ALAN SMITH
Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 265

26 May 1999

Dr Zygmunt Switkowski
Chief Executive Officer
Telstra
Melbourne 3000
and
Mr David Hoare
Chairman of the Board
Telstra
Melbourne 3000
and
Mr Tony Staley
Chairman of the TIO Board
Telecommunications Industry Ombudsman Limited
Melbourne 3000

Dear Sirs,

CASUALTIES OF TELSTRA (COT)
Alan Smith / Telstra Arbitration
Telstra's 'Beer in the Phone' report

Please refer this issue to your next board or council meeting. As a matter of urgency, an enquiry should be initiated into the unlawful way in which Telstra conducted their defence of my arbitration, including the fact that Telstra's 'Beer in the Phone' report was based on false information. The following information details the problems surrounding this false report.

During August 1993 I complained to both Austel and Telstra that I was still experiencing problems sending and receiving faxes (refer attached FOI documents K01489 - R11431). I also mentioned to Telstra's fault centre that, on a number of occasions, the line would not disconnect when I replaced the receiver, causing the person on the other end to be able to hear me moving about my office for some time after the 'termination' of our call. On 26 April 1994, while involved in the arbitration procedure, I again alerted Austel to this problem, which was still occurring.

At the suggestion of Austel's Mr Cliff Mathieson, a series of tests were conducted, using the TF200 phone already connected to my fax machine, then I disconnected my fax machine and connected another TF200 telephone which was taken from my incoming line. After repeating the tests on this second phone, Mr Mathieson confirmed that the phone was still 'locking up' and not correctly disconnecting when I returned the receiver to the cradle. Mr Mathieson then suggested that I contact Telstra and have my service line checked because, he said, the fault would no doubt be found at the RCM exchange at Cape Bridgewater since it was certainly not occurring in either of my telephones.

At the time, Mr Peter Gamble of Telstra was conducting inquiries for Telstra's Defence Counsel and so I contacted him. I deliberately did not tell him that Mr Mathieson and I had tested two different phones on the one fax line as I was interested to hear his explanation of the fault. Past experience, backed up by the Coopers & Lybrand COT report, indicated that Telstra frequently blamed the customer's equipment for faults. FOI documents show that Mr Gamble and I carried out tests in the same way Mr Mathieson and I had tested the line, but only using one of the phones. As I expected, Mr Gamble indicated that he believed that the touchphone was causing the fault and so he arranged for the phone to be collected the next day (27/4/94) for analysis at Telstra's laboratories. Before the phone left my premises both the technician who was collecting the phone, Ross Anderson, and I inscribed our signatures on the outside of the phone, in the receiver cradle.

FOI documents K00940 and K00941 (attached) from Peter Gamble himself, indicate however that the fault was actually being caused by heat in the RCM exchange at Cape Bridgewater, which was exactly what Mr Mathieson of Austel had suggested. Other documents show that Ross Anderson, the technician who originally collected my phone for testing, has stated in a statement sworn under oath, that heat was one of a number of causes of problems at the RCM in Cape Bridgewater.

Seven months after my phone was taken for testing, Telstra submitted a twenty-nine page report on my touchphone, in support of their defence under legal arbitration. This report stated that the phone arrived at their laboratories on 10/5/94 in a 'very dirty' state and, on further close examination, it was found that beer had been spilt inside the casing of the phone. According to the report, this beer was wet and sticky when the phone arrived at the laboratories and this caused the hookswitch to lock up. In other words, once again Telstra blamed the customer's equipment for the fault.

I have since proved to the current TIO, Mr Pinnock, that beer could not stay wet and sticky inside a phone from August 1993 through to April 1994 (the time-span covered by these particular complaints). In fact I have proved that beer could not even stay wet and sticky from 27/4/94 to 10/5/94 which is the time between my clean phone leaving my premises and arriving, in a 'very dirty' state at the laboratories.

I have also provided Mr Pinnock with copies of Telstra's own FOI documents which show that this lock-up fault continued on my phone line for five weeks AFTER a new telephone was connected to my fax line: could the phone line have been under the influence of alcohol also?

