donohoo,

I have received your letter of 13th February, 1975. 10

Under Section 161A(8) of the Companies Act, so long as you remain a Director of this Company, you are entitled to inspect all its accounting records at all reasonable times. As you know, they are kept by the Company's Secretary at the FAI offices at 619 Pacific Highway, St. Leonards, and as you also know, the Secretary has always been instructed to make them available to Directors in conformity with the Act. These instructions will continue unchanged.

I do not propose to reply further to your enquiries myself before the forthcoming Extraordinary General Meeting in view of the conflict of interests situation which exists for you and which, in the view of my colleagues and I, makes it undesirable in shareholders' interests that I should do so. 20

My colleagues and I have formed the very definite view that unless any matters of urgency should arise in the meantime, it would be neither proper nor desirable for further Board Meetings to be held until the forthcoming Extraordinary General Meeting of the Company has taken place. No such matters have arisen up to the present. The half yearly accounts are with the Auditors and will probably not be available before 4th March. In any event, their approval and release would not be a matter of urgency, since we have until 31st March to deal with them. 30

.../2

A member of the Fai Insurance Group

- 2 -

00211

As a matter of interest, although as you mention, the figures were released in February last year, the usual practice has been to release them during the 40

Exhibit 36 - Copy
Reply from Adler to
Donohoo - 17.2.75
1380.

Exhibit 36 - Copy
Reply from Adler to
Donohoo - 17.2.75.

month of March which will of course be done this
year.

Should any urgent matters arise before 4th March,
I will naturally see that you are advised immediately.

Yours truly,

L. Adler

Lawrence J. Adler
CHAIRMAN

10

1381. Exhibit 36 - Copy
Reply from Adler to
Donohoo - 17.2.75.

Phone 241-3871

17th Floor
1 York Street
Sydney 2000

19th February, 1975.

TO: Ordinary Stockholders and
Preference Stockholders of
Cumberland Holdings Limited.

00212

Dear Stockholder,

Letter of Mr. L.J. Adler of 4th February, 1975

I write to you yet again only because the accusations of Mr. Adler that my previous letter to you was "misleading and malicious" and "based on a series of propositions, every one of which was either totally false or misleading", must be challenged - and refuted!

10

I am, of course, a director, of among other companies, Washington H. Soul Pattinson & Company Limited ("Souls") as well as Cumberland Holdings Limited ("Cumberland"), and in that capacity I represent the largest minority stockholder of Cumberland. It is therefore natural that I should seek to protect the interest of Souls in the management of Cumberland - and in so doing I have sought also to protect the interest of all minority stockholders. For this reason I have sought to have the FAI Insurances Limited ("FAI") Board increase its take-over offer to all minority stockholders to an amount that could be said to be reasonable given the value of those stock units.

20

I have never sought special terms for Souls, nor would Souls tolerate my doing so.

I shall deal with Mr. Adler's letter of 4th February, 1975, point by point as follows:

30

1. Amount received by Mr. Adler's interests.

My "principal complaint" is NOT, as Mr. Adler says, that his family interests "received \$1.25 cash for each Cumberland ordinary stock unit sold to FAI in July",

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -

1382. 19.2.75.

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

nor is it that his family interests received 50¢ cash for their preference stock units (which he fails to mention).

My "principal complaint" is that FAI did not offer the same terms to everybody else.

"The fact is" says Mr. Adler, "that in July last at the same time as the transactions between FAI and my various family interests were under consideration, FAI had also instructed its brokers to offer to buy ordinary stock units in Cumberland on the open market at the same price of \$1.25 per unit. It was open to any stockholder at that time to accept the same figure for his ordinary stock units as my family interests received, and a number of stockholders did in fact do so".

10

- 2 -

00213

Let us examine this matter a little further. Was it "open to any stockholder at that time to accept the same figure" and, what "number of stockholders did in fact do so"?

20

In fact only 1,700 stock units were sold by minority stockholders - and the number of selling stockholders was only 3. At the same time a total of 193,978 stock units was sold by Adler interests and Falkirk Properties Limited (of which Mr. Adler is Chairman) in off-market transactions.

Is Mr. Adler suggesting that "any stockholder" could have sold at those prices? Did FAI instruct its brokers to buy all stock units offered, irrespective of the number, at the prices arranged between Mr. Adler's family interests and the FAI group? In fact, FAI withdrew its buying bid of \$1.25 four working days after it had purchased Mr. Adler's family interests on July 12.

30

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

When a buyer's bid reappeared on the market nine work-
ing days after that, it had fallen from Mr.Adler's
interests' quote of \$1.25 to 50¢.

I attach a list of daily Stock Exchange quotations
of Cumberland's ordinary stock units extracted from the
"Financial Review" and a breakdown of Mr.Adler's family
transactions to enable you to verify the truth of what
I say.

10

One final point on this question: Mr.Adler claims
that I "deliberately ignored the fact that between July
and November of last year the Australian Stock Market
had suffered one of its worst collapses in living memory
and that market prices which were prevailing in July
were no longer of any relevance in considering values
in November". I do not ignore this, I believe it to be
irrelevant. However let us examine Mr.Adler's proposi-
tion: on July 12 the All Ordinaries Index of the Sydney
Stock Exchange stood at 371.16. On the day FAI made its
take-over offer to you the All Ordinaries Index stood
at 308.36, a fall of 16.92%. Had the directors of FAI
in the take-over offer reduced the \$1.25 cash paid to
the Adler interests by the same percentage as the fall
in the Stock Exchange Index, they would have offered
you \$1.04 cash for each ordinary stock unit. Instead
you were offered a share in an insurance company that
at the time of the offer was quoted at about 55¢. That
was a reduction of 56% compared with what the Adler
family received.

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2. Cumberland's Stock Exchange Listing.

Mr. Adler states that he did not arrange "share
transactions in Cumberland's shares in July 1974 with
the deliberate intention of jeopardizing the Stock

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

Exchange Listing of Cumberland's shares". Mr. Adler goes on to state that "in view of the small number of stockholders in the Company and the absence of an independent market for its shares, its continued listing was highly improbable, whatever we might try to do to defend it. We did not believe that the July transactions could materially effect the long term position

10

- 3 -

00214

Perhaps he has forgotten what Cumberland wrote you on the 13th September, 1974: "The Company has now received a notice from the Exchange that in its view the present spread of the Company's shareholdings does not meet (the) listing requirements, and it has given the Company until 3rd December, 1974 to advise the Exchange that Fire and All Risks Insurance Company Limited does not then control more than 75% of the Company's issued capital. Fire and All Risks... has advised your Company that it is not prepared to divest itself of any part of its shareholdings in the Company". All FAI had to do to "defend" the listing was to reduce slightly this holding.

20

I might mention that although a director of Cumberland, I was not told that FAI had increased its holding from 72% to 80%, and only discovered this when Mr. Adler sent me a copy of the Sydney Stock Exchange letter dated 4th September, 1974 threatening to delist the company.

30

3. Adequacy of FAI offer.

Mr. Adler says "we resent most strongly Mr. Donohoo's implied allegation that in this matter FAI were trying to swindle you". Of course, I made no use of the word

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

1385.

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

"swindle". I merely repeat the fact that the net tangible assets backing of Cumberland ordinary stock units at that time was \$1.22, compared with a net tangible assets backing of 52¢ for the FAI shares which were offered to you in exchange for your Cumberland stock units.

10

Let us not overlook the fact that at the time of the FAI offer I moved, at a Cumberland Board meeting, that "... a merchant banker or a firm of chartered accountants be retained to prepare a report evaluating the take-over offer for the guidance of minority stockholders". In his letter to you of the 22nd November, 1974 Mr. Adler said of this request: "This seemed to be a pointless exercise in the circumstances which existed." Mr. Adler now states: "My colleagues and I made what we considered to be an eminently fair and reasonable offer". I regret that he and his colleagues refused to submit the fairness and reasonableness of their offer to an independent scrutiny, in spite of requests from me and from the Australian Shareholders' Association that they do so.

20

4. My removal from the Board.

Mr. Adler states that: "... this action is being taken because of the conflict of interests which now exists for him (i.e. myself) in the light of Washington H. Soul Pattinson's threat to seek the compulsory winding-up of Cumberland". Mr. Adler's concern to protect Cumberland from directors' conflicts of interest is most reassuring although somewhat belated - for when the Australian Shareholders' Association drew Mr. Adler's attention to the conflict of interest which existed by virtue of his chairmanship of both FAI and Cumberland

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Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

at the time of the take-over offer, and called upon him to "refrain from issuing any fresh recommendations in relation to the offers" Mr. Adler rejected that request and continued to act in a way which the Shareholders' Association characterised as "being outspoken on issues which involved a real or potential conflict of interest..."

10

Of course, the real conflict here is not between Souls and me, on the one hand, and Cumberland on the other. It is between a minority stockholder, Souls, (and, I would suggest, all other minority stockholders) and the FAI Group.

The "threat" to wind-up Cumberland arises from the fact that we see this as the only possible way to protect the minority's interest in the present circumstances. We believe that a liquidation would realise at least the net tangible assets backing of \$1.22 per ordinary stock unit. The alternative is to remain the holder of stock units which might have been delisted and for which there would appear to be little market. In this regard we find ourselves in sympathy with the sentiment expressed by Mr. Adler in his letter to you of 22nd November, 1974, where he stated: "Speaking personally, I would never dream of allowing myself to be put in the position of a minority shareholder in an unlisted company, even if every merchant banker in the country should advise me to the contrary."

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We, too, are anxious not to fall into the predicament so graphically described by Mr. Adler, and our petition would be designed to protect us from such a situation and from those who would place us, and you, in it.

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

Incidentally, the above-quoted statement of Mr. Adler renders somewhat incongruous his recent pronouncement that "FAI had no desire whatever to force anyone who might not agree with our views to sell their units".

I apologise for the length of my reply, and leave you to decide whether my letter was "malicious", "totally false" or "misleading".

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Yours faithfully,

G. Donohoo

Glen L. A. Donohoo
Director
Cumberland Holdings Limited

DETAILS OF SALES BY ADLER INTERESTS TO FAI'S SUBSIDIARYMADE ON 12 JULY 1974

<u>Seller</u>	<u>Description</u>	<u>No. of Stock Units</u>		
<u>ORDINARY STOCK UNITS AT \$1.25 CASH EACH -</u>				
Lader Pty. Ltd.	Adler Family Company	28,500	Sale of entire holding	
Midland Corpora- tion Pty.Ltd.	" "	950	" "	10
Eagle Corpora- tion Pty.Ltd.	" "	2,000	" "	
R.P. Adler.	Adler Family	1,500	" "	
K.S. Adler.	" "	1,500	" "	
R.S. Adler.	" "	1,500	" "	
		<u>35,950</u>		
<u>PREFERENCE STOCK UNITS AT 50 CENTS CASH EACH -</u>				
Lader Pty.Ltd.	Adler Family Company	97,500	Sale of entire holding	20
Midland Corpora- tion Pty.Ltd.	" "	31,200	" "	
Lader Pty.Ltd.	" "	9,428	" "	
		<u>138,128</u>		

On the same day (12 July) Falkirk Properties Limited, of which Mr. Adler is Chairman and in which he and his family companies own 283,100 shares of the 2,295,500 issued shares, sold its entire holding of 19,900 ordinary stock units in Cumberland to FAI's subsidiary at \$1.25 cash per share. 30

Exhibit 37 - Copy
Circular from Donohoo
to stockholders -
19.2.75.

DAILY STOCK EXCHANGE QUOTATIONS OF CUMBERLAND'S ORDINARY
STOCK UNITS EXTRACTED FROM THE "FINANCIAL REVIEW"

<u>Up to close</u> <u>of business</u>	<u>Last</u> <u>Sale</u> *	<u>Number</u> <u>Sold</u>	<u>Quotes</u>		00217
			<u>Buyer</u>	<u>Seller</u>	
1974					
May 17					
to June 21	80¢	-	80¢	-	
24	80¢	-	80¢	1.50	
25	80¢	-	80¢	1.50	10
26	80¢	-	80¢	1.50	
27	80¢	-	80¢	1.50	
28	80¢	-	1.25	1.50	
July 1	1.25	-	1.25	1.50	
2	1.25	200 **	1.25	1.50	
3	1.25	400 **	1.25	1.50	
4	1.25	-	1.25	1.50	
5	1.25	600 **	1.25	1.50	
8	1.25	-	1.25	1.50	
9	1.25	-	1.25	1.50	20
10	1.25	-	1.25	1.50	
11	1.25	500	1.25	1.50	
12	1.25	1,200	1.25	-	
15	1.25	-	1.25	-	
16	1.25	500	1.23	1.28	
17	1.25	-	1.23	1.28	
18	1.25	-	-	1.28	
19	1.25	-	-	1.20	
22	1.20	-	-	1.20	
23	1.20	-	-	1.20	30
24	1.20	-	-	1.20	
25	1.20	-	-	1.20	
26	1.20	-	-	1.20	
29	1.20	-	-	1.20	
30	1.20	-	-	1.20	
31	1.20	-	50¢	1.20	

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Circular from Donohoo
to stockholders -
19.2.75.

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19.2.75.

August	1	1.20	-	50¢	1.20	
	2	1.20	-	50¢	1.20	
	5			Bank Holiday		
	6	1.20	-	50¢	1.20	
	7	1.20	-	-	70¢	
	8	70¢	-	-	70¢	10

* Last sale price (except where seller quote is lower which is then used).

** It would appear from the Company's Share Register that 1,100 of the 1,200 Stock Units sold were purchased by Falkirk Properties Limited (of which Mr. Adler is Chairman) and subsequently sold to FAI's Subsidiary on 12 July.

- 2 -

00218

<u>Up to close of business</u>	<u>Last Sale *</u>	<u>Number Sold</u>	<u>Quotes</u>		
			<u>Buyer</u>	<u>Seller</u>	
1974					
August 9	70¢	-	-	70¢	
12	70¢	-	-	70¢	
13	70¢	-	-	70¢	
14	70¢	-	-	70¢	
15	70¢	100	-	1.00	
16	70¢	-	-	-	
19	70¢	-	50¢	1.00	
20	70¢	-	50¢	1.00	
21	70¢	-	50¢	1.00	30
22	70¢	-	50¢	1.00	
23	70¢	-	50¢	1.00	
26	70¢	-	50¢	1.00	
27	70¢	-	50¢	1.00	
28	70¢	-	50¢	1.00	
29	70¢	-	50¢	1.00	
30	70¢	-	50¢	1.00	
Septem- ber					
2	70¢	-	50¢	1.00	

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to stockholders -
19.2.75.

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 to stockholders -
 19.2.75.

	3	70¢	-	50¢	1.00	
	4	70¢	-	50¢	1.00	
	5	70¢	-	50¢	1.00	
	6	70¢	-	50¢	70¢	
	9	70¢	-	-	65¢	
	10	65¢	-	-	65¢	10
	11	65¢	-	-	65¢	
	12	65¢	-	-	60¢	
	13	60¢	-	-	60¢	
	16	60¢	-	-	60¢	
	17	60¢	-	-	60¢	
	18	60¢	-	-	60¢	
	19	Not available				
	20	60¢	-	-	60¢	
	23	60¢	-	-	60¢	
	24	60¢	-	-	60¢	20
	25	60¢	-	-	60¢	
	26	60¢	-	-	60¢	
	27	60¢	-	-	60¢	
	30	60¢	-	-	60¢	
October	1	60¢	-	-	60¢	
	2	60¢	-	-	51¢	
	3	51¢	-	-	51¢	
	4	51¢	-	-	51¢	
	7	Public Holiday				
	8	48¢	-	-	-	30
	9 to February 1975	48¢	-	-	-	

Exhibit 37 - Copy
 Circular from Donohoo
 to stockholders -
 19.2.75.

