

1f.

Mark Englebert of Taylor Woodings / FTI Consulting.

Lied to a Senate Inquiry regarding my conduct and to justify charging an extra \$234,000.

The Email chain below shows I was fully cooperating.

This deliberate fraud is in breach of multiple sections of the Corporation's Act.

John Park and Mark Dewar, FTI Consulting Senior Managing Directors are aware of this fraud.

By Sean Butler, Perth Western Australia. 0419 964 487 sbutler@iinet.net.au 23 September 2019.

I gave evidence appearing in person at a Senate inquiry into Banking issues in 2012 explaining dishonest conduct by a Bankwest appointed receiver Mark Englebert of Taylor Woodings / FTI Consulting.

As a result of my testimony the Senators called Englebert to the Senate a few weeks later to address some of the issues raised.

8 October 2012 Letter from Englebert to the Senate Economics Reference Committee DOC02

"26. From the outset of the receiverships, Mr Butler gave us reason for concern regarding the carrying out of our duties and the exercise of our powers in the course of our appointments"

31 October 2012 Englebert again wrote to the Senate Committee DOC06

Page 7 "Other costs (I note that an unquantifiable amount of costs has been incurred as a result of our dealings with Mr Butler) \$234,000"

This doesn't include their lawyers' costs in "Dealing with me"

The cost of dealing with me apparently covers:

- Their costs of refusing to provide trading accounts and information requested.
- An issue where they denied my wife and I had been employees of our company, but they later admitted we were. They spent a lot of time and expense unnecessarily on that and went on to lie about that issue at the Senate. Also discussed in my document 1b.
- My apparent obstruction to their duties. A total fabrication.

In summary Englebert has lied in order to charge our companies an extra \$234,000.

Plus associated legal fees possibly about the same amount.

7 December & 11 November 2015 I sent emails to Mark Englebert and John Park at FTI Consulting.

"In going through the records and collating things it appears you and your lawyers have charged us:

1)	Taylor Woodings and FTI Consulting	\$ 869,806
2)	Minter Ellison Lawyers	\$ 428,520
3)	Squire Lawyers	<u>\$ 47,627</u>
	TOTAL	\$ 1,355,954

It appears that in the period April to June 2012 the charges were over \$120,000 a month.

I do not see how these amounts can be justified given that all that has been done is to sell two hotels. Any comments you have in this regard would be appreciated.

In relation to the amounts set out above you have allowed me to inspect the invoices but not the accompanying narrations or descriptions of work. As such no explanation of the charges has been provided and I have no way of determining what it was that was being paid for.

Please could you provide me with copies of the invoices for the above amounts and the accompanying narration or description of work. If there is any concern about any privileged material being disclosed, at this stage that can be blacked out. Please provide this information as soon as possible.”

The above requests to FTI Consulting have been denied.

So much for their American Chairman, Steven Gunbys letter saying:

“As trusted advisers, our clients look to us to protect their interests with unquestionable integrity”

Sections of the Corporations Act:

- 180 Care and diligence. Must act in the best interests of the corporation.
- 181 Good faith. Must exercise duties in good faith for best interests of the corporation.
- 182 Use of position. Must not improperly gain an advantage or cause detriment.
- 184 Good Faith criminal offences. Must not be reckless or dishonest.

I believe there have been multiple breaches of the Corporations act as illustrated above.

The list of emails below shows I made evert effort to fully cooperate:

18 July 2011 Taylor Woodings appointed.

Look through my folders of all emails sent to Taylor Woodings / FTO Consulting to see I tried to help and was not obstructive. I will bring these folders to the Case Conciliation meeting on 30 September 2019

Emails sent by Sean Butler to Taylor Woodings / FTI Consulting:

22 July “Has all information requested by you for the Hotel been supplies?”

25 July “I actually want your involvement and will help in whatever way I can.”

27 July “I will not deal with the assets, or to act on the behalf, of the below mentioned companies unless legally entitled to do so.”

5 August “I confirm that I will continue to provide whatever information you need and to help you in the sales process as much as I can”

9 August “I have a lot of marketing materials for both properties. Samples attached. Do you want me to provide it?”

12 August “I will assist you to achieve the best outcome for my companies and my family and I am receiving professional advice to ensure the best outcome”

14 August “I went through the 16 or so boxes of files taken from the National Hotel now at your offices and found the architects file so your company will be able to source all the plans, specifications and planning documents...”

16 August As a result of Engleberts refusal to allow me to help or access to any trading results: “As I said before I am not trying to be difficult and will help where possible however some reciprocal help or advice would be appreciated.”

19 August “I have not and will not interfere with the Lighthouse operations. I will provide whatever info you require and have done so. Are you available to meet early next week over a coffee to discuss things?”

22 August I contacted Taylor Woodings regarding a Hotel booking for a sporting event that had contacted me personally (on my personal mobile phone) to organise. I passed the details on to them.