On 23/5/94 I advised both the arbitrator's office and Telstra that my fax line was still locking up, even after a new TF200 touchphone had been installed. I cited seven separate faxes (all claim material) that appeared to transmit very slowly as they were processed through my fax machine. Later, my Telstra fax account showed that these calls were received by the arbitrator's office (03 614 8730) and were therefore duly charged as successful transmissions. In their defence of this particular issue however, under oath, Telstra state that these seven faxes were not received on 23/5/94 at the arbitrator's office, even though their own CCAS data (and my fax account) shows that they were received and charged for.

If these faxes were received by the arbitrator's office, then why have I not received them back from the arbitrator, along with all the other documents which were returned to me under the rules of arbitration? There is no reference to these particular documents in any of the documents or lists that I have received back from the arbitrator. All this adds to the confusion surrounding the faults on my TF200 fax line and Telstra's TF200 defence report.

Although I have been asking Telstra, for some time, to provide me with the working notes from their laboratories, showing how their technical staff arrived at the findings relating to my TF200 telephone, I have not yet received this information. I have however been provided with FOI document A63365 (copy attached). Photo 4 is a close up of the signatures engraved under the receiver of the phone. Because I only have photocopies of the photo to work with, a 'blow-up' of the photo is not very clear and the signatures are not easy to read but it can be seen that Mr Anderson's signature is above mine. What this 'blow-up' does show is the layer of dirt which spreads OVER Mr Anderson's signature. This raises a question: when Mr Anderson and I inscribed our signatures on the phone it was quite clean. Mr Anderson then sealed the phone inside a plastic bag. So, how did dirt get spread OVER his signature by the time the phone reached the laboratories?

Taken together, these separate pieces of information clearly prove that beer in the phone could not have been the cause of the problems I suffered because:

(i) **Telstra's CCAS data and FOI documents show that the fax phone problem continued at least until June 1994.**

(ii) **My fax accounts and letters from customers show that this fault continued unabated from 1993 until July/August 1998.**

(iii) **Tests since carried out on three different TF200 touchphones show that beer does not stay wet and sticky for 15 days (26 April to 10 May).**

(iv) **Once the beer was drained out of these phones referred to at point (iii), none of them locked-up when in use.**

(v) **When Mr Mathieson and I tested two different phones on the same line, the same fault occurred. Mr Mathieson stated that he therefore believed the fault had to be at the RCM.**

(vi) **In FOI documents K00940 and K00941, Peter Gamble stated that the fault lay with the RCM.**

The TF200 report used by Telstra in their defence was signed by Ray Bell, Manager of Technical Liaison for Telstra's laboratories. In this report Mr Bell stated that the wet and sticky beer was the cause of the 'lock-up' problem with my phone; he goes on to say:

> ***"If the customer had reported the liquid spillage when it occurred the telephone would have been replaced under standard maintenance procedures with no resultant loss of business."***

Obviously Mr Bell now needs to explain this statement in the light of FOI document A64535, which I received six months after my 'award' was handed down. In this document Mr Bell's own laboratory technicians state that their experiments indicate that beer residue *dried overnight.*

Since Mr Bell had my TF200 in his custody from 10/5/94 with that clear knowledge that it had been removed from my office on 27/4/94 then he must have known that the report he signed was built on lies and deception with the intention of defrauding me of a correct arbitration assessment.

It is quite apparent that someone within Telstra deliberately tampered with my phone in order to misrepresent the true facts in this legal arbitration. Obviously the 'very dirty' condition of the phone when it arrived at the laboratory for testing was contrived with the full intention of inferring that my 'questionable habits' had contributed to the phone faults.

Both the arbitrator and the then TIO have recorded that some of my phone faults were caused by my own telephone equipment and the then TIO stated publicly, on 12 May 1995, that the first COT case had been settled with some faults found in the customer's facsimile equipment. Although he didn't actually name me, it is clear that I am the customer he was referring to.