WASHINGTON H. SOUL PATTINSON & COMPANY LIMITED

Sydney's Leading Chemist

Phones Head Office 00235
Adelaide 500 100
 25 2684
Sydney 25 2684

158 Pitt Street, Sydney 2000
Warehouse - 20 Forrester Street, Kingsgrove
Cable Address
"Pharmacy Sydney"

10

28 February, 1975.

To: Ordinary Stockholders and
Preference Stockholders,
Cumberland Holdings Limited.

Dear Stockholder,

THIS IS IMPORTANT - PLEASE READ CAREFULLY

Washington H. Soul Pattinson & Company Limited
("Souls") is the holder of 46,000 Ordinary and
301,520 Preference stock units in Cumberland Holdings
Limited ("Cumberland").

20

FAI Insurances Limited ("FAI"), which now has four
directors on the Cumberland Board and controls 80% of
the Company's voting power, is about to use this power
to remove Mr. Glen Donohoo, the only non-FAI director,
from the Board. When this is achieved, minority stock-
holders will be entirely excluded from the direction
and management of the Company.

Souls is concerned for the safety of its invest-
ment in Cumberland and for the safety of the invest-
ments of other minority stockholders.

30

The conduct of Mr. L. J. Adler (Chairman of
Cumberland and FAI), Mr. John Belfer (a director of
Cumberland and FAI) and of FAI itself has been out-
lined in previous letters to you from Souls and from
Mr. Donohoo and includes the following:

1. Mr. Adler's family interests sold their stockhold-
ings in Cumberland at \$1.25 cash for Ordinary
Cumberland stock units and 50¢ cash for Preference

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75

1393.

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

stock units, to a subsidiary of FAI, of which Mr. Adler is also Chairman.

2. The effect of these transactions was that the listing of Cumberland stock units on the Sydney Stock Exchange was, and still remains, threatened.
3. FAI, of which Mr. Adler is Chairman, then made an offer to exchange your Ordinary and Preference stock units in Cumberland for Ordinary and Preference shares in FAI, although at that time FAI Ordinary shares were selling on the Stock Exchange at less than half the price his family interests had obtained for their Cumberland Ordinary stock units. Further, your

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- 2 -

00236

ordinary stock units in Cumberland had, and still have, a net tangible assets backing of \$1.22, whilst the FAI Ordinary shares which you were offered in exchange for them had a net tangible assets backing of 52¢.

20

4. FAI refused to cause its subsidiary to relinquish part of its holding in Cumberland to protect the Stock Exchange listing of Cumberland stock units.
5. Mr. Adler and his FAI co-director Mr. Belfer refused to have a professional, independent assessment made of the FAI offer, in spite of being called upon to do so by Mr. Donohoo and by the Australian Shareholders' Association.
6. Although Mr. Adler was clearly in a position of conflict of interest he made, and continued to make, recommendations to stockholders of Cumberland in favour of the FAI offer - in spite of being called upon by the Australian Shareholders' Association not to do so.
7. When called upon by Souls to make a cash offer to Cumberland's minority stockholders at approximately the value of their stock units - and at approximately the price received by Mr. Adler's family interests - FAI refused.

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Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

As a result, minority stockholders are now in a position of holding stock units, the Stock Exchange listing of which is threatened, in a company on the Board of which they will have no representation and which is controlled by men whose conduct to date has been outlined above.

10

Under these circumstances Souls has sought the advice of Senior Counsel as to how best to protect the minority stockholders. Counsel has advised that the only course of action available to minority stockholders to redress the situation is to seek a Court Order to have Cumberland wound-up, or, in the alternative, an Order to have FAI acquire the minority stockholders' interests in Cumberland at fair and reasonable prices having regard to the prices received by Mr. Adler's family interests and the net tangible assets backing of the stock units.

20

To the best of the belief of Souls, Ordinary stockholders would probably receive at least the net tangible assets backing of \$1.22 cash for each Ordinary stock unit, and Preference stockholders would receive 50¢ cash, if either of these orders was made.

Counsel has advised Souls that there are good grounds for believing that one or other of such Orders would be made.

Souls is prepared to lodge a petition seeking these Court Orders, and to bear any costs awarded against it in the proceedings, if you, the minority stockholders, support this move.

30

- 3 -

00237

Souls is therefore calling a meeting of all minority stockholders at the 17th Floor, 1 York Street,

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

1395.

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

Sydney on Monday, 10th March, 1975 at 6 p.m. at
which the following Resolution will be put:

"This meeting fully supports the lodgement of a
petition in the Equity Division of the Supreme
Court of New South Wales by Washington H. Soul
Pattinson & Company Limited, in its own name and
at its own expense, on behalf of minority stock-
holders of Cumberland Holdings Limited, seeking
an Order to have that company wound-up, or alter-
natively to have FAI Insurances Limited purchase
the stock units of the other members of that com-
pany at \$1.25 in cash for each Ordinary stock unit
and 50¢ in cash for each Preference stock unit".

10

Parking will be available on the premises at 1
York Street, Sydney, access being from Clarence Street
(next to St. Phillip's Church).

20

If you are unable to attend this meeting, but you
support this attempt to protect your investment in
Cumberland, please sign the attached Resolution and
post it urgently in the reply-paid envelope provided.

It is understood that representatives of the
Australian Shareholders' Association will be attending
the Meeting to support the principles that an indepen-
dent evaluation of a take-over offer should be made
where members of the Board of the Company making the
offer form the majority of the Board of the Company
being taken over and that such directors should not
vote or make recommendations concerning the offer.

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We urge you to support these efforts which Souls
is making to protect the investments of all minority
stockholders in Cumberland.

The alternative to the course of action we propose
is, we fear, fraught with many financial uncertainties
for minority stockholders, the consequences of which

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

Souls is most anxious to avoid, both in its own
interests and in the interests of minority stock-
holders generally.

Yours faithfully,
Washington H. Soul Pattinson & Company
Limited.

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J.S. Millner

J. S. Millner.
Chairman.

1397. Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

RESOLUTION

I, the undersigned,.....
(name in block letters)

of.....
(address in block letters)

being the holder of.....Ordinary stock units
(insert number)

and/or.....Preference stock units in the
(insert number)

Capital of Cumberland Holdings Limited hereby express

10

my support to the adoption of the following Resolution

by minority stockholders of Cumberland Holdings Limited:

This meeting fully supports the lodgement of a
petition in the Equity Division of the Supreme
Court of New South Wales by Washington H. Soul
Pattinson & Company Limited, in its own name and
at its own expense, on behalf of minority stock-
holders of Cumberland Holdings Limited, seeking an
order to have that company wound-up or alternatively
to have FAI Insurances Limited purchase the stock
units of the other members of that company at
\$1.25 in cash for each Ordinary stock unit and
50¢ in cash for each Preference stock unit.

20

.....
(Signature)

DateMarch, 1975.

Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

00239

No Postage
stamp required
if posted in
Australia

BUSINESS REPLY POST

Permit No. 6729 Issued at Sydney

Postage and fee will be paid on delivery to:

MR. G. DONOHOO

Box 332 G.P.O.

Sydney, N.S.W., 2001

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1399. Exhibit 37 - Copy
Circular from W.H.
Soul to stockholders -
28.2.75.

20 February, 1975.

The Secretary,
 Cumberland Holdings Limited,
 FAI Insurance Building,
 619 Pacific Highway,
ST. LEONARDS. 2065

Dear Mr. Herman,

Cumberland Holdings Limited

As you know I wish to peruse the accounting re- 10
 cords of the company. Mr. Adler, the Chairman, informed
 me in a letter of 17 February, that these were kept by
 you at the FAI Offices at 619 Pacific Highway, St.
 Leonards. However, you informed me yesterday that the
 company officers charged with keeping the accounting
 records work at the Annandale office of the company and
 that the records are kept there.

You have offered to get any records I want to per-
 use delivered to the St. Leonards offices of the company.

Although I appreciate this offer I confirm that 20
 it is not really satisfactory because, inevitably, un-
 necessary delays will be caused by the fact that each
 time I wish to see vouchers supporting a particular
 entry I will have to await the delivery of these docu-
 ments from the Annandale offices to the St. Leonards
 Offices.

Nor do I find satisfactory your suggestion that I
 not communicate with the company's accounting staff to
 resolve any questions I may have concerning the 30
 accounts.

Therefore, I propose to attend the Annandale
 offices of the company tomorrow, 21st February, during
 business hours for the purpose of inspecting the com-
 pany's accounting records. I would be grateful if you
 would ensure that all accounting records are available
 there for my inspection and that no interdiction is
 imposed on the company's accounting officers in respect
 of any information I may ask of them concerning any-
 thing in the records. In particular I wish to peruse 40
 all cash books and supporting vouchers, all mortgages
 to which the company is a party including any unreg-
 istered charges over the company's assets and all
 documents pertaining to any lease or leasing arrange-
 ment to which the company is a party.

Exhibit 48 - Letter
 from Donohoo to Cumber-
 land Holdings - 20.2.75.
 1400.

Exhibit 48 - Letter
from Donohoo to Cumber-
land Holdings - 20.2.75.

If you see any difficulty in complying with this
request please telephone me at the above number before
9:30 tomorrow morning.

Yours faithfully,

GD

Glen L. A. Donohoo
Director
Cumberland Holdings Limited.

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1401. Exhibit 48 - Letter
from Donohoo to Cumber-
land Holdings - 20.2.75.

SINCLAIRS
Solicitors & Notaries
117 Pitt Street
Sydney, 2000
C.D.E. 660

William James Sinclair Telephone 233-3377
Notary Public Cables "Sinsol"
Commissioner for
Affidavits
David Bruce Armati, LL.B. WJS.ECD

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21 February 1975.

Glen L. A. Donohoo, Esq.,
17th Floor,
1 York Street,
SYDNEY, N.S.W., 2000.

Dear Sir,

CUMBERLAND HOLDINGS LIMITED

We have been handed your letter of the 20th February 1975 addressed to the Secretary of Cumberland Holdings Limited with instructions to reply thereto.

20

As you probably know, this letter reached the Secretary's office at 5 minutes past 5 o'clock last night (after normal business hours) and we confirm our telephone advice to you this morning that it was not possible for us to reply to you within the time that you mentioned in your letter.

Although it is correct as Mr. Herman stated to you, that certain of the day to day accounting records relating to individual hospitals are written up at addresses other than 619 Pacific Highway, they are all in the charge of Mr. Herman who is the Company's Principal Accounting Officer. He has arranged that all the records in question be sent to him at 619 Pacific Highway and they will be available for your inspection there either today or next week if that is more convenient for you.

30

We assume that you are perfectly satisfied with the accounts up to the 30th June 1974 and that it is the accounts for the current financial year which attract your attention.

40

We have advised our clients that vouchers, mortgages and leases do not constitute accounting records of the Company as defined by Section 161 A of the Companies Act.

Exhibit 48 - Letter
from Sinclairs to
Donohoo - 21.2.75.

Exhibit 48 - Letter
from Sinclairs to
Donohoo - 21.2.75.

Any question you may wish to ask in relation

/2

Glen L. A. Donohoo, Esq., -2-
21 February 1975.

00223
SINCLAIRS

to the accounting records should be directed to the
Company's Secretary and Principal Accounting Officer,
Mr. Herman. It would be highly undesirable for other
employees of the Company to be questioned on these
matters and would only cause upset amongst them which
would clearly not be in the best interests of the
Company.

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We have also been instructed to reply to your
letter to our client's Chairman of the 19th February
1975. We are instructed that the Chairman and his
colleagues have considered your remarks but that they
did not feel any useful purpose could be served by
holding a further Board Meeting prior to the 4th March
next, unless any matters of real urgency should arise
in the meantime.

20

Yours truly,

W.J. Sinclair.

S I N C L A I R S.

ALLEN ALLEN & HEMSLEY
Solicitors and Notaries

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LOXTON
DAVID WIGRAM ALLEN
CECIL SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMIESON
GRAHAM GEORGE COOKE
THOMAS WAYMOUTH MAGNEY
JOHN RODNEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FREDERICK PAUL LIND
RONALD ADRIAN FOWLES
EZEKIEL SOLOMON
JOHN JOSEPH McGLINCHEY
JOHN BERESFORD DORTER
WILLIAM MONTAGUE CHARLES GUMMOW
JORGEN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN McCANN
ROGER GAIRE BLUNT
REGINALD IAN BARRETT
JOHN ROBERT FELIX LEHANE
RICHARD FRANCIS EDMONDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT McKILLOP

Telephone: 2 0315
Postal Address: Box 50,
G.P.O., Sydney,
N.S.W., 2001
Cables: "Allens", Sydney
Telex: AA 21641
C.D.E.: Box 105

P. & O. Building
2 Castlereagh Street
Sydney

Our Reference: JBT:IRH
Your Reference:

RECEIVED
26 FEB 1975
Ans'd.....

24th February, 1975

William J. Sinclair, Esq.,
Messrs. Sinclairs,
Solicitors & Notaries,
117 Pitt Street,
SYDNEY. N.S.W. 2000

Dear Sir,

Cumberland Holdings Limited

We act for Glen L.A. Donohoo, Esq., a director of
the abovenamed company.

At his instructions we enclose a copy of a letter
of advice which we have this day forwarded to him.

Yours faithfully,

Allen Allen & Hemsley

encl.

ALLEN ALLEN & HEMSLEY
Solicitors and Notaries

EDWARD JOHN GULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LOXTON
DAVID WIGRAM ALLEN
CECIL SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMIESON
GRAHAM GEORGE COOKE
THOMAS WAYMOUTH MAGNEY
JOHN RODNEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FREDERICK PAUL LIND
RONALD ADRIAN FOWLES
EZEKIEL SOLOMON
JOHN JOSEPH McGLINCHEY
JOHN BERESFORD DORTER
WILLIAM MONTAGUE CHARLES GUMMOW
JORGEN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN McCANN
ROGER GAIRE BLUNT
REGINALD IAN BARRETT
JOHN ROBERT FELIX LEHANE
RICHARD FRANCIS EDMONDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT McKILLOP

Telephone: 2 0315
Postal Address: Box 50,
G.P.O., Sydney,
N.S.W., 2001
Cables: "Allens", Sydney
Telex: AA 21641
C.D.E.: Box 105

P. & O. Building
2 Castlereagh Street
Sydney

Our Reference: JBT:IRH
Your Reference:

10

24th February, 1975.

Mr. Glen L.A. Donohoo,
Deposit & Investment Limited,
17th Floor,
1 York Street,
SYDNEY, N.S.W. 2000.

20

Dear Sir,

Re: Cumberland Holdings Limited

You have sought our advice as to your rights of access to the books and accounting records of Cumberland Holdings Limited, of which company you are a Director, particularly in the light of a letter dated 21st February, 1975, addressed to you by Messrs. Sinclairs, solicitors to the company.