22 August in reply to a letter received from Taylor Woodings Lawyers, Minter Ellison, that contained serious false allegations about my conduct (being paid for by my companies) dated 18 August:

“I have not engaged contacted or solicited (or attempted to) employees of the companies and will not do. I have not refused to comply with any requests as far as I am aware. Please advise what this item refers to and I will supply what was requested if I can? I have not acted in a way adverse to the efficient conduct of the receivership. I have helped in any way I can and want the best outcome possible. I have no intention whatsoever in taking business customers or staff away from the Lighthouse business... I will not interfere with the receivership” (DOC 31)

No response or proof was ever received from Englebert regarding my questions as to the serious false allegations. Englebert had lied and was generating excess fees with the excuse that he was spending extra time to deal with his fabricated accounts of my alleged misconduct.

5 September Email drafted by my lawyers sent by me to Mark Englebert.

“Dear Mark,

I am keen to maintain my relationship with the Bank, which has been understanding of my predicament and the events leading to your appointment. I would be really grateful if you could confirm to the Bank that the matters set out in Minter Ellison's letter to me were discussed and resolved at our recent meeting and that I am assisting as far as possible to expedite matters. Thank you. Regards, Sean Butler”

This concerned the false allegations contained in the Minter Ellison letter dated 18 August. (also mentioned in the 22 August item above)

5 September I offered to help them with things if needed: “I will help as much as I can... I can do as much or as little as you want depending on my availability. I will give it priority if needed.”

12 September

“Dear Mark, I am attending a committee meeting in Bunbury this evening and will stay at the Lighthouse. These meetings are every three months.

This will be the first time I have been at the property since receivers were appointed and I have not interfered in your management of the property and will not do so 😊

Just letting you know what's happening. Regards Sean”

I attached this email received the same day as proof that the request was genuine:

“Hi Sean, hope this email finds you well.

I just wanted to confirm you will be attending the DRC meeting on Monday. Tony is an apology and we wanted to ensure we will have a quorum.

Yours Sincerely John F Ogilvie

Financial Administrator Catholic Diocese of Bunbury”

12 September

Email from Taylor Woodings

“Sean,

Thank you for email.

Please note that you will be required to pay for your stay, including food and beverage consumed, at the Lighthouse Beach Resort like any other normal paying customer.

I note that credit terms will not be afforded to you, as such payment is required upon checkout.”

I include this email to give an indication of the tone of their correspondence. At this time they were charging me over \$110,000 a month being about \$3,600 a day to oversee my business. I was now unemployed with virtually no money and a young family to support. I was driving down to Bunbury (160 km each way) at my own expense to attend a committee involved in building schools. I was doing this on a voluntary basis. The cost of the room and meal would have been about \$150.

6 October Email Sean Butler to Mark Englebert

“If any further information is needed or you need help on any matter regarding the receivership please let me know, I am very keen to get the best outcome for the Bank, our family, and Brian Benari.”

13 October

Letter from Taylor Woodings appointed lawyers Minter Ellison.

In response to my enquiries regarding progress of the receivership:

“Our clients do not have any obligation to provide Mr Butler with such information and, consequently, our clients do not intend to respond to Mr Butlers enquiries in this regard”

3 November

In response to a letter Engleberts lawyers has written to fair work Australia containing a number of deliberately false and misleading statements about me.

“Please provide details of the failed “information providing” I have not been informed of any outstanding issues”

And I never was provided information on my several alleged wrongdoings subsequent to this. Englebert lied about this. Worse still he repeated these lies at the Senate hearings investigating this matter in 2012. I only found out about those further lies in 2015.

11 November Email Sean Butler to Bankwest

“There have been a number of serious false allegations made about me by Mark Englebert. These will be on the agenda. These allegations need to be cleared up. Could you please get the receivers to provide information, before the proposed meeting in response to these allegations.”

14 November Email to Englebert

“Dear Mark, Jeremy and Jamie,

Is any further information required by me in relation to any of the companies in the receivership in which I am involved?

If so, please provide details so any outstanding items can be attended?

If at any time in the receivership you have any concerns that I should be made aware of, or need any further information, please contact me so if needed appropriate action may be taken.

If any help is needed, please contact me.

Kind Regards,

Sean Butler”

17 November

I sent Mark information on the water damage to the structure of the National Hotel and information on someone who could repair the leaks (which he subsequently ignored)

“Dear Mark...If any further information is needed on any aspect of the receivership or if you gave any concerns or requests please contact me.”

I had no response to this.

26 November

“Dear Mark. If you want me to assist with the Planning Approvals for the Rooftop Bar, please advise me.”

29 December

“If there is anything you want done or any information needed on the National Hotel or Lighthouse please let me know.”

11 July 2012

“Dear Mark, I want you to know I have NOT diverted any business opportunities from the Lighthouse Hotel or interfered in its operation in any way as to do so would not be in my commercial interests while I still have an interest in it. Quite the opposite; I have referred business to the Lighthouse Hotel as you should be aware.”

19 November

“Dear Mr Englebert. Is any further information required from me to finish the administration and receiverships of the companies involved?”

This was after he appeared at Senate hearings and wrongly stated that I had withheld information. I had not withheld any information and Englebert was never able to prove that any information was withheld.

I think the above list of emails shows I was willing to help with any documents required and other help as well as not obstructing the receivership in any way.

I was charged over \$1.3m by FTI and their lawyers just to sell two hotels.

That doesn't include the selling agents' fees.

A fee of even \$300,000 would have been excessive.

FTI Consulting refuse to provide details of how these fees were calculated or what they were for.

I believe FTI Consulting have fraudulently charged my companies over \$1m.