Other FOI documents which I received after my 'award' had been handed down show that Telstra's Ted Benjamin and the arbitrator corresponded secretly regarding this matter, without my knowledge. According to these documents, Ted Benjamin wrote to the arbitrator, stating that Telstra could supply two statutory declarations attesting to the authenticity of the TF200 report. In direct contravention of the arbitration rules, the arbitrator did not forward a copy of this letter on to me for my comment.

I now ask that pressure be brought to bear on Telstra's FOI unit to:

A. Release all the relevant hand-written working notes relating to the technical research which led to the laboratory findings relating to my TF200 touchphone, and
B. Provide me with the original set of photos taken of my TF200 phone so I can have these photos forensically tested.

As responsible citizens and corporate executives, I am sure you would want to see the culprit(s) responsible for these illegal activities brought to justice and made accountable for their unlawful actions which perverted the course of justice.

Please advise how you intend to handle these requests.

Sincerely,

Alan Smith

PS: Since my award was handed down I have provided the TIO's office with irrefutable evidence that the fax problems referred to in this letter, and other fax problems — both sending and receiving — plagued my business right through to August 1998. The TIO, however, has refused point blank to investigate these problems which were all occurring before, during AND AFTER my arbitration.

It is interesting to note that, four days before I contacted Mr Mathieson of Austel on 26/4/94, Mr John MacMahon, General Manager, Consumer Affairs, Austel, asked me to fax him three of my 1800 Telstra accounts which I could prove had been incorrectly charged by Telstra. Austel's fax journal and my fax account show that these three transmissions did take place, each one lasting between 1 minute 13 seconds and 2 minutes 33 seconds, yet only blank sheets of paper arrived at Austel's offices. These blank sheets did not even have any identification information to show where they had originated. Austel only knew these three blank pages had come from me because I had suggested that they check their fax journal printout. Receipt of blank sheets was one of the major problems my business suffered from both from the point of view of my clients and also because the arbitrator had the same experience during my arbitration.

In June 1998 my solicitor, William Hunt, suffered the same problem with the same result: if he had not known to check his fax journal printout he would not have known where the two anonymous pages he received had originated from.

Telstra conjured up a fraudulent defence document in the TF200 report, in an effort to deliberately hide the true extent of my phone and fax problems. If they had not done this then the arbitrator and his technical resource unit would have instructed Telstra to investigate these continuing faults under the rules of the FTSP/FTAP which stated clearly that no award could be handed down by the assessor/arbitrator until all the phone faults had been corrected. After all, what was the point of an award if the phone faults were still occurring when they were the whole reason for the arbitration in the first place?

Although these problems were not addressed as part of the FTAP, and they still haven't been addressed even up to today, Mr Pinnock continues to state that my arbitration is over. Could it be that the TIO does not want to look at these problems because then he will have to admit that the arbitration is not over? This is another issue which I would be grateful if you could clarify on my behalf.

copy to:

Senior Sergeant Sommerville, Victoria Police Major Fraud Group, Melbourne.