We are of the opinion that you, as a Director of the company, are entitled to have access at all reasonable times to the books and accounting records of the company. Section 161A(8) of the Companies Act, 1961, makes specific reference to this right in respect of the "accounting records of the company".

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The term "accounting records" is defined, for the purpose of Section 161A(8), in Section 161 of the Act, the relevant part of which states:

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

1405.

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

"Accounting records" in relation to a corporation includes such working papers and other documents as are necessary to explain the methods and calculations by which accounts of the corporation are made up:"

You will note, moreover, that Section 161A(1) provides:

Continuation Sheet 10

FROM No. 2. Date 24/2/75.

ALLEN ALLEN & HEMSLEY TO Mr. Glen L.A. Donohoo.

- "(1) A company shall -
- (a) keep such accounting records as correctly record and explain the transactions and financial position of the company;
 - (b) keep its accounting records in such a manner as will enable true and fair accounts of the company to be prepared from time to time; and 20
 - (c) keep its accounting records in such a manner as will enable the accounts of the company to be conveniently and properly audited in accordance with this Act."

Messrs. Sinclairs, in their letter to you mentioned above, state

"We have advised our clients (by which we presume is meant Cumberland Holdings Limited and the secretary thereof, Mr. Herman) that vouchers, mortgages and leases do not constitute accounting records of the Company as defined by Section 161A of the Companies Act." 30

If, as seems to be the case Messrs. Sinclairs intended to inform you that in their view you have no right of access to "vouchers mortgages and leases" on the basis that "such documents do not constitute accounting records of the Company", we would advise you that, in our opinion, you would be perfectly entitled, indeed duty bound, to ignore this communication. In our opinion "vouchers" is a term that clearly falls within the description of "such working papers and other documents as are necessary to explain the method

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Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

1406.

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

and calculations by which the accounts of the corporation are made up", which description is to be found in the definition of "accounting records" Section 161 of the Act. Moreover as "accounts" means "... balance sheets" (Section 161 of the Act) and as balance sheets must, of necessity, indicate the liabilities of the company, any document evidencing liabilities of the company must be documents "necessary to explain the methods and calculations by which the accounts of the corporation are made up", as those terms are used in Section 161. Mortgages and leases to which the company is a party are clearly "transactions" of the company such as, by virtue of the provisions of Section 161A (1)(a), must be correctly recorded and explained in the company's accounting records.

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Continuation Sheet

FROM

No. 3 Date 24/2/75

20

ALLEN ALLEN & HEMSLEY

TO Mr. Glen L.A. Donohoo.

Therefore, we are of the opinion that all such documents fall within the term "accounting records", your right of access to which is guaranteed by virtue of the provisions of Section 161A(8) of the Act.

In addition to statutory provisions, such as Section 161A of the Act, the general law imposes rights and obligations on company directors, to enable them to fulfil their function of managing the company (which function is vested in the directors, in the case of Cumberland Holdings Limited, by virtue of the provisions of Article 113 of the company's Articles of Association, as well as by general law). We are unable to understand how it can be said that a director can properly fulfil his duties in the management of the business and the affairs of a company without access to that company's books, including documents evidencing contractual obligations of the company. In this regard the definition of "books" to be found in Section 5(1) of the Act indicates, in our view, the type of papers, access to which would be essential to any person charged with the management of the business and affairs of the company. The relevant part of Section 5(1) of the Act is as follows:

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"Books" includes account, deed, writing or document, or any other record of information however compiled, recorded or stored whether in written or printed form or on microfilm or by electronic process or otherwise.

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

1407.

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

We therefore advise you that you are entitled to examine the accounting records of the company, including vouchers, mortgage and leases, as well as any other papers which fall within the above quoted definition of "books". Any person who seeks to prevent your access to these papers would, in our opinion, be guilty of an offence under Section 370 of the Act.

10

Although our necessarily brief researches have failed to uncover any express judicial authority to the effect that you are entitled to question an officer of the company concerning the reason for any entries in the accounting records made by that officer, or persons under his authority, it would seem perfectly consonant with your obligations to the company that you should be entitled to do so. We would therefore expect that any assertion to the contrary, to be worthy of your consideration, would be supported by reasoned argument and references to supporting authority. We would not so characterise the statement in Messrs. Sinclairs' letter aforementioned that "it would be highly undesirable

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Continuation Sheet

FROM

ALLEN ALLEN & HEMSLEY

No. 4

Date 24/2/75

TO Mr. Glen L.A. Donohoo.

for other employees of the Company to be questioned on these matters and would only cause upset among them which would clearly not be the best interest of the Company".

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Finally, we would advise that "accounting records" as that term is used in Section 161A of the Act could not be construed as restricted to documents relating only to the current accounting period, but would include documents relating to former periods. In any case "mortgages and leases", if current, would clearly relate to the accounts for the current financial period.

We would suggest that before seeking to commence proceedings to enforce your rights as a Director of Cumberland, you draw the contents of this letter to the attention of the Secretary of the Company. We feel confident that he would loath to involve himself in any contravention of the Act once being made aware of his obligations thereunder. If this proves not to be the case we shall be happy to advise you further.

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Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

1408.

Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

As instructed, we are forwarding a copy of this
letter to William James Sinclair, Esq., of Messrs.
Sinclairs.

Yours faithfully,

Allen Allen & Hemsley

1409. Exhibit 48 - Letter
from Allens to
Donohoo - 24.2.75.

28 February 1975.

Messrs. Allen, Allen & Hemsley,
Solicitors,
2 Castlereagh Street,
SYDNEY.

Dear Sirs,

re CUMBERLAND HOLDINGS LIMITED
and G.L.A. Donohoo.

Thank you for your letter of the 24th instant,
enclosing a copy of your letter of that date to your
client.

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In so far as your letter expresses views differ-
ent to those expressed in our letter of the 21st
February 1975 to Mr. G.L.A. Donohoo, we disagree with
you and confirm the contents of our letter.

We are advised that your client has spent many
hours this week at the Company's office at St.
Leonards and that, as instructed by the Chairman, the
Company's Secretary has produced all available records
for Mr. Donohoo's inspection. Such records as were
sought by Mr. Donohoo and were not immediately avail-
able have been, or are being obtained for him.

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Yours truly,

S I N C L A I R S.

00233

IRH:JBT

28th February, 1975.

Mr. Lawrence J. Adler,
Chairman,
Cumberland Holdings Limited,
185 Macquarie Street,
SYDNEY, N.S.W. 2000.

Dear Sir,

Re: Cumberland Holdings Limited

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We are informed by our client, Glen L.A. Donohoo, Esquire, that he has requested access to the Minute Books of Cumberland Holdings Limited ("Cumberland"), of which company he is a Director. This request was made to the Secretary of the company who replied that, as these books were in your possession, Mr. Donohoo could not see them for the present.

The Secretary did, however, give an undertaking to telephone Mr. Donohoo by 2 p.m. today to fix a time at which the Minute Books would be available to him. This undertaking has not been honoured.

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We wish to advise you that, in our opinion, the persistent and continued obstruction which has met Mr. Donohoo's attempts to gain access to the books and accounting records of Cumberland, has resulted in Mr. Donohoo being effectively prevented from exercising his rights as a Director of the company. As such the conduct of those causing this obstruction is, in our opinion, clearly actionable.

We are instructed to request that you take whatever action is necessary to ensure that all Minute Books of Cumberland are available to Mr. Donohoo forthwith and that henceforth there be no further obstruction of Mr. Donohoo's exercise of his rights as a Director of the company.

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2. 00234
28/2/75.

Mr. Lawrence J. Adler.

If you see any reason for not complying with this request would you kindly notify us by telephone as a matter of urgency.

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Yours faithfully,

Exhibit 48 - Letter
to Lawrence J. Adler

1411. - 28.2.1975.

SINCLAIRS
Solicitors & Notaries
117 Pitt Street
Sydney, 2000
C.D.E. 660

William James Sinclair Telephone 233-3377
Notary Public Cables "Sinsol"
Commissioner for
Affidavits
David Bruce Armati, LL.B. WJS.ECD

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3 March 1975.

Messrs. Allen Allen & Hemsley,
Solicitors,
2 Castlereagh Street,
SYDNEY, N.S.W., 2000.

Your reference IRH:JBT

Dear Sirs,

re Cumberland Holdings Limited.

We are acting on behalf of Cumberland Holdings Limited and have your letter of the 28th February 1975 addressed to the Company. We would point out that this letter was received at the Company's Office, 185 Macquarie Street, Sydney, very late on Friday afternoon, and only came before the Company's Chairman this morning.

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We confirm our telephone advice to you that the Minute Books of Cumberland Holdings Limited will be at the Company's Office at 619 Pacific Highway, St. Leonards this afternoon.

As regards the second paragraph of your letter, we are instructed that on Friday last, the 28th instant, at approximately 11.00 a.m. our client's Secretary telephoned your client, Mr. Glen L.A. Donohoo and advised him that all the documents and records which he had requested were available for his inspection with the exception of the Directors Minute Book which was with the Chairman. Further, that between 3.00 p.m. and 4.00 p.m. on the same day the Company's Secretary again rang your client to say that the Chairman had not yet finished with the Minute Book.

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Our client advises that your opinion that your client's allegation that his attempts to gain access to the books and accounting records of the Company have met with persistent and continued obstruction is incorrect.

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The facts are that, since the Extraordinary
Exhibit 48 - Letter
to Allens from
Sinclairs - 3.3.75.

1412.

Exhibit 48 - Letter
to Allens from
Sinclairs - 3.3.75.

General Meeting of the Company was called on the 30th
January 1975 for the 4th March 1975, your client
visited the Company's offices at 619 Pacific Highway,
St. Leonards, on Tuesday, 18th February (arriving at
1.00 p.m. and departing at 3.15 p.m.); and on Tuesday,
25th February he arrived at 12.30 p.m. and left at
5.00 p.m. and, on Wednesday, 26th February, he made an
appointment to attend

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/2
00241

-2-

Messrs. Allen Allen & Hemsley,

SINCLAIRS

at 11.00 a.m. and subsequently rang to postpone this
appointment until 1.00 p.m.; he actually arrived at
2.55 p.m. and left at 5.30 p.m.

Prior to the calling of the Extraordinary General
Meeting set down for 4th March your client has never
asked to inspect any of the Company's records.

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Yours truly,

W.J. Sinclair

S I N C L A I R S.

00242

JRH:JBT
WJS:ECD

4th March, 1975

Messrs. Sinclairs,
Solicitors & Notaries,
117 Pitt Street,
SYDNEY. N.S.W. 2000

Dear Sirs,

Cumberland Holdings Limited.

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We acknowledge receipt of your letter of the 21st
March concerning your client Cumberland Holdings
Limited. 3rd

In fact our letter to Mr. Adler, to which you
refer, was delivered to Mr. Adler's office person-
ally at 4.35 p.m. on Friday last.

In so far as your letter expresses views differ-
ent from those expressed in our letter on the 28th
February to Mr. L.J. Adler, we disagree with you and
confirm the content of that letter. 20

Yours faithfully,

1414. Exhibit 48 - Letter
to Sinclairs -
4.3.75.

Mr. Chairman, Ladies and Gentlemen,

Four months ago I was re-elected as a Director of Cumberland Holdings Limited. Today I am brought before you on the motion of Fire and All Risks Insurance Company, a subsidiary of the FAI Insurances Group (of which Mr. L.J. Adler, our Chairman is Chairman, and of which all the directors of Cumberland are Directors with the exception of myself). The motion is that I be removed from the Board to which you recently re-elected me. As FARI is the holder of approximately 80% of the voting stock of Cumberland it enjoys the voting power necessary to force this motion through today's meeting.

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To understand why this motion is before you today, it is necessary to look firstly at a letter addressed to stockholders by our Chairman on the 29th January last. In this letter he states (and I quote) - "FAI do not consider that it is proper for Mr. Glen L. A. Donohoo, who at present sits on the Board of CHL as the representative of WHSP to continue to be a member of CHL Board in view of the threatened proceedings against CHL".

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The "proceedings" against Cumberland to which he refers are of course, the petition to wind-up the Company ^{that} ~~which~~ Washington H. Soul Pattinson, of which I am a director, threatened to lodge, if FAI did not increase its take-over offer price from the original ludicrous offer.

What Mr. Adler was careful not to mention about this threat was that Souls was seeking the increased offer for all minority shareholders not just for its own shareholding in Cumberland. He was also very careful to describe the price sought by Souls as, and I quote "prices prevailing in July, 1974", without giving the reason why Souls had sought a cash offer at that price. That reason is two-fold - and quite simple.

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Firstly, because \$1.25 cash (the price sought by Souls for Ordinary stock units) is the price Mr. Adler's family interests arranged for themselves by selling to a public company of which he is Chairman, in, I might add, off market transactions; and

Secondly, because this figure is close to the net tangible assets backing of Cumberland Ordinary units of \$1.22.

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- 2 -

This letter from our Chairman of the 29th January, 1975 explaining his reasons for seeking my removal from the Cumberland Board reveals, yet again, the selectivity in presenting evidence that has characterized so much of our Chairman's correspondence with stockholders since this shoddy, tawdry affair was launched by him in his letter to you of the 20th November, 1974.

It is not proper for me to remain on the Cumberland Board, says our Chairman, because of what he describes as a "conflict of interests situation" for me. I agree entirely with our Chairman that a Director should, in certain "conflict of interests situation" remove himself - or be removed - from the Board. It has always been my intention to remove myself immediately from the Cumberland Board when, and if, Souls decides to proceed with the threatened petition to wind-up the Company. In the meantime, there is of course, no conflict of interests situation to warrant my removal - voluntary or forced - from the Cumberland Board. Our Chairman's contention that he wants me off the Board to protect Cumberland is, of course, quite spurious.

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However, I agree with our Chairman that there are limits to those conflict of interests situations that a Director should permit himself. Once these limits

have been exceeded a Director should retire voluntarily - or he should be removed - from the Board of the Company. I propose to-day to explore what those limits of permissible conflict of interests are - and the yardstick I shall use is the conduct of our Chairman. He has been consistently in a conflict of interests situation viz-e-viz our Company since July last - and yet he has not resigned from our Board. One may assume therefore that he - my accuser - has not exceeded the permissible limits. Let us then judge his accusations against me by the limits he has set for himself.

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At the time of the FAI offer, normal commercial propriety demanded that our Chairman, as Chairman of both offeree company and offeror company make no recommendation to Cumberland shareholders. Of course, our Chairman was not to be restrained by consideration of propriety- he sent out with the offer documents a letter to stockholders in which he strongly recommended the offer to the Cumberland stockholders,

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- 3 -

although clearly in the situation of "conflict of interests".

This letter makes interesting reading today in the light of the facts we have learned subsequent to its publication. I propose to examine that letter today to illustrate to minority stockholders ~~what our Chairman has shown to be the limits of conflict of interests he has chosen, as permissible for himself, would more properly be leveled against himself for his conduct~~ ^{what our Chairman has shown to be the limits of conflict of interests he has chosen, as permissible for himself,} during the course of this affair.