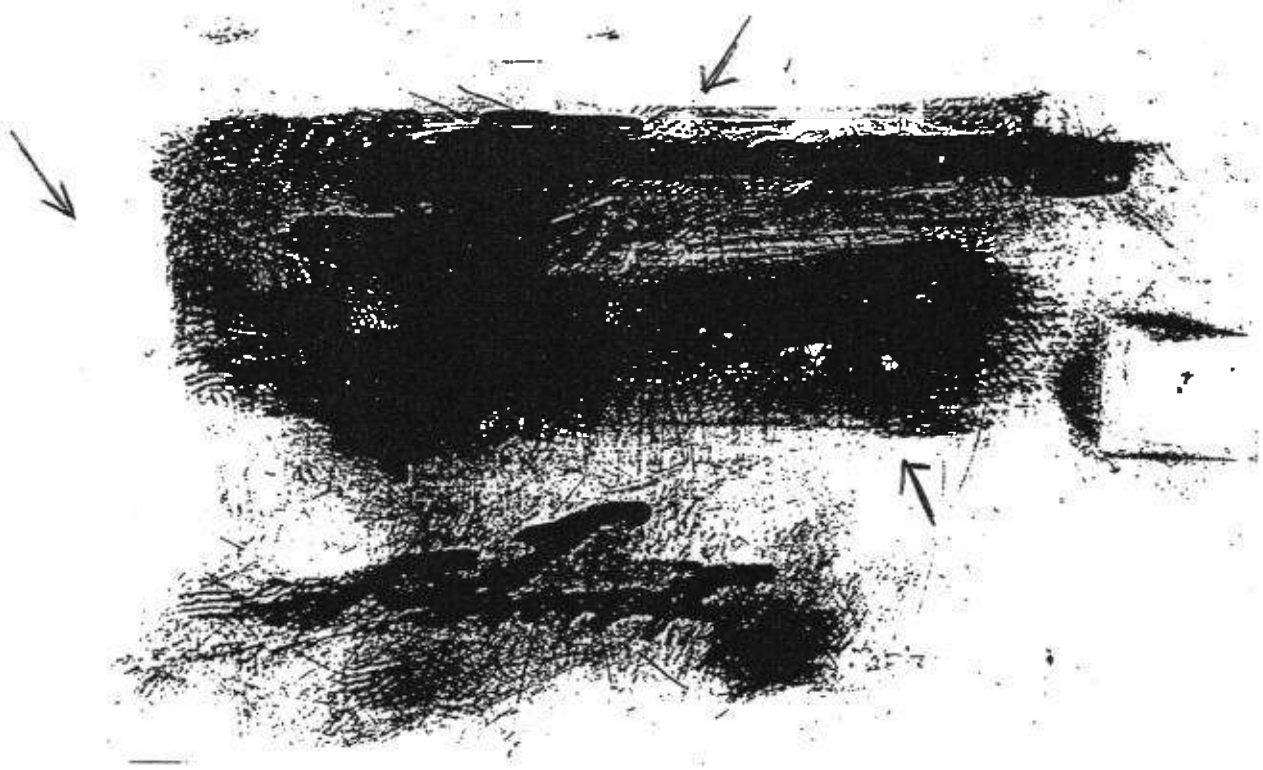


Photo 4. Close-up of engraved information on case

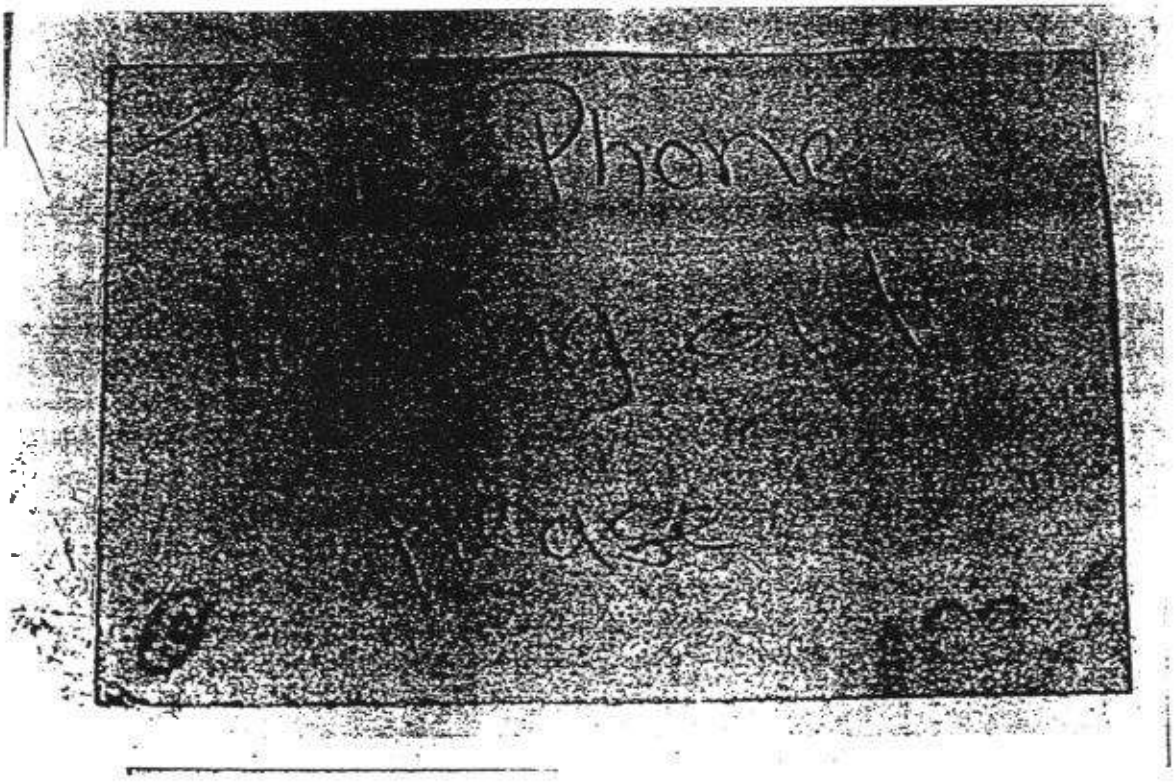


Photo 5. Close-up of label stuck to case above keypad

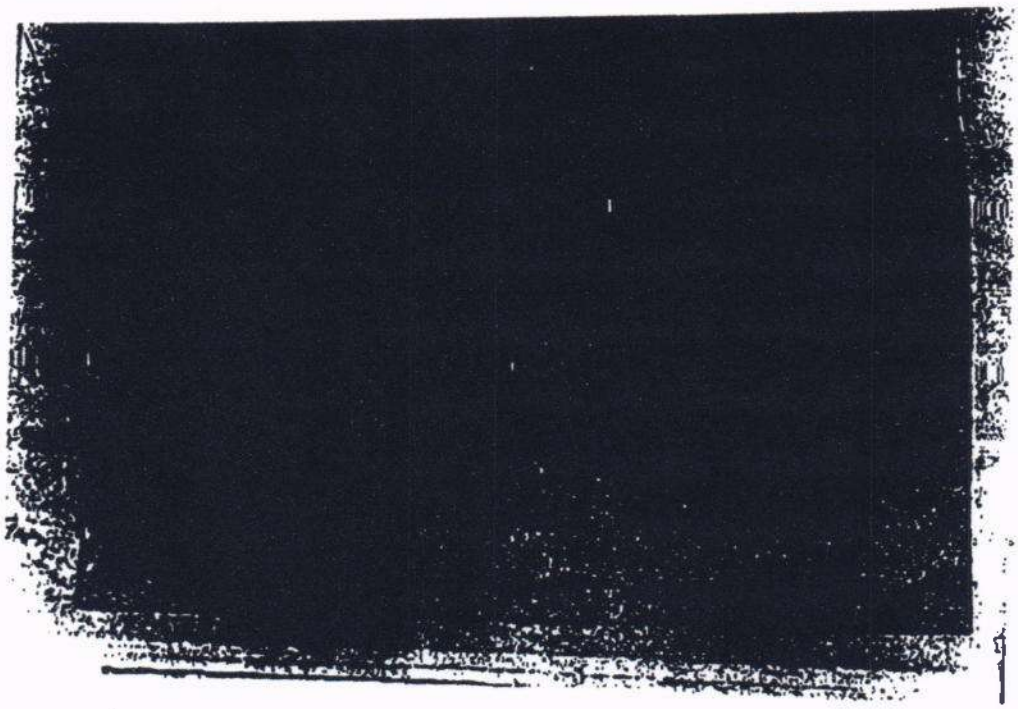


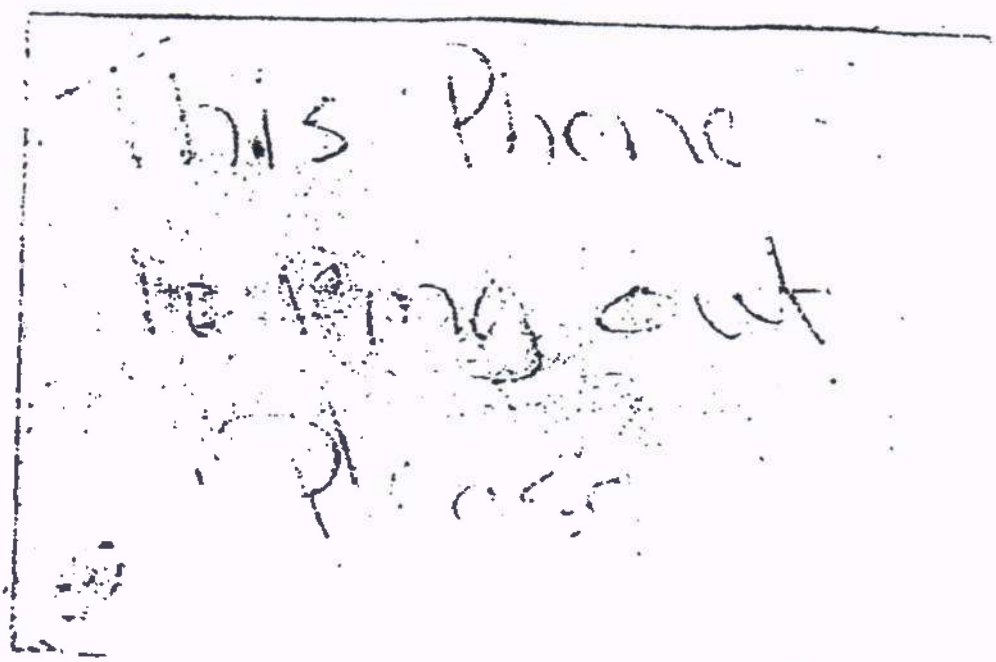
Photo 5. Close-up of label stuck to case above keypad

At point 1.3 in Telstra's (TF200 arbitration defence report), they state: *'The suspect TF200 telephone when received was found to be very dirty around the keypad with what appeared to be a sticky substance, possibly coffee.'*

The two photos on this page are of the same TF200 - they are both labelled *'Photo 5. Close-up of label stuck to case above keypad'* (Alan had put the label there to alert staff that this was the phone to ring out of the holiday camp).