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After a brief introduction concerning the growth of our company, which Mr. Adler ascribes to the activities of the FAI Group, Mr. Adler says "you have been able to share in the financial benefits which

have accrued from this steady growth of the business" (of Cumberland). Of course our Chairman failed to mention how his family interests had shared much more handsomely in the financial benefits of membership of our company by disposing of their stock units at a price which was more than twice what Mr. Adler and the FAI Group offered to the remaining stockholders of Cumberland.

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Mr. Adler then goes on in his letter of the 20th November to remark that the Sydney Stock Exchange, and I quote, "have now intimated that they consider that the FAI Group's holding in the company is too large to justify the continued listing of Cumberland's securities on the Exchange". Of course Mr. Adler gave no reason for what would appear from his letter to be arbitrary action by the Exchange, and certainly he gave no indication of the true facts. These facts are that the Stock Exchange listing of Cumberland stock units was jeopardized because of off-market transactions whereby Mr. Adler's family interest disposed of their large stock holdings in Cumberland to the FAI Group. It was these transactions, arranged by Mr. Adler and his family interests with FAI that precipitated the Stock Exchange move.

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Mr. Adler then continues to state that "FAI realises, of course, that if the stock can no longer be dealt with on the Australian Stock Exchanges the position of the other stockholders would be seriously prejudiced. In the circumstances (and I continue to quote) "FAI feels that the only fair and proper course is to make a formal take-over

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- 4 -

offer for the whole of the remainder of the Company's issued capital". Perhaps it had never occurred to

Mr. Adler and his FAI colleagues that another alternative, perhaps even more "fair and proper" existed. This would be for Fire and All Risks to dispose of a small fraction of its large holding in Cumberland, and thus remove all threat to the Stock Exchange listing. It would have been surprising however if this had not occurred to our Chairman and his FAI colleagues because this was the course of action specifically suggested to Cumberland by the Stock Exchange. One can, under these circumstances, but ponder the intention and motives of our Chairman in referring to FAI's offer as "the only fair and proper course".

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Of course, FAI's concern for the "seriously prejudiced" position as Mr. Adler describes it, of Cumberland minority stockholders, seems curiously to have evaporated after the failure of the ludicrous take-over offer. FAI and Mr. Adler today seem quite content to leave minority stockholders in a "seriously prejudiced position", their apparent magnanimity towards the minority having speedily deserted them on the failure of their offer.

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After explaining the terms of the take-over offer, Mr. Adler's letter then goes on to state (and I quote again) "In terms of assets-backing, the latest published accounts of both Cumberland and FAI reveal that the equity capital in each company has a value substantially above the par value of their issued Ordinary Stock and Ordinary Shares respectively". This is certainly true of Cumberland with net tangible assets-backing per fifty cent Ordinary Stock Unit of \$1.22, a difference of 72 cents. But what of FAI's Ordinary Shares? The "substantial" excess over par value amounts to ...2 cents per share, which causes one to wonder what Mr. Adler understands the word "substantial" to mean.

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In fact, as I have frequently pointed out, there is a dramatic difference between the net tangible assets-backing of FAI's shares and the net tangible assets-backing of Cumberland's Stock units and Mr. Adler's implied statement that they resemble each other in this respect is, to say the least, somewhat curious.

- 5 -

Then comes one of the most curious comments of all in this most curious of documents. Mr. Adler says, and I quote, "... conditions on the Exchange have been so abnormal and unrealistic during recent months that I do not consider it would serve any useful purpose to comment on such dealings as have taken place in the two securities during that time".

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Needless to say it would have served a most useful purpose if Mr. Adler had revealed to minority stockholders "such dealings as have taken place" in Cumberland's stock units in which his family interests were involved. It would have served an even more useful purpose if, at the time in July when, as Mr. Adler has recently informed us, "FAI... instructed its brokers to offer to buy Ordinary Stock Units in Cumberland on the open market at ..\$1.25 per unit", Mr. Adler and FAI had informed the minority of this golden opportunity. He now maintains that, and again I quote, "it was open to any stockholder at that time to accept the same figure, (that is, \$1.25 cash) per Ordinary stock unit". Unfortunately, not only did FAI's generous offer remain unpublished, it would appear to have remained open for only fourteen days. During those fourteen days, three minority holders appear to have profited from FAI's great generosity and disposed of a total of 1,700 Cumberland Ordinary Stock Units. The only others fortunate enough to

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learn of, and accept, FAI's generosity were Mr. Adler's family interests - and they disposed of 193,978 Cumberland Stock Units. "Abnormal and unrealistic conditions on the Stock Exchanges" indeed, as Mr. Adler says! It must be considered regrettable however that he thought "no useful purpose would be served" to comment on these "abnormal and unrealistic" matters when recommending FAI's offer to minority stockholders. 10

As a conclusion to his letter on the 20th November, Mr. Adler states that by accepting the FAI offer, and I quote again, "you will be acquiring an interest in one of the major Australian owned insurance groups. It is one which in recent years has demonstrated a significant capacity for dynamic growth and progress, which my colleagues and I will be striving to maintain in years ahead". (end of quote)

- 6 -

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The maintenance of that dynamic growth will no doubt be more easily achieved in the years ahead if the Registrar of the Workers' Compensation Commission of New South Wales fails in his pending application to have FAI's licence revoked. It would certainly have been easier for the minority stockholders to assess FAI's potential for dynamic growth if Mr. Adler had informed them of this pending application. An even more revealing piece of information which Mr. Adler could have supplied Cumberland stockholders to assist them in assessing the merits of the FAI offer, would have been a statement of the grounds upon which the Registrar is claiming that FAI's licence should be revoked. These would hardly make encouraging reading for any prospective purchaser of FAI's shares. 30

This then is the letter to the Cumberland minority

stockholders from Cumberland's Chairman concerning the merits of a take-over offer by a Company of which this same man is also Chairman. This is the conduct of the man who accuses me of standing in a conflict of interest situation in relation to Cumberland. This is the conduct of the man who would have me removed from the Board of our Company. Accusations of conflict of interest fall indeed most oddly from the tongue of a man whose conduct to date in this sorry affair has been one endless series of acts calculated to advance his family interests and those of FAI in favour of and at the expense of the best interests of Cumberland minority stockholders. If these are the permissible limits, how can our Chairman say that my conduct has exceeded them?

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I might add that this same man has accused me of sending malicious and misleading letters to stockholders containing deliberately untrue statements. This man has also threatened me with legal proceedings - presumably in an effort to intimidate me into silent acquiescence of his conduct.

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The threats of legal proceedings I cheerfully ignore - I am not fearful for the outcome of any litigation in which my honesty and integrity are at issue. As to the accusations of malicious, misleading and untruthful letters - I am happy to let the minority stockholders judge which, if either of Mr. Adler and myself, can more properly be accused of misleading and untruthful conduct. Here again I am confident of the outcome.

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- 7 -

Most recently Mr. Adler and his colleagues have obstructed at every turn my efforts to peruse the accounting records and books of the Company. He has

cancelled the regular monthly Board meeting for February at which he had committed himself to revealing certain information about the affairs of the Company to me. Needless to say he has failed to provide me with the promised information by other means.

Before closing there is ~~one~~^{two}-final matters I wish to raise at this meeting today. ^{Firstly} AS I am the only director of Cumberland Holdings who is not also a director of FAI it may properly be said that I am the representative, not only of Souls, but also of all minority stockholders. If Mr. Adler and FAI believe they have a case against me - and they have made their accusations against me sufficiently frequently for all stockholders to be aware of them - then let the stockholders be judge. I call upon the FAI Group and the Adler family interests to show their true colours on the question of conflict of interests. Let the FAI Group refrain from using its massive majority of voting stock to force my removal against the wishes of the stockholders I represent.

If Mr. Adler and his FAI associates are, as they pretend, concerned to protect our company from directors whose interest conflict with those of the shareholders as a whole, and if they persist in their accusations against me that I am in that position, let them retain the role of accuser and abandon the conflicting role of judge in my case. Let them show that they regard themselves as bound by the rules they accuse me of breaching. Let them do this by refraining from voting on the motion. I call upon FAI and its Chairman and directors, given their present conflict of interests at this meeting, to refrain from voting upon the motion that I be removed from the Board.

As Mr. Adler has said in his letter of the 20th November, 1974 the position of minority stockholders has been "seriously prejudiced" by the actions of Mr. Adler and FAI. Under these circumstances it would seem only reasonable that FAI and its subsidiaries not vote on the issue before us today and that they leave the question of the best interest of the minority stockholders to those stockholders themselves without attempting to force the FAI point of view, once again, upon all stockholders.

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- 8 -

My final point is this:

There is no possible conflict of interests situation existing today in so far as I as a Director of Cumberland, am concerned.

Souls, as a minority stockholder, has sought to protect all minority stockholders against the oppressive behaviour of the FAI Group and the majority of the Cumberland Board. Souls has consulted Senior Counsel to take advice on what options are open to the minority. Senior Counsel has advised that the only remedy - in the event that FAI refuses to increase its offer - is to petition to wind-up Cumberland.

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How can it be said that an honest attempt to protect a minority from oppression by the majority creates a conflict of interests for me? My only conflict is with FAI and its directors - and it is not a conflict of interests.

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Thank you Mr. Chairman.

CUMBERLAND HOLDINGS LIMITED

MINUTES OF AN EXTRAORDINARY GENERAL MEETING OF
STOCKHOLDERS HELD AT THE AUSTRALIAN INSTITUTE OF
MANAGEMENT, 135 WALKER STREET, NORTH SYDNEY, ON
TUESDAY, 4TH MARCH, 1975, AT 10:00 A.M.

PRESENT: L.J. ADLER (Chairman)
J. BELFER
G.L.A. DONOHOO
PROF. J.R. WILSON
W.J. SINCLAIR (Representing Fire and All Risks Insurance Company Limited) 10
R.L. HERMAN (Representing Cumberland Secretarial Services Pty. Limited)
16 Shareholders in person or by Proxy
G. CASSIDY (Sun Newspaper)

NOTICE OF MEETING: At the request of the Chairman, the Secretary read the Notice of Meeting.

REMOVAL OF DIRECTOR: The Chairman, having announced that a quorum was present, informed the meeting that the meeting had been requisitioned by Fire and All Risks Insurance Company Limited, a shareholder of the Company, under the provisions of Section 137 of the Companies Act, 1961, as amended, and that the objects of the meeting as stated by the requisitioner, were to consider and if thought fit, to pass the following Resolution as an Ordinary Resolution of the Company. 20

"RESOLVED that, pursuant to the powers in that behalf vested in the Company under Section 120(1) of the Companies Act, 1961, of New South Wales as amended, Glen L.A. Donohoo be and is hereby removed as a Director of the Company with immediate effect." 30

After discussion, the Resolution was put to the Meeting on a show of hands and was declared to be defeated by 17 votes to 4 votes.

Fire and All Risks Insurance Company Limited, by their representative, W.J. Sinclair, Esq., thereupon demanded a poll, and, upon the poll being taken, the Resolution was declared to be passed by 612,538 votes in favour of the Resolution to 77,900 votes against the Resolution. 40

Exhibit 39 - Minutes of
Extraordinary General
Meeting - 4.3.75.

Exhibit 39 - Minutes of
Extraordinary General
Meeting - 4.3.75.

The Chairman thereupon duly declared the
Resolution to have been carried and the
Meeting closed at 11.45 a.m.

Signed as a correct record.

L.J. Adler
.....
CHAIRMAN

CUMBERLAND HOLDINGS LIMITED

Registered Office:
 Fai Insurance Building, 185 Macquarie Street,
 Sydney, 2000
 Telephone: 221-1155

LJA/MT

7th March, 1975.

The Secretary,
 The Sydney Stock Exchange Ltd.,
 20 O'Connell Street,
SYDNEY. 2000.

10

Dear Sir,

CUMBERLAND PROFIT AND DIVIDEND UP

Cumberland Holdings Limited, a member of the FAI Insurance Group increased net profit (after provision for tax) for the half year ended 31st December, 1974 from \$63,590 to \$83,585, an increase of 31% (subject to audit). The tax provision for the corresponding period has increased from \$58,000 to \$72,000. Income increased from \$854,450 to \$1,621,705, an increase of 89.8%. The large increase of income was mainly the result of the Company purchasing an additional nursing home and two private hospitals (one partly owned).

20

The Directors have declared an increased interim dividend of 6% (3 cents) per share (previously 5% or 2½ cents), together with an interim preference dividend for the half year ended 31st December, 1974 of 4%, both payable on 3rd April, 1975.

The Directors are pleased to be able to report that during a particularly difficult period of the national economy they have been able to contain expenses and increase net profits. During this period also, there were pressures brought to incur additional, and in the opinion of the majority of Directors, unwarranted expenditures. The results achieved prove the value of prudence

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A member of the Fai Insurance Group 2..

The Sydney Stock Exchange (2) 7th March, 1975.

00254

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and thrift. It is anticipated that the current six months' results will show a continuation of the satisfactory trend established in the first half of the year.

Exhibit 40 - Copy
 Letter to Stock
 Exchange

Exhibit 40 - Copy
Letter to Stock
Exchange

Duly completed transfers received by the Company up to 5.00 p.m. on the 28th March, 1975 will be registered before entitlements to the dividend are determined.

Yours faithfully,

L.J. Adler

LAWRENCE J. ADLER
Chairman.

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SECTION 1.

PRE-REQUISITES FOR ADMISSION TO OFFICIAL LIST

A. Capital Structure and Distribution of Securities —

1. *A Limited Liability Industrial Company seeking Quotation of Shares* may be considered for admission to the Official List of the Exchange if:—

- (1) The sum of the paid-up value of such shares of the one class and paid-up value together with any premium paid with respect thereto is at least \$300,000, the minimum paid-up value being at least \$200,000 and
- (2) There are at least 300 holders of such shares of the one class and paid-up value; and
- (3) in the case of a company having a paid up share capital—
 - (a) of \$200,000 but not exceeding \$399,999—members of the public are holders of at least 140,000 shares of the one class and paid-up value, or
 - (b) of \$400,000 or more — members of the public are holders of at least 200,000 shares of the one class and paid-up value and—
- (4) in the case of a company having a paid up share capital—
 - (a) of \$200,000 but not exceeding \$2,000,000—at least \$70,000 or 25 per cent of such capital of the one class and paid-up value (whichever be the higher) is held by members of the public, or
 - (b) in excess of \$2,000,000 — at least \$500,000 or 15 per cent of such capital of the one class and paid-up value (whichever be the higher) is held by members of the public.

PROVIDED HOWEVER that, notwithstanding the foregoing, a company may be considered for Official Listing —

- (i) if not less than \$1,500,000 of its paid up share capital, comprising not less than 1,000,000 shares of the one class and paid-up value, is held by at least 1,000 members of the public, or
- (ii) notwithstanding its paid up share capital is less than \$200,000, if either—
 - (a) it be a company incorporated in the State of Queensland, Tasmania or Western Australia and it and its principal operating subsidiaries (if any) carry on its or their principal businesses in the State in question,
 - (b) all the Australian Associated Stock Exchanges approve of its admission to the Official List of the Exchange to which application has been made.

(18) The Company will at all times maintain a spread of shareholdings and optionholdings which in the opinion of the Exchange is sufficient. A company which fails to do so may be given three months by the Exchange to rectify the situation. In such event, the company will notify the shareholders and/or optionholders accordingly within seven days of receipt of such notice and if the position is not rectified within the three month period the subject securities may then be removed from the Official List. The foregoing provision shall also apply where the spread of optionholdings is reduced because of the exercise of options.

(19) To advise the Exchange without delay of any material contract entered into by the company or its subsidiaries in which a director of the company has a material interest, either directly or indirectly. The advice should include inter alia the names of the parties to the contract, the name of the director (if not a party to the contract), particulars of the contract, and the director's interest in that contract.

'Contract' shall be deemed to include:

(a) any loans in which the Directors of the Company have any direct or indirect interest and in respect of such loans the advice to the Exchange shall include the identity of the borrower, or the lender, the security held, the interest rates, the maturity dates of the loan and any other terms applicable to such loans, and

(b) any agreement or arrangement whether formal or informal and whether express or implied and includes an agreement that is not enforceable by legal proceedings whether or not it was intended to be so enforceable. A contract with a subsidiary or associated company of the company shall be taken into account as if it were a contract with the company. A contract shall not be deemed to be material if it is entered into by the company in the normal day to day conduct of its business.

Particulars of any disclosable contracts or arrangements either still subsisting at the end of the financial year or, if not then subsisting, entered into since the end of the previous financial year must be set out in the annual report.

(19A) A listed company shall not nor shall any of its subsidiaries acquire or dispose of any assets for a price in excess of 10% of the then market capitalisation of the issued capital of the listed company without the prior consent of the members of the listed company in general meeting if the vendor or purchaser of such assets is:—

(i) any person who is or was at any time in the preceding 6 months a director or officer of the listed company or any of its subsidiaries,

SECTION 5.

TAKEOVERS

Where the directors of a listed company are having discussions with a company, person or group which may lead to an offer being made, it is important that everyone concerned does everything possible to maintain secrecy.

- (1) Where a listed company receives a notice of intention to make a takeover offer (whether such notice is in accordance with the Companies Act or otherwise) the Directors shall immediately advise the Exchange on which the Company's securities are quoted of such notice and immediately forward twelve copies of the notice and of any accompanying statement to the Home Exchange.
- (2) An offeree company shall send to all holders of other classes of shares and convertible notes in the company, whether or not such securities are covered by the takeover offer, a copy of all documents which it is required by law to send to the holders of the shares subject to the takeover offer.
- (3) Where a takeover offer is conditional upon acceptance by holders of a minimum number of shares being received or where an offeror extends the time for acceptance of a takeover, then—
 - (a) at the time the offeror declares the offer free from the condition of a minimum number of shares being received, or
 - (b) when the time for acceptance is extended—the offeror shall simultaneously announce the percentage of shares subject to the takeover for which he has received acceptances.
- (4) Where a takeover offer is made for the acquisition of not less than 90 per cent of a listed company's securities, upon the announcement by the offeror that acceptances have been received from the holders of at least 90 per cent of securities subject to the offer, official quotation of all such securities will be terminated.

The offeror company must also announce simultaneously:—

 - (a) The percentage of acceptances received subject to the offer.
 - (b) Whether it will proceed to compulsory acquisition of all outstanding shares pursuant to the relevant section of the Companies Act applicable.
 - (c) That where the consideration offered is wholly or in part by way of securities it will apply for listing of such securities without delay, unless the offer document specifically states that application for listing will not be made.
- (4A) Where a company makes an offer for all of the ordinary capital of a listed company it must at the same time make a realistic offer for any quoted preference shares of the offeree company which offer may be conditional upon the offeror declaring its offer for the ordinary shares unconditional.
- (5) Where an unlisted company, person or group submits a takeover offer for the acquisition of 90 per cent or a lesser percentage of a

July, 1975

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listed company's securities, upon the announcement by the offeror that he has obtained sufficient acceptances and that he holds directly or indirectly more than 50 per cent of the offeree company's securities, official quotation of the offeree company's securities will either be terminated or suspended until the offeror discloses to the Exchange, his plans and intentions in regard to the offeree company and any other information that the Exchange considers necessary.

- (6) (a) If, in the opinion of the Exchange, a company which is on the Official List has merged, amalgamated or formed an association with an unlisted company, person or group, and as a result the unlisted company, person or group has thereby acquired control of the listed company, the listed company shall, if so required, lodge with the Exchange all information and documents which would be required if the unlisted company were seeking admission to the Exchange's Official List.
- (b) If, in the opinion of the Exchange, a company which is on the official list may, in consequence of a takeover scheme or otherwise, amalgamate or form an association with an unlisted company, person or group and as a result the unlisted company, person or group may acquire control of the listed company, the listed company shall:—
- (i) lodge with the Exchange all information and documents which would be required if the unlisted company were seeking admission to the Exchange's official list;
 - (ii) if the unlisted company, person or group intends to acquire any other company, business or assets, lodge with the Exchange all information and documents which would be required if that company, person or group were seeking admission to the Exchange's official list; and
 - (iii) if a takeover offer is being made to the holders of the shares in the listed company and if the Exchange so requires, forward to the members of the listed company the information referred to in paragraphs (i) and (ii) above.
- (7) When an offer is made to exchange or convert listed securities, the offeror must disclose whether or not application will be made for official quotation of the securities arising from the exchange or conversion.
- (8) (a) A notice of intention shall incorporate a statement that the offer is to be made either:—
- (i) to those holders of securities appearing on the register of members as at the date of the offer or a specified date, or
 - (ii) to those holders mentioned in paragraph (i) and any assignees thereof who become registered as the holders of such securities during the currency of the offer.

- (b) (i) an offer to acquire 100 per cent of the securities of the one class shall extend to those holders registered or to those persons entitled to be registered at the date of the offer and to any assignees thereof who become registered as holders of such securities during the currency of the offer
- (ii) an offer to acquire *less* than 100 per cent of the securities of the one class shall be made to those holders registered or to those persons entitled to be registered at a specified date or the date of the offer whichever is the later.
- (9) Directors whose shareholdings, together with those of their families and trusts, effectively control a company, or shareholders in that position who are represented on the Board of a company, and who contemplate transferring control, should not other than in special circumstances, do so unless the buyer unconditionally undertakes to extend within a reasonable period of time a comparable offer in writing to the holders of the remaining equity share capital, whether such capital carries voting rights or not. In such special circumstances the Stock Exchange must be consulted in advance and its consent obtained.
- (10) For the purposes of this requirement:
- 'Offeror' includes any person acting in concert with the offeror.
- 'Person Acting In Concert' includes individuals or corporations who actively co-operate to obtain a common objective in relation to a takeover or merger transaction.
- 'Offer Period' means the period from the date that the announcement is made of a proposed offer (with or without terms) until the last day on which the offer remains open for acceptance.
- (a) Where the consideration for the offer is either wholly in cash or one or more alternatives, one of which is wholly in cash, and the offeror purchases shares the subject of the offer on the market or elsewhere for cash during the offer period at a price higher than the offer price the offeror shall increase the cash offered to not less than the highest price paid during the offer period by the offeror.
- (b) Where the consideration for the offer is —
- (i) Securities, or
- (ii) Securities and cash
- and the offeror purchases shares the subject of the offer on the market or elsewhere for cash during the offer period the offeror shall make a new offer and the consideration shall be —
- (i) wholly in cash, or
- (ii) any consideration accompanied by a cash alternative.
- The amount of cash offered must be not less than the highest price paid by the offeror during the offer period.

- (c) Where the consideration for the offer is either wholly in cash or one or more alternatives, one of which is wholly in cash, and the offeror purchases for cash on the market or elsewhere during the offer period and within three months prior to its commencement in excess of 10% of the class of shares subject to the offer and any of the shares so purchased is at a price higher than the offer price the offeror shall increase the cash offered to not less than the highest price paid during that period by the offeror.
- (d) Where the consideration for the offer is —
- (i) Securities, or
 - (ii) Securities and cash
- and the offeror purchases shares the subject of the offer for cash on the market or elsewhere during the offer period and within three months prior to its commencement in excess of 10% of the class of shares subject to the offer the offeror shall make a new offer at a value not less than the highest price paid by the offeror during that period for shares of the class the subject of the offer and the consideration shall be —
- (i) wholly in cash, or
 - (ii) any consideration accompanied by a cash alternative.
- The amount of cash offered must be not less than the highest price paid by the offeror during that period.
- (e) The offeror shall not enter into arrangements to deal or make purchases or sales of shares of the offeree corporation either during an offer or when one is reasonably in contemplation, if such arrangements to deal, purchase or sell have attached thereto special favourable conditions which are not extended to all shareholders.
- (f) Where the offeror considers that the highest price should not apply in a particular case, the offeror shall first obtain the consent of the Home Exchange of the offeree corporation to any other price.
- (g) Where as a result of the provisions of this listing requirement an offeror is required to vary an offer the offeror shall notify shareholders in the offeree corporation as soon as practicable in writing of the variation in the offer and the varied offer must remain open for not less than 14 days from the date of despatch of the notification.

N.B.: An unlisted offeror contravening this requirement may have the facilities of the market withdrawn from it.

- (11) For the purpose of this and the next succeeding requirement "Person Acting In Concert" has the same meaning as in Requirement 5.(10).
- (a) The Part 'A' Statement must state as at the date thereof and the formal offer document must state as at the date of the Part 'A' Statement:
- (i) The shareholding of the offeror in the offeree corporation.
 - (ii) Where the consideration for the offer is wholly or in part a share exchange, the shareholdings in the offeror corporation in which the directors of the offeror corporation or any person acting in concert with the offeror, have a beneficial interest.
 - (iii) The shareholdings in the offeree corporation in which the directors of the offeror corporation or any person acting in concert with the offeror have a beneficial interest.
- (b) The document of the offeree corporation advising its shareholders of an offer (whether recommending acceptance or rejection of the offer) must state as at the date of the Part "B" Statement:
- (i) The shareholdings of the offeree corporation in the offeror corporation.
 - (ii) The shareholdings in the offeree corporation and in the offeror corporation in which directors of the offeree corporation have a beneficial interest.
 - (iii) The shareholdings in the offeree corporation which any person acting in concert with the offeree corporation owns or controls.
 - (iv) Whether the directors of the offeree corporation and any person acting in concert with them intend, in respect of their own beneficial shareholdings, to accept or reject the offer.
- (c) If in any of the above categories there are no shareholdings then this fact shall be stated.
- N.B.:* Reference in this requirement to shareholdings includes, where appropriate, holdings of securities convertible into equity share capital.
- (12) (a) If any party referred to in 5.(11) above has dealt in the shares in the offeror and/or offeree corporations during the period commencing three months prior to the announcement of the offer and ending as at the date of the Part "A" Statement the details of the transactions, including dates and prices, must be stated in the offer document. If no such deals have been made this fact should be stated.
- N.B.:* The word 'announcement' means the date of the first announcement of a proposed or possible offer made by either the proposed offeror or proposed offeree, and/or any person acting in concert with either of them.

- (b) All parties to a takeover or merger transaction and person acting in concert with them are free to deal at arm's length without discrimination between sellers subject to daily disclosure to the Home Exchange of the offeree corporation (not later than 12 noon on the business day following the date of the relevant transaction) of the total of all shares of any offeror or the offeree corporation purchased or sold by them or person acting in concert with them for their own account on any day during the offer period in the market or otherwise and at what prices.
- (13) All documents that are issued to shareholders of the offeree corporation pursuant to any takeover offer by either the offeror or offeree corporation must be sent to all overseas shareholders by air mail.
- For the purposes of this Requirement "documents" are deemed to include all documents that are required by law to be sent to shareholders, circulars, recommendations of directors, certificates for securities issued and cheques or other consideration issued as consideration for the purchase of shares in the offeree corporation acquired pursuant to the takeover offer.

CUMBERLAND HOLDINGS LIMITED

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS
HELD ON THE 12TH FLOOR, FAI INSURANCE BUILDING
185 MACQUARIE STREET, SYDNEY, ON FRIDAY,
7TH MARCH, 1975

PRESENT: L.J. ADLER (Chairman)
T.E. ATKINSON
J. BELFER
PROFESSOR J.R. WILSON

CONFIRMATION OF MINUTES: The Minutes of the Directors' Meeting held on the 30th January, 1975, were read and confirmed. 10

DIRECTORATE: The Minutes of the Extraordinary General Meeting of the company held on Tuesday, 4th March, 1975, were tabled and it was noted that pursuant to the ordinary resolution passed at the said meeting, Mr Glen L.A. Donohoo had ceased to be a Director of the Company as at that date. The Chairman informed the meeting that the Secretary had taken the necessary action to comply with the requirements of the Companies Act and the Stock Exchange Listing Requirements in consequence of the passing of the said resolution. 20

HALF-YEARLY RESULTS: The Chairman tabled the half-yearly results for the Company for the six months ended 31st December, 1974, and the same were approved.

INTERIM DIVIDEND & PREFERENCE DIVIDEND: It was RESOLVED that an interim dividend of 6 per cent on the ordinary stock units of the Company and the half-yearly dividend of 4 per cent on each of the two classes of preference stock units of the Company be declared, such dividends to be payable on the 3rd April, 1975. 30

STOCK EXCHANGE RELEASE: The Chairman tabled a draft of the release to be made to the Stock Exchange, announcing the half-yearly results and dividend declarations abovementioned and, after discussion, the same was adopted and approved and it was RESOLVED that a press release should be made to the Stock Exchange this day. 40

Signed as a correct record.
L.J. Adler
.....
CHAIRMAN JB TE JW

Exhibit 101 - Copy
Cumberland Minutes -
7th March, 1975.

RESOLUTION

I, the undersigned, Margaret Eileen Crawford
.....
(name in block letters)

of 4 Goldsmith Ave Winston Hills
.....
(address in block letters)

being the holder of 400 Ordinary stock units and/or
.....
(insert number)

.....Preference stock units in the Capital of 10
(insert number)

Cumberland Holdings Limited hereby express my support
to the adoption of the following Resolution by minority
stockholders of Cumberland Holdings Limited:

This meeting fully supports the lodgement of a
petition in the Equity Division of the Supreme
Court of New South Wales by Washington H. Soul
Pattinson & Company Limited, in its own name and
at its own expense, on behalf of minority stock-
holders of Cumberland Holdings Limited, seeking 20
an order to have that company wound-up or alter-
natively to have FAI Insurances Limited purchase
the stock units of the other members of that com-
pany at \$1.25 in cash for each Ordinary stock unit
and 50¢ in cash for each Preference stock unit.

M. Crawford
.....
(Signature)

Date 5th March, 1975.
....