However, there is clearly a vast difference between these two photos. The very dark photo, above, is a Telstra photo of the same photo as shown below alleging this was what the TF200 keypad was like when it was received at Telstra's laboratories. The pale photo below was provided to Alan under FOI, and indentified as being the condition in which the TF200 EXICOM phone was presented in.

The overwhelming disparity between the two is highly suggestive of tamping, and the possible application of a stick substance after the phone had been collected from Alan's business premises.



Pendlebury, Bruce

K00940

From: Gamble, Peter
To: Pendlebury, Bruce
Cc: [redacted]
Subject: FW: CAPE1.DOC
Date: Tuesday, 26 April 1994 3:12PM

Bruce, for information.

Following a call from Alan Smith, I have just had a discussion with Les Churcher re a complaint that Alan Smith lodged earlier today (Leopard No 364 606). I described to Les more accurately what the problem is and he will discuss my comments with Alan Miles.

Peter.

From: Gamble, Peter
To: [redacted]
Cc: [redacted], Black, Stephen; Rumble, Paul; [redacted]
Subject: RE: CAPE1.DOC
Date: Tuesday, 26 April 1994 2:33PM

John, thanks for the response.

I should have chased it up earlier, but I was on leave.

I am concerned to note that heat may be part of the problem. I had occasion earlier this year to get involved in another "ongoing" case involving an RCM with a heat problem at Murrumbateman (just outside Canberra). Although the problems experienced by the customer where different, as was the nature of the technical problem, the root cause seems to have been the same - viz heat.

I do note, however, that one of the symptoms from the Murrumbateman case was "Not Receiving Ring", something Alan Smith at Cape Bridgewater has been complaining about for some time.

Peter.