SUPPORTING MINORITY STOCKHOLDERS

<u>STOCKHOLDER</u>	<u>NUMBER OF ORDINARY STOCK UNITS</u>	<u>NUMBER OF PREFERENCE STOCK UNITS</u>	<u>SUPPORT FOR RESOLUTION</u>	<u>EXECUTED DOCUMENT</u>	<u>NOTICE OF INTENTION TO APPEAR</u>
The Mercantile Mutual Life Insurance Co. Ltd.		100,000	Yes	Yes	Yes
Margaret Eileen Crawford	400	-	Yes	Yes	Yes
Francis Thomas and Marjorie Hine	800	400	Yes	Yes	Yes
Carvest Pty. Ltd.		400	Yes	Yes	-
Jack Wesley Chick	400	-	Yes	Yes	Yes
Ena Mary Stinson		2,000	Yes	Yes	-
Eileen Mary Ward	200	400	Yes	Yes	Yes
Florence Nightingale Pond	400	-	Yes	Yes	Yes
Raymond Desmond Gould	500	1,000	Yes	Yes	Yes
Lionel Frank Colman	-	200	Yes	Yes	Yes
John Samuel and Kathleen Pollack	200	-	Yes	Yes	Yes
Dorothy Joyce Black	200	400	Yes	Yes	Yes
Jean Elna Morrow	480	-	Yes	Yes	Yes
Lucy Essie Emery	800	-	Yes	Yes	Yes
Frederick Crofts	400	-	Yes	Yes	-
Albert Maurey	400	-	Yes	Yes	-
William John Dorrell	1,800	-	Yes	Yes	-
Alan C. Drake	200	200	Yes	Yes	-
Max James Arendts	400	-	Yes	Yes	Yes
Lazarus Camilleri	2,400	-	Yes	Yes	Yes
David Winston Thomas Carlen	100	200	Yes	Yes	Yes
William Henry Mark Baker	800	-	Yes	Yes	-
Ruth Susan Lenehan	-	2,000	Yes	Yes	-
Chatham Investment Co. Ltd.	-	2,350	Yes	Yes	Yes
Peter Kajons	400	-	Yes	Yes	-
Colin Craven-Sands	200	-	Yes	Yes	Yes
Thomas Henry Greer	-	400	Yes	Yes	-
Robert James and Dianne Margaret Wilson	300	-	Yes	Yes	Yes
Eric Ernest Weine	3,000	-	Yes	Yes	Yes
Ivy Acacia Bamber	600	1,200	Yes	Yes	Yes
Keith Kipen Sands	500	1,000	Yes	Yes	Yes
William Charles Hill	1,600	-	Yes	Yes	Yes
Herbert Mazlin Mackey	-	400	Yes	Yes	Yes
Catherine O'Donnell	100	200	Yes	Yes	Yes
Clare Viti Feneley	350	700	Yes	Yes	-

<u>STOCKHOLDER</u>	<u>NUMBER OF ORDINARY STOCK UNITS</u>	<u>NUMBER OF PREFERENCE STOCK UNITS</u>	<u>SUPPORT FOR RESOLUTION</u>	<u>EXECUTED DOCUMENT</u>	<u>NOTICE OF INTENTION TO APPEAR</u>
James Reed-Hill	200	400	Yes	Yes	Yes
Neil Taylor Hinks	400	-	Yes	Yes	-
Teggah Investments Pty. Ltd.	1,600	3,200	Yes	Yes	Yes
Francis Patrick Mulligan	500	-	Yes	Yes	-
Alan Frederick Jones	200	-	Yes	Yes	Yes
Thomas Basil Butler	-	400	Yes	Yes	Yes
Charles B. and Mignon H. Williams	600	1,200	Yes	Yes	Yes
Barbara Alison Shaw	400	-	Yes	Yes	Yes
Ernest C. Boston	800	400	Yes	Yes	Yes
Walter Reginald Adams	200	400	Yes	Yes	Yes
Reginald Bruce Jones	-	1,000	Yes	Yes	-
John Leonard Burbury	1,000	2,000	Yes	Yes	Yes
Ian William Buttriss	-	1,000	Yes	Yes	Yes
Kevin George and Audry Joan Holloway	240	-	Yes	Yes	Yes
Josephine Doreen Moore	-	500	Yes	Yes	Yes
Hatmax Nominees Pty. Limited	-	1,150	Yes	Yes	Yes
Robert James Gladman	200	100	Yes	Yes	-
Katandra Investments Pty. Ltd.	-	200	Yes	Yes	Yes
William Jack Dancaster	-	1,200	Yes	Yes	Yes
Gordon Richard James Matchett	500	1,000	Yes	Yes	Yes
Russell Francis Drake	-	800	Yes	Yes	-
Edna Angelina Mary Kurtz	200	-	Yes	Yes	Yes
Victor Sydney Bennett	600	-	Yes	Yes	Yes
Mary Ciorpac	100	200	Yes	Yes	Yes
Eric Payten Dark	800	1,300	Yes	Yes	Yes
Reginald William Cunninghame	200	-	Yes	Yes	-
Francis R. and Shirley M. Hammond	1,000	100	Yes	Yes	Yes
Una Clare Mackey	2,000	-	Yes	Yes	-
Geoffrey Albert and Mary Evelyn Coward	400	-	Yes	Yes	Yes
Elsie Morton	1,000	-	Yes	Yes	Yes
Alan Butcher	800	-	Yes	Yes	-
Thurza May Parrish	1,000	-	Yes	Yes	Yes
John and Muriel Deery	200	400	Yes	Yes	-
S.M.D. Co. Pty. Limited	1,000	2,000	Yes	Yes	Yes
Leo Combes	-	200	Yes	Yes	-
John Dymond Vicary	100	200	Yes	Yes	Yes
Harold Jones	200	-	Yes	Yes	Yes
Walter Gilbert Oxspring	600	-	Yes	Yes	-

1438B.
Exhibit 66 - List

<u>STOCKHOLDER</u>	<u>NUMBER OF ORDINARY STOCK UNITS</u>	<u>NUMBER OF PREFERENCE STOCK UNITS</u>	<u>SUPPORT FOR RESOLUTION</u>	<u>EXECUTED DOCUMENT</u>	<u>NOTICE OF INTENTION TO APPEAR</u>
Ella Rankin	400	800	Yes	Yes	-
John Joseph Bastic	100	200	Yes	Yes	-
Landel Holdings Pty. Ltd.	400	800	Yes	Yes	Yes
David John James West	800	400	Yes	Yes	Yes
Thelma Evangeline Tudor	100	200	Yes	Yes	-
Rita Armbrister	400	-	Yes	Yes	-
Ernest Edward Tree	400	-	Yes	Yes	Yes
Mavis Jean Gould	100	200	Yes	Yes	Yes
Edward George Pearce	800	-	Yes	Yes	-
Kevin B. Douglass	400	-	Yes	Yes	Yes
John Gray Armitt	4,000	-	Yes	Yes	-
Nora Kathleen Goldsmith	-	4,000	Yes	Yes	Yes
Joseph John and Rhonda Daisy Schipp	-	2,000	Yes	Yes	Yes
Ronald John Tozer	500	-	Yes	Yes	-
Hugh Maynard Crawford	500	1,000	Yes	Yes	-
Ross and Phyllis E. McPhie	400	-	Yes	Yes	Yes
Trevor Lyle Curtis	400	-	Yes	Yes	Yes
Anthony Norman Engel	-	200	Yes	Yes	Yes
Mona Gertrude Nelson	400	400	Yes	Yes	Yes
Duncan McCorquodale	-	1,000	Yes	Yes	Yes
James S. Forrest	400	800	Yes	Yes	Yes
Frank Cecil Morley	3,200	-	Yes	Yes	-
Gwendolyn Muriel Allis	2,800	2,800	Yes	Yes	Yes
Alexander Woodford McDonald	-	600	Yes	Yes	Yes
Marshall N. Powell	2,800	-	Yes	-	-
Robert B. Ramsay	200	-	Yes	-	Yes
Patricia F. Jones	600	-	Yes	-	-
Raymond L. Sowden	400	-	Yes	-	Yes
Millane Pty. Ltd.	3,000	-	Yes	Yes	Yes
James Sinclair Millner	1,000	-	Yes	-	Yes

1438C • Exhibit 66 - List

THE SYDNEY STOCK EXCHANGE LIMITED

20 O'Connell Street, Sydney, N.S.W., 2000
G.P.O. Box No. 1360 SYDNEY, N.S.W. 2001
Telephone: 231.0066
Cable: Stockex Telex: AA20630

CREST

10th October 1975.

In reply please quote:
PWM:dd

Messrs. Allen, Allen & Hemsley,
P. & O. Building,
55 Hunter Street,
SYDNEY. 2000

10

Attention: Mr. Thynne

Dear Sir,

Please find enclosed, as requested, Course of Sales
in Cumberland Holdings Limited for the period 1st
November 1973, to 9th October 1975.

Yours faithfully,

P. Mitchelhill

P. W. MITCHELHILL
Manager - Companies.

20

All communications should be addressed to
the Secretary.

CUMBERLAND HOLDINGS LIMITED

1-11-73 to 9-10-75

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>UNITS</u>	<u>PRICE</u>	<u>REMARKS</u>
5-12-73	MM	66	200	.68	
2-1-74	18	31	1,000	.65	
17-1-74	58	66	800	.60	
	58	31	800	.60	
16-4-74	39	58	100	.75	
	39	22	300	.75	
24-4-74	39	22	50	.75	
	39	22	500	.75	10
6-5-74	58	44	100	.75	
2-7-74	39	69	200	1.25	
3-7-74	39	22	400	1.25	
11-7-74	39	22	500	1.25	
12-7-74	39	49	400	1.25	
	39	51	800	1.25	
16-7-74	39	29	200	1.25	
	39	52	300	1.25	
15-8-74	39	43	100	.70	20

Exhibit 45(1) - Enclosure
to Letter from Stock
Exchange -
1-11-73 to 9-10-75

THE SYDNEY STOCK EXCHANGE LIMITED

20 O'Connell Street, Sydney, N.S.W., 2000

G.P.O. Box No. 1360 Sydney N.S.W., 2001

Telephone: 231.0066

Cable: Stockex Telex: AA20630 In reply please quote:
PWM:dd

16th October 1975.

The Secretary,
Allen, Allen & Hemsley,
P. & O. Building,
55 Hunter Street,
SYDNEY. 2000

10

Dear Sir,

CUMBERLAND HOLDINGS LIMITED

Please find enclosed, extracts from the quote sheets
from 1/11/73 to 9/10/75, showing full details of market
quotations and sales for each day during that period.

Yours faithfully,

P.W. Mitchelhill

P. W. MITCHELHILL
Manager - Companies.

20

~~Per-DD-~~

All Communications should be addressed to the
Secretary.

1441. Exhibit 45(2) - Letter
 from Stock Exchange to
 Allens - 16.10.75.

CUMBERLAND HOLDINGS LIMITED

DAILY QUOTES

NOVEMBER 1973 TO OCTOBER 1975

NOVEMBER 1973

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1.11.73	-	90	
2.11.73	-	90	
5.11.73	-	80	
6.11.73	-	80	
7.11.73	-	80	10
8.11.73	-	80	
9.11.73	-	80	
12.11.73	-	80	
13.11.73	-	80	
14.11.73	-	80	
15.11.73	-	80	
16.11.73	-	80	
19.11.73	-	80	
20.11.73	-	80	
21.11.73	-	80	20
22.11.73	-	80	
23.11.73	-	80	
26.11.73	-	80	
27.11.73	-	80	
28.11.73	-	80	
29.11.73	-	80	
30.11.73	-	80	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

DECEMBER 1973

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
3.12.73	-	70	
4.12.73	-	70	
5.12.73	-	70	68
6.12.73	-	70	
7.12.73	-	70	10
10.12.73	-	70	
11.12.73	-	70	
12.12.73	-	65	
13.12.73	-	70	
14.12.73	-	70	
17.12.73	-	65	
18.12.73	-	70	
19.12.73	-	70	
20.12.73	-	70	
21.12.73	64	70	20
27.12.73	64	70	
28.12.73	64	70	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

JANUARY 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
2.1.74	-	70	
3.1.74	-	70	
4.1.74	-	70	
7.1.74	-	65	
8.1.74	-	65	10
9.1.74	-	65	
10.1.74	-	65	
11.1.74	-	65	
14.1.74	-	65	
15.1.74	-	65	
16.1.74	-	65	
17.1.74	60	-	60
18.1.74	60	-	
21.1.74	60	65	
22.1.74	60	-	20
23.1.74	60	-	
24.1.74	60	-	
25.1.74	60	-	
29.1.74	60	-	
30.1.74	60	-	
31.1.74	60	-	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

MARCH 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1.3.74	-	1.25	
4.3.74	-	1.25	
5.3.75	-	1.25	
6.3.74	-	1.25	
7.3.74	-	1.25	10
8.3.74	-	1.25	
11.3.74	-	1.20	
12.3.74	-	1.20	
13.3.74	-	0.75	
14.3.74	-	0.75	
15.3.74	-	0.75	
18.3.74	-	0.75	
19.3.74	-	0.75	
20.3.74	-	0.75	
21.3.74	-	0.75	20
22.3.74	-	0.75	
25.3.74	-	0.75	
26.3.74	-	0.75	
27.3.74	-	0.75	
28.3.74	-	0.75	
29.3.74	-	0.75	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

APRIL 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1. 4.74	-	75	
2. 4.74	-	75	
3. 4.74	-	75	
4. 4.74	-	75	
5. 4.74	-	75	10
8. 4.74	-	75	
9. 4.74	-	75	
10. 4.74	-	75	
11. 4.74	-	75	
16. 4.74	75	-	75
17. 4.74	75	-	
18. 4.74	75	-	
19. 4.74	75	-	
22. 4.74	75	-	
23. 4.74	75	-	20
24. 4.74	75	80	75
26. 4.74	75	-	
29. 4.74	-	-	
30. 4.74	-	-	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

MAY 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
1. 5.74	-	-	
2. 5.74	-	-	
3. 5.74	-	78	
6. 5.74	75	-	75
7. 5.74	80	-	10
8. 5.74	80	-	
9. 5.74	80	-	
10.5.74	80	-	
13.5.74	80	-	
14.5.74	80	-	
15.5.74	80	-	
16.5.74	80	-	
17.5.74	80	-	
20.5.74	80	-	
21.5.74	80	-	20
22.5.74	80	-	
23.5.74	80	-	
24.5.74	80	-	
27.5.74	80	-	
28.5.74	80	-	
29.5.74	80	-	
30.5.74	80	-	
31.5.74	80	-	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

JUNE 1974

<u>DATE</u>	<u>BUYER</u>	<u>SELLER</u>	<u>LAST SALE</u>
3. 6.74	80	-	
4. 6.74	80	-	
5. 6.74	80	-	
6. 6.74	80	-	
7. 6.74	80	-	10
10.6.74	80	-	
11.6.74	80	-	
12.6.74	80	-	
13.6.74	80	-	
14.6.74	80	-	
17.6.74	80	-	
18.6.74	80	-	
19.6.74	80	-	
20.6.74	80	-	
21.6.74	80	-	20
24.6.74	80	1.50	
25.6.74	80	1.50	
26.6.74	80	1.50	
27.6.74	80	1.50	
28.6.74	1.25	1.50	

Exhibit 45(2) - Enclosure
to Letter from Stock
Exchange to Allens

GIBBINGS & WEBB
Chartered Accountants

E.F.K. Webb, F.C.A., A.C.I.S. 48 Macquarie Street
E.J. Harris, A.C.A., A.C.I.S. Parramatta. 2150
Box 88, P.O.
Telephone: 635.6522

MH

10th October, 1975.

Mr. W.J. Sinclair,
Solicitor,
117 Pitt Street,
SYDNEY. 2000.

RECEIVED
13 OCT 1975
Ans'd

10

Dear Sir,

As requested in the telephone conversation of to-
days date our records indicated that the following
shareholders in Cumberland Holdings Limited accepted
the offer of FAI Insurances Limited to acquire their
shares.