From: [redacted]
To: Gamble, Peter
Subject: FW: CAPE1.DOC
Date: Tuesday, 26 April 1994 1:09PM
Priority: High

Peter

Please see reply from Bob Braid. I dont know why you did not get a copy but I will follow up

Do you need anything else.

Regards
[redacted]

From: [redacted]
To: Gamble, Peter
Cc: [redacted]
Subject: FW: CAPE1.DOC
Date: Tuesday, April 26, 1994 12:40PM
Priority: High

Peter,
Reference your Mail message enquiring about the status of the DNF at Cape Bridgewater, I sent the

ched message on the 26th March. The attached message indicates that the problem did lie in the RCM and has been fixed. This was confirmed in a subsequent conversation with [redacted]

[redacted]

From: [redacted]
To: [redacted]
Cc: [redacted]
Subject: FW: CAPE1.DOC
Date: Monday, March 28, 1994 5:11PM
Priority: High

K00941

Grant,
Do you want any more on this RCM problem? [redacted] seems to have solved the problems and whilst the poor setting up of the supervisory system is a worry, I doubt if many new systems will be installed on copper bearers.

[redacted]

From: [redacted]
To: [redacted]
Cc: [redacted]
Subject: CAPE1.DOC
Date: Monday, March 28, 1994 3:04PM
Priority: High

Please find attached the results of testing of problems with Cape Bridgewater RCM system . This is additional information to that provided by Mark Hooper on 23-3-94.

I hope this assists.

<<File Attachment: CAPE1.DOC>>

[redacted]

Telecom
AUSTRALIA

2 March 1994

COMMERCIAL & CONSUMER
CUSTOMER RESPONSE UNIT
8/242 EXHIBITION STREET
MELBOURNE VIC 3000
Australia
Telephone (03) 634-5736
Facsimile (03) 634-8441

Detective Superintendent
Jeff Penrose
AUSTRALIAN FEDERAL POLICE
SPECIAL REFERENCE INVESTIGATION
PO BOX 401
CANBERRA CITY A.C.T. 2601

Dear Detective Superintendent

RE: A.F.P. ENQUIRY

I refer to an article which appeared in the Australian Financial Review on Friday 25 February 1994 headed "Telecom minute reveals another bugging, small businessman tells police". (Copy attached)

The article stated, inter alia, that Mr Alan Smith had referred an alleged bugging incident to an A.F.P. officer the day before during five hours of questioning.

The article refers to a Telecom minute obtained under F.O.I. which indicates a series of tests were conducted on Mr Smith's telephone network in late November to determine whether the reported faults were legitimate. The article goes on to say that Mr Smith said he had never given Telecom permission to conduct such monitoring.

I have enquired into the circumstances surrounding the incident referred to and consider the outcome of that enquiry sufficiently disturbing so as to put certain information to you.

Firstly, a search of the information provided to Alan Smith under F.O.I. revealed a document headed FAX INVESTIGATION. A copy is attached hereto for your perusal. The background to that document is as follows.

Mr Smith made several reports of faulty fax transmissions during late October and the first 3 weeks of November 1993.

Ross Anderson of Warrnambool Customer Operations Group attended Mr Smith's property and conducted tests on Mr Smith's machine in conjunction with Waverley Business Service Centre and National Fax Support Centre. Some minor mis-operations were detected, but no difficulties were experienced sending faxes between machines in the test centres and Mr Smith's machine.

A53981

If, as the newspaper article suggests, Mr Smith has alleged to the Federal Police that a "bugging" incident took place, this is a matter of extreme concern to Telecom. Telecom is of the view that the circumstances outlined above cannot on any reasonable interpretation be labelled a "bugging". No customers' conversations or transmissions were taped. Both customers were fully aware of the testing procedure and the fact that the test transmissions were to be taped. Both gave their complete informed consent to the testing.

The statement made in the article that Mr Smith said he had never given Telecom permission do not accord with events as recorded in the attached statements.

The staff involved in this particular incident are of course available to assist you in your enquiries.