	Ord.	8% Cumulative Preference	8% Cumulative Redeemable Preference	
Winton J. Elias	800			
Charles B. and Mignon H. Williams	600		1,200	
Colin Craven-Sands	200			
Robert J. Gladman	200	100		
Jean E. Morrow	480			
Ronald K. Crase	200			
Una C. Mackey	2,000			
Peter W. and Ella G. Hodgens	400			30
Frank C. Morley	3,200			
Arthur V. Thirlwall	400			
Landel Holdings Pty. Limited	400		800	
Peter H. and Patricia H. Clemence	200			
Katandra Investments Pty. Limited			200	40
Peter Kaplers	800	400		

One shareholder, Mr. L. Combes, declined FAI
Insurances Limited offer for his shares.

Yours faithfully,
Gibbings & Webb.

Exhibit 85 - Letter
from Gibbings & Webb
to Sinclairs

ALLEN ALLEN & HEMSLEY
Solicitors and Notaries

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LOXTON
DAVID WIGRAM ALLEN
CECIL SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMIESON
GRAHAM GEORGE COOKE
THOMAS WAYMOUTH MAGNEY
JOHN RODNEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FREDERICK PAUL LIND
RONALD ADRIAN POWLES
EZEKIEL SOLOMON
JOHN JOSEPH McGLINCHEY
JOHN BERESFORD DORTER
WILLIAM MONTAGUE CHARLES GUMMOW
JORGEN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN McCANN
ROGER GAIRE BLUNT
REGINALD IAN BARRETT
JOHN ROBERT FELIX LEHANE
RICHARD FRANCIS EDMONDS
AMEROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT McKILLOP

Telephone: 232 0315
Postal Address: Box 50,
G.P.O., Sydney,
N.S.W., 2001
Cables: "Allens", Sydney
Telex: AA 21641
C.D.E.: Box 105

Our Reference: JBT:IRH
Your Reference

10

P. & O. Building
2 Castlereagh Street
Sydney

20th October, 1975.

Messrs. Sinclairs,
Solicitors,
117 Pitt Street,
SYDNEY, 2000.

Dear Sirs,

20

WASHINGTON H. SOUL PATTINSON & COMPANY LIMITED
v. CUMBERLAND HOLDINGS LIMITED

We advise that, since the hearing commenced and we have had an opportunity for the first time to peruse the documents produced on subpoena by Messrs. J.M. Messara & Co., it has come to our notice -

- (i) That all the ordinary stock units in the capital of Cumberland purchased at \$1.25 on the Sydney Stock Exchange throughout the whole of 1974 were purchased on behalf of either Falkirk Properties Limited or FAI Insurances Limited. These purchases totalling 2,800 ordinary stock units were made during the period 2nd July to 16th July inclusive. Apart from these purchases, the next highest price in 1974 was 75¢. See Exhibits 45 and 47.

20

Exhibit 53 - Letter
from Allens to
1451. Sinclairs - 20.10.75.

Exhibit 53 - Letter
from Allens to
Sinclairs - 20.10.75.

- (ii) That on 7th August 1974 Fire and All Risks Insurance Company Limited instructed Messara to offer for sale on the Sydney Stock Exchange 10,000 Cumberland ordinary stock units at a limit of 70¢.
- (iii) That on 19th August 1974 Fire and All Risks instructed Messara to offer to purchase on such Exchange 25,000 Cumberland ordinary stock units at a limit of 50¢.

10

/2

Continuation Sheet
FROM ALLEN ALLEN & HEMSLEY No. 2 Date 20/10/75

TO Messrs. Sinclairs

In these circumstances, we advise that the petitioner relies also on the following allegations -

- June
- (a) In/ July 1974 FAI and Falkirk Properties under the direction of Mr. Adler and Mr. Belfer created a false and misleading market price of \$1.25 each for Cumberland ordinary stock units. This was done for the purpose of establishing a price for such stock units at which members of Mr. Adler's family, companies owned and controlled by Mr. Adler or members of his family, and Falkirk Properties might sell substantial parcels of such stock units to Fire and All Risks.
- (b) In August 1974 FAI and Fire and All Risks under the direction of Mr. Adler and Mr. Belfer created a false and misleading market price of buyers at 50¢ and sellers at 70¢ for Cumberland ordinary stock units. This was done for the purpose of depressing the apparent market price for such stock units and thereby facilitating the acquisition by FAI of such stock units under the offer of 20th November 1974.

20

30

Arising out of the cross-examination of Mr. Donohoo, the petitioner relies on the following further allegations -

40

- (c) Mr. Adler mislead the Cumberland stockholders in his letters to them of 20th November, 22nd November, 27th November and 6th December 1974 and of

1452. Exhibit 53 - Letter
from Allens to
Sinclairs - 20.10.75.

Exhibit 53 - Letter
from Allens to
Sinclairs - 20.10.75.

29th January and 4th February 1975 as particular-
ised in Mr. Donohoo's evidence at pages 130-132
and 136-146.

- (d) During the period 13th February to 4th March 1974
(when Mr. Donohoo was removed from the Board),
Mr. Adler and Mr. Belfer as directors of Cumber-
land prevented Mr. Donohoo from having proper
access to Cumberland's accounting records in
accordance with Section 161A(8) of the Companies
Act 1961 as amended.

10

Yours faithfully,

Allen Allen & Hemsley

1453. Exhibit 53 - Letter
from Allens to
Sinclairs - 20.10.75.

THE SYDNEY STOCK EXCHANGE LIMITED
20 O'Connell Street, Sydney, N.S.W., 2000
G.P.O. Box No. 1360 Sydney, N.S.W., 2001
Telephone: 231.0066
Cable: Stockex Telex: AA20630

CREST

In reply
please quote:
PWM:pr

30th October, 1975.

Messrs. Allen, Allen & Hemsley,
Solicitors,
P. & O. Building,
55 Hunter Street,
SYDNEY, N.S.W. 2000.

10

Attention: Mr. Thynne

Dear Sirs,

This letter is to confirm that on 16th July 1974 the All Ordinaries Index on the Sydney Stock Exchange was 364.79, and the All Ordinaries Index on 7th August 1974 stood at 318.19.

Yours faithfully,

P.W. Mitchelhill

P.W. Mitchelhill
Manager - Companies

20

All communications should be addressed to the Secretary.

THE SYDNEY STOCK EXCHANGE LIMITED
20 O'Connell Street, Sydney, N.S.W. 2000
G.P.O. Box No. 1360 Sydney, N.S.W. 2001
Telephone: 231.0066
Cable: Stockex Telex: AA20630

CREST
In reply
please quote:
BS:vp

3rd December, 1975

Mr. James Thynne,
Allan Allan & Hemsley,
2 Castlereagh Street,
SYDNEY, N.S.W. 2000

10

Dear Sir,

We wish to advise that as at the close of trading on
Wednesday, 20th November, 1974, the Sydney ALL ORDINARY
INDEX was 310.45.

We trust this information to be satisfactory.

Yours faithfully,

B. Sullivan
BRENDAN SULLIVAN
Companies Officer

All communications should be addressed to the
Secretary.

20

1455. Exhibit 81 - Letter
from Sydney Stock
Exchange, 3.12.1975

THE SYDNEY STOCK EXCHANGE LIMITED
 20 O'Connell Street, Sydney, N.S.W., 2000
 G.P.O. Box No. 1360 Sydney, N.S.W., 2001
 Telephone: 231.0066
 Cable: Stockex Telex: AA20630

CREST
 In reply
 please quote:
 BS:vp

3rd December, 1975

Sinclairs,
 Solicitors,
 117 Pitt Street,
SYDNEY, N.S.W. 2000

10

Dear Sir,

We list below the weekly high and low for the All Ordinary Index, covering the period 1st June 1974 to 30th November 1974.

<u>JUNE</u>	<u>HIGH</u>	<u>LOW</u>
3 - 7	418.37	398.30
10 - 14	411.24	407.10
18 - 21	405.02	396.66
24 - 28	390.57	387.38
<u>JULY</u>		
1 - 5	385.14	380.73
8 - 12	383.97	371.16
15 - 19	365.07	362.91
22 - 26	357.84	345.69
29 - 31	343.27	330.25
<u>AUGUST</u>		
1 - 2	329.95	327.73
6 - 9	334.11	318.19
12 - 16	335.02	317.50
19 - 23	314.56	298.12
26 - 30	319.85	311.19
<u>SEPTEMBER</u>		
2 - 6	307.05	300.49
9 - 13	301.88	298.18
16 - 20	294.78	272.54
23 - 27	281.32	259.37

20

30

.... /2

All communications should be addressed to the
 Secretary

Exhibit 81 - Letter
from Sydney Stock
Exchange, 3.12.1975

-2-

<u>OCTOBER</u>	<u>HIGH</u>	<u>LOW</u>	
1 - 4	276.13	259.74	
8 - 11	298.30	285.76	
14 - 18	289.71	284.44	
21 - 25	295.34	284.60	
28 - 31	301.18	298.98	10
<u>NOVEMBER</u>			
1 - 8	315.96	301.19	
11 - 15	341.07	321.26	
18 - 22	310.57	303.62	
25 - 29	313.43	311.78	

We trust this information to be satisfactory.

Yours faithfully,

B. Sullivan
BRENDAN SULLIVAN
Companies Department

20

1. Assuming FAI have signed an application form for Listing along the lines of App. 1 to the AASE Listing Manual:

- or (iii) they don't specify any reason at all.
- (a) does this give the Committee (of the Sydney Exchange) power to suspend us in a case where we have not broken any specific regulation that is binding on us but (i) the Committee don't like something we have done, or (ii) we refuse to ^{comply} ~~xxxxxx~~ with some requirement which they seek to impose on us and which is not justified by any of the specific rules. 10
- (b) if the answer is in the affirmative, will the Courts exercise any sort of 'reviewing' jurisdiction over their decision, and if so in what circumstances and on what grounds.

2. So far as the actual specific rules are concerned we see the position as follows:

- (a) even if LJA acted improperly in establishing an 'artificial' market price for the shares in July, and FAI acted improperly in agreeing to purchase the shares at that figure and both parties had known that the result of the transaction would have been that Cumberland would be de-listed, there is no way in which either CCA or the S.E. could have ordered us to make a take-over offer for the minority shareholdings on the same or any other terms. 20
- (b) if we do make an offer, CCA cannot in any event order any variation (so long as it complies with the Companies Act) and S.E. can only do so within the terms of one of the specific regulations of Section 5 of the Listing requirements. 30
- (c) in the present case 5.10(d) and (e) are the only ones they could argue upon.

5.10(e) would only come in if the offer period

Exhibit 82 - Last page
of sheets typed by

Exhibit 82 - Last page
of sheets typed by
Mr. Atkinson

commenced on 13/9. Even then it could only be applied in respect of the Redeemable Prefs. which was the only class in which we purchased in excess of 10% in July.

5.10(d) could only come in if on 13/7 a bid for the remaining shares was 'reasonably in contemplation'. Since such a bid was at all times entirely a matter for us to decide on, who can say when it was reasonably within our contemplation? If the issue is in dispute is it one which the Committee is entitled to determine, or would the Court do so?

10

1459. Exhibit 82 - Last page
of sheets typed by
Mr. Atkinson

Sinclairs
Solicitors & Notaries
117 Pitt Street,
Sydney, 2000
C.D.E. 660

William James
Sinclair
Notary Public

Telephone 233.3377
Cables: "Sinsol"

Commissioner for Affidavits
David Bruce Armati, LL.B.
WJS.ECD C.132

15 May, 1975.

10

Messrs. Allen Allen & Hemsley,
Solicitors,
2 Castlereagh Street,
SYDNEY, N.S.W., 2000

Dear Sirs,

re: CUMBERLAND HOLDINGS LIMITED.

Would you please provide us with the following further and better particulars of the allegations made in the Statement of Claim:-

20

1. Paragraph 14

Identify:

- (a) the members of the family of Lawrence James Adler;
- (b) the companies owned and controlled by Lawrence James Adler or members of his family

from whom the stock units were purchased at \$1.25 in cash.

2. Paragraph 16

In what way is it alleged that the acquisition by Fire and All Risks of further stock units in the capital of the company placed in jeopardy the continuing listing of the company stock units on the Sydney Stock Exchange.

30

3. Paragraphs 21-24

Does the petitioner rely upon any matters of fact in support of the allegations made in these paragraphs other than those referred to in paragraphs 26-35 of the petition.

4. Paragraph 26

- (a) In what way is it alleged that Lawrence James Adler urged holders of stock units /2
Exhibit 2 - Letter from
1460. Sinclairs, 15/5/1975

40

Messrs. Allen Allen & Hemsley,
15 May 1975. 2.

Sinclairs

to accept the offer therein referred to.

- (b) Identify any letters or documents which are alleged to constitute "urging" the holders of stock units to accept the offer.

5. Paragraph 28

- (a) Who requested Lawrence James Adler or John Belfer to permit an evaluation of FAI's offer by a merchant bank or a firm of Chartered Accountants. 10
- (b) When was the request made.
- (c) Where was the request made.
- (d) What were the terms of the request.
- (e) If the request, or any alleged refusal of it are in writing, identify the writing and state where the same may be inspected.

6. Paragraph 29

- (a) Identify the workers' compensation proceedings referred to. 20
- (b) What are the matters of fact relied upon as giving rise to an obligation on the part of Lawrence James Adler and John Belfer to advise the holders of stock units in the company of the matters alleged in this paragraph.

7. Paragraph 31

- (a) State the matters of fact relied upon in support of the allegation that the actions therein referred to "was calculated" to undermine the position of holders of stock units in the company other than Fire and All Risks. 30

8. Paragraph 36

Identify the names and stock holdings of persons who allegedly support the petition.

Yours truly,
W.J. Sinclair
SINCLAIRS

JBT:IRH
WJS-ECD C-132

30th May, 1975

Messrs. Sinclairs,
Solicitors,
117 Pitt Street,
SYDNEY. N.S.W. 2000

Dear Sirs,

Washington H. Soul Pattinson & Company Limited
v. Cumberland Holdings Limited

10

We refer to your letter requesting further and better particulars dated 15th May 1975 and answer as follows:-

1. (a) Roxy (or Roxanne) Patricia Adler, Kathy Sharen Adler and Rodney Stephen Adler.
(b) Lader Pty. Limited, Midland Corporation Pty. Limited and Eagle Corporation Pty. Limited.
2. See the letter from the Sydney Stock Exchange to the Secretary of Cumberland Holdings Limited dated 4th September, 1974. 20
3. No.
4. (a) By writing to the stockholders of Cumberland in terms of the letter of 20th November 1974 and the letter of 22nd November 1974.
(b) The letters referred to in (a).
5. (a) Mr. G.L.A. Donohoo and the Australian shareholders' Association.
(b) (i) Mr. Donohoo made requests on 4th November 1974, 14th November 1974 and 15th November, 1974. 30
(ii) The Australian Shareholders' Association made its

Exhibit 2 - Letter from
Allen Allen & Hemsley,
30th May, 1975

Messrs Sinclairs.

request on the 22nd November, 1974.

(c) See (d) below.

(d) (i) Mr. G.L.A. Donohoo:

(1) See the motion moved by Mr. Donohoo at the meeting of the Directors of Cumberland held on 4th November 1974. 10

(2) See the letter from Mr. Donohoo to the Chairman of Cumberland dated 14th November 1974.

(3) See the motion moved by Mr. Donohoo at the meeting of the Directors of Cumberland held on 15th November, 1974.

(ii) Australian Shareholders' Association:

See the letter from the Association to the Chairman of Cumberland dated 22nd November 1974. 20

(e) The writings containing the requests are particularised in (d) above and are in the possession of your client. The refusals were not in writing.

6. (a) Matter No. 3923 of 1971 in the Workers' Compensation Commission of New South Wales.

(b) The matters of fact alleged in the Petition in paragraphs 8, 9, 17 and 18.

7. This is a matter of evidence as to which you are not entitled to further and better particulars. 30

8. See attached list.

Yours faithfully,

enclo

ALLEN ALLEN & HEMSLEY

SOLICITORS AND NOTARIES

P. & O. BUILDING
2 CASTLEREAGH STREET
SYDNEY

TELEPHONE: 2 0315
POSTAL ADDRESS: BOX 50, G.P.O.
SYDNEY, N.S.W. 2001
CABLES: "ALLENS," SYDNEY
TELEX: AA 21641
C.D.E.: BOX 105

JBT:IRH

OUR REFERENCE
YOUR REFERENCE

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LGATON
DAVID WIGHAM ALLEN
C. L. SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
RUGBY HUNTER JAMIESON
GRAHAM GEORGE COOKE
JOHN RUONEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FRIDERICK PAUL LIND
RONALD ADRIAN POWLES
EZRIEL SOLOMON
JOHN JOSEPH MGLINHELY
JOHN BERESFORD DORTCH
WILLIAM MONTAGUE CHARLES GUMMOW
JOHANN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN MCANN
HUGER DAINE BLUNT
REGINALD IAN BARRLETT
JOHN HUBERT FELIX LEHANE
RICHARD FRANCIS EDMUNDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT MCKILLUP

13th October, 1975

**Messrs. Sinclairs,
Solicitors,
117 Pitt Street,
SYDNEY N.S.W. 2000.**

Dear Sirs,

**WASHINGTON H. SOUL PATTINSON & COMPANY LIMITED v.
CUMBERLAND HOLDINGS LIMITED**

We refer to answer 3 in our letter supplying particulars dated 30th May last. We advise that the petitioner relies upon the following matters of fact in support of the allegations made in paragraphs 21-24 of the petition in addition to those referred to in paragraphs 26-35:-

10

- (a) Mr. Adler in his letter to the stockholders of Cumberland of 22nd November 1974 said (in the last sentence of the fourth paragraph) that the Directors of FAI felt so keenly an alleged statement by the Minister of Social Securities (sic) that if the costs of running nursing homes continued to rise rapidly the Federal Government might not be able to increase its contributions proportionately that they had had to make their takeover offers conditional on action such as the Minister had indicated not occurring during the period of the bid. This was a clear mis-statement of the conditions to which the offer was subject as set forth in paragraph 9 of the offer document.

20

30

- (b) After the Sydney Stock Exchange had by letter dated 4th September 1974 notified Cumberland that its stock units might be delisted unless the Exchange was advised prior to 3rd December

Exhibit 2 - Letter from
Allen Allen & Hemsley,
13th October, 1975

1464.

Exhibit 2 - Letter from
Allen Allen & Hemsley,
13th October, 1975

that Fire and All Risks had reduced its holding of stock units in Cumberland, Fire and All Risks failed to reduce its holding of stock

.../2

Continuation Sheet

JBT:IRH

No. 2 Date 13/10/1975

10

From

Allen Allen & Hemsley

To Messrs. Sinclairs

units in Cumberland so as to comply with the Exchange's requirement.

- (c) After Fire and All Risks in or about July 1974 acquired the further ordinary stock units at \$1.25 in cash per stock unit and the further preference stock units at 50c in cash per stock unit, Fire and All Risks (or FAI) failed to offer to acquire the minority stockholders' ordinary stock units and preference stock units for those prices (or approximately those prices) in cash.

20

Yours faithfully,

Allen Allen & Hemsley

Exhibit 2 - Letter from
Allen Allen & Hemsley,
13th October, 1975

ALLEN ALLEN & HEMSLEY
Solicitors and Notaries

EDWARD JOHN CULEY
WILLIAM ROBIN DILL STEVENSON
ALAN HAMILTON LOXTON
DAVID WIGRAM ALLEN
CECIL SIDNEY COLEMAN
IAN RAINY LANCE HARPER
ADRIAN PETER HENCHMAN
HUGH HUNTER JAMIESON
GRAHAM GEORGE COOKE
THOMAS WAYMOUTH MAGNEY
JOHN RODNEY KERRIGAN
ROBERT OTTO ALBERT
PHILIP JOHN LETHBRIDGE KING
FREDERICK PAUL LIND
RONALD ADRIAN POWLES
EZEKIEL SOLOMON
JOHN JOSEPH McGLINCHEY
JOHN BERESFORD DORTER
WILLIAM MONTAGUE CHARLES GUMMOW
JORGEN LOCKE NIELSEN
CLAUDE ARTHUR SCHOFFEL
NEIL MATHESON CAMERON
HARRY KEVIN McCANN
ROGER GAIRE BLUNT
REGINALD IAN BARRETT
JOHN ROBERT FELIX LEHANE
RICHARD FRANCIS EDMONDS
AMBROSE ANTHONY DUNNE
BERNARD PATRICK JONES
COLIN JOHN ROBERT McKILLOP

Telephone: 232 0315
Postal Address:
Box 50, G.P.O.,
SYDNEY, N.S.W. 2001
Cables: "ALLENS", Sydney
Telex: AA 21641
C.D.E.: Box 105

P. & O. BUILDING
2 CASTLEREAGH STREET
SYDNEY

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Our Reference:
IRH/6216/JBT
Your Reference:

14th November, 1975

DELIVERY

Messrs. Sinclairs,
Solicitors,
117 Pitt Street,
SYDNEY. 2000

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Dear Sirs,

Washington H. Soul Pattinson & Company Limited
v. Cumberland Holdings Limited

Since the hearing commenced and we have had an opportunity for the first time to peruse the documents produced on subpoena by FAI Insurances Limited and very recently by Potter Partners, it has appeared that on 21st November, 1974, Mr. Adler, members of his family, companies owned and controlled by Mr. Adler or members of his family and associates of Mr. Belfer and Mr. Atkinson purchased 68,345 FAI shares at 40 cents each.

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In these circumstances, we advise that the petitioner relies also on the following allegations:

- (a) Mr. Adler and Mr. Belfer, directors of Cumberland and FAI, and the other directors of FAI on and after 21st November, 1974 failed to disclose to the holders of ordinary stock units in Cumberland that on 21st November, 1974 Mr. Adler, members of

Exhibit 2 - Letter
from Allen, Allen &
Hemsley, 14.11.75

1466.

Exhibit 2 - Letter
from Allen, Allen &
Hemsley, 14.11.75

his family, companies owned and controlled by Mr. Adler or members of his family and associates of Mr. Belfer and Mr. Atkinson had purchased 68,345 FAI shares at 40 cents.

- (b) On and about 21st November, 1974, Mr. Adler and Mr.

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CONTINUATION SHEET

No. 2 Date 14/11/75

From

Allen Allen & Hemsley

To Messrs. Sinclairs

Belfer, directors of Cumberland and FAI, and the other directors of FAI, for the purpose of supporting the market price of FAI shares and thereby facilitating the acquisition by FAI of Cumberland ordinary stock units under the offer of 20th November, 1974, purchased or arranged for others to purchase a parcel of 68,345 FAI shares then for sale.

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Yours faithfully,

Allan Allen & Hemsley

1467.

Exhibit 2 - Letter
from Allen, Allen &
Hemsley, 14.11.75

FURTHER PARTICULARS

The petitioner relies upon the following matters in support of the allegations specified in the petition. These matters have been the subject of evidence and have been dealt with in the address of Counsel for the Petitioner: The following statements in the circulars referred to hereunder were either misleading or untrue demonstrating a lack of commercial probity;

Letter accompanying takeover offer (part of exhibit 11)

1. "In terms of asset backing, the latest published account of both Cumberland and F.A.I. revealed that the equity capital in each company has a value substantially above the par value of their issued ordinary stock and ordinary shares respectively". 10
2. "I do not consider it would serve any useful purpose to comment on such dealings as have taken place in the two securities during that time".

Letter dated 22nd November 1974 (exhibit 15).

1. "His comments appeared to be misleading".
2. "This is not the case. F.A.I. has never attempted to obtain 100% control of Cumberland and has been quite happy with its position as the majority controlling shareholder". 20
3. Had it not been for the threat that the Sydney Stock Exchange would delist Cumberland, F.A.I. would not have

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made any move at all".

1468.

Exhibit 2 - Further
Particulars

Exhibit 2 - Further
Particulars

4. "If the Cumberland stockholders do not wish to take advantage of it, then F.A.I. will be quite content to leave matters as they are".
5. "I might perhaps be forgiven for commenting that the expanding and thriving was only possible by the active financial backing and loan funds being made available by F.A.I.".
6. "I wish I could share ..." - the balance of that paragraph being the fourth paragraph in that letter. 10
7. "F.A.I. group has deliberately diversified its activities into other major fields of interest outside insurance so as to protect itself against adverse developments in the insurance industry".
8. "The group has equally important interests in the fields of real property and finance".
9. "I could not accept that stock holders of Cumberland would be laying themselves open to any greater risk by becoming members of F.A.I. than by remaining as members of Cumberland alone". 20
10. "This however seems to my colleagues and I to be a pointless suggestion since any cash alternative would have to be based on the current market price of Cumberland ordinary and preference shares, and any stockholders who wish to obtain such a figure could therefore just as easily sell his stock through the market in the first place".

Exhibit 2 - Further
Particulars

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11. "I asked him whether his own group would be prepared to make such an offer in which event we would gladly put it forward to stockholders. This suggestion was however declined."
12. "As Cumberland and F.A.I. have been closely associated over a period of years, it was considered no useful purpose would be served". 10
13. "Speaking personally, I would never dream of allowing myself to be put in the position of a minority shareholder in an unlisted company, even if every merchant banker in the country should advise me to the contrary".
14. "The proposed offers are very much in the best interests of all parties concerned".
15. "However, as I said, we would be quite happy to leave it to the individual stockholders to make up their own minds". 20

Circular dated 27th November 1974 (exhibit 18).

1. "Washington H. Soul Pattison and Company Limited had been the principal supplier of virtually all the pharmaceutical requirements of the nursing homes run by Cumberland Holdings Limited".
2. "When those sales took place the ruling Stock Exchange prices ...", and the balance of that paragraph being paragraph 6

Exhibit 2 - Further
Particulars

3. "Any stockholders of Cumberland who had wished to sell their holdings on the market at that time could have obtained similar prices to those effected in the sales referred to by Mr. Millner, and there was no question at all of any members of my family receiving any favoured terms".

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3. "Unfortunately, as I am sure you will all very well know, the Australian stock markets have taken a terrible beating since July and the stock of Cumberlands Holdings Limited has suffered just as badly as any others". 10
4. "I am advised that when the F.A.I. offer came to be made the nominal price for Cumberland ordinary stock units on the exchanges was 48¢ but with no buyers indicated even at that price. At the same date there were buyers of F.A.I. shares at 57¢ on the Sydney stock exchange". 20
5. "Naturally no company making a takeover offer can offer to pay more than the current price just because at some previous time higher prices have prevailed".
6. "F.A.I. is not attempting any way at all to pressure you into accepting the offer which has been made".
7. "My colleagues and I believed, and still believe, that the offer was one which was in your best interests in the circumstances which have arisen, but

Exhibit 2 - Further
Particulars

we are perfectly content to leave it to individual stockholders to consider where their best interests lie."

8. "An obviously prejudiced stockholder".

Letter dated 6th December 1974 (exhibit 19).

1. "The suggestion is made that F.A.I. Insurances Limited is endeavouring to force you to dispose of your shares to them for an inadequate consideration. 10
Nothing could be further from the truth".

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Circular dated 4th February 1975 (exhibit 33)

1. "Mr. Donohoo's latest efforts in this direction are based on a series of propositions, every one of which is either totally false or misleading".
2. "Mr. Donohoo's repeated attempts to blacken my own character and misrepresent the actions and motives of my colleagues and me".
3. "The fact is that in July last at the same time as 20
the transactions between F.A.I. and my various interests were under consideration, F.A.I. had also instructed its brokers to offer to buy ordinary stock units in Cumberland on the open market at the same price of \$1.25 per unit. It was open to any stock holder at that time to accept the same figure for his ordinary units as my family interests received".

Exhibit 2 - Further
Particulars

4. "Between July and November of last year, the Australian Stock market had suffered one of its worst collapses in living memory and that market prices which were prevailing in July were no longer of any relevance in considering values in November".
5. "In point of fact, my colleagues and I had realised for a long time previously that, in view of the small number of stockholders in the company and the absence of an independent market for its shares, its continued listing was highly improbable, whatever we might do to defend it".
6. "We did not believe that the July transactions could materially affect the long term position and we still have no doubt but that even if they had not taken place the company's continued listing could not have been justified".

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7. "That is nonsense - they were promptly notified to the Exchange and the press in accordance with normal procedure".
8. "Having, as he claims, deliberately jeopardised Cumberland's listing on the Exchange, F.A.I. are then said by him to have deliberately used this as an excuse for trying to acquire your stock at a totally inadequate price. I have already commented on the allegation of deliberately jeopardy. The second point is also untrue. My colleagues and I

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Exhibit 2 - Further
Particulars

made what we considered to be an eminently fair and reasonable offer".

9. "We believed then and still believe, that it was one which it would have been in your long term interests to accept".
10. "We therefore made it quite clear in the offer that F.A.I. had no desire whatever to force anyone who might not agree with our views to sell their units to it". 10
11. "F.A.I. is said now to be forcing Mr. Donohoo off the board because he stood up for minority shareholders in opposing the F.A.I. takeover offer. This again is totally untrue".
12. "He will, however, no doubt have the opportunity to explain this in due course in the legal proceedings which F.A.I. and I intend taking against him".
13. "I do urge you not to allow yourselves to be misled by the false and misleading statements which he is putting out about F.A.I. and me". 20

In addition to those matters referred to in the circulars, the petitioner also relies upon the following facts:

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1. F.A.R.I., or F.A.I. had an intention since December 1973 to takeover all of the minority shareholders interest in the Company.

Exhibit 2 - Further
Particulars

2. That the Company failed to notify minority shareholders of the increased earnings and net tangible asset backing of the Company between July 1974 until November 1974.
3. That Mr. Adler, or F.A.I. or F.A.R.I. were in breach of Section 70 of the Securities Industry Act 1970 (as amended).
4. That no representations were made by the Company to the Sydney Stock Exchange in an endeavour to maintain the listing of the Company. 10
5. The statement in letter dated 6th December 1974 from F.A.I. to the Sydney Stock Exchange Limited (Exhibit 71) that "It is quite wrong to suggest that any step has been taken at any time to endeavour to establish a market at or about that price" was false and misleading and demonstrated a lack of commercial probity.