Yours sincerely

I Row
CORPORATE SOLICITOR

Ross Anderson attended Mr Smith's property on 23.11.93 following a fault report. During the visit the fax machine rang once and stopped. No fax was received. A call was received immediately after on Mr Smith's voice line. It was Graham Schorer calling to inform Mr Smith he had attempted to send a fax from his machine at Golden Messenger to Mr Smith and had experienced a failure.

Ross Anderson made arrangements with Bert Lopes to test the Golden Messenger machine from the Waverley BSC. This was completed and no faults or protocol errors were detected between the Golden Messenger machine and the Waverley BSC.

Bert Lopes who had carried out the test on both machines spoke to Ross Anderson and concluded that there may be a protocol problem between the two machines.

In order to detect protocol problems between machines it is necessary to send test patterns between the machines and record the signals sent from machine to machine so that they can be analysed in conjunction with computer equipment at the Business Service Centre or Fax Support.

Arrangements were made with Mr Smith for Ross Anderson to attend Cape Bridgewater Holiday Camp and Bert Lopes made arrangements with Mr Schorer to attend Golden Messenger on 29 November 1993 to record test patterns and signals between the machines.

The procedure being carried out was explained in detail to both Mr Smith and Mr Schorer and it was explained to Mr Smith that tape recordings of the protocol and the test patterns would be made and subsequently deciphered to determine any interworking problem with the machines.

Mr Schorer and Mr Smith were both present during the test procedure.

Bert Lopes needed to leave Mr Schorer's premises temporarily during testing to put money in a parking meter. On his return one fax transmission had failed. Bert sent a total of 20 fax transmissions and there were no other failures.

Analysis of signalling between the machines gave no indication as to why the one transmission failed.

Mr Smith was given the originals of the test transmissions and the fax log by Ross Anderson before he left the premises that day.

I also attach a statement prepared by the two technicians involved in the testing. You will note that both state that they informed both Mr Schorer and Mr Smith of the proposed testing process and of the fact that the protocol and the test pattern would be taped for subsequent analysis. You will also note that Ross Anderson provided Mr Smith with the original test faxes and the Receive Transmit Journal.

Finally, I attach a copy of a minute prepared by Mr Bruce Pendlebury, the Difficult Network Fault Co-ordinator, Telecom Commercial Vic/Tas Region. The minute relates to a phone conversation he had with Mr Smith on 28 February 1994. It would seem that Mr Smith now is requesting Telecom to tape monitor his fax machine.

2 (13)

Facsimile

Telecom AUSTRALIA

To Ross Anderson

Company Telecom Portland

Facsimile 055 236 56

From Alan Barrow
P.T.T.O.1

Subject COT Case

K01489

Date 29 October 1993

Network Products
National Facsimile Support Centre
23 rd Floor 242 Exhibition St.
Melbourne. 3000
Australia
Telephone 03 634 6993
Facsimile 03 640 0997

Ross,

The following pages are copies of my fax machines journal and the protocol printouts of failed calls.

On the date of 28-OCT-93 we were trying to create a line failure condition that would re-produce the same error on the transmitting machine and no record on the receiving Mitsubishi machine (055 267 230). The reason for this was to show that a sending fax machine could get to the point of transmitting a page to the Mitsubishi fax machine without the Mitsubishi machine having any record of the call.

The COT case call in question was the 27-10-93 at 10:46 on the journal (it is suspected that the clock in this machine is approx ~~1Hour and 15 Minutes~~ 45-46 min in error). The duration of the transmitting machine page of 2:21 minutes suggests that the call failed at the end of the page, possibly when requesting a reply from the receiving end. The presence of the ID in the journal of "055 267230" indicates the call was connected to the Mitsubishi fax machine in question. The receiving Machine has no matching entry in its journal for this call.

A call was placed to 055 267230 and connectivity terminated at the beginning of the page but this resulted in an error of NG in the journal along with the ID of the calling fax machine. The only way to reproduce the conditions experienced above was to interrupt the power on the receiving Mitsibishi fax machine. This would result in an entry in the transmitting machine and no entry whatsoever in the receiving Mistubishi machine.

During testing the Mitsubishi fax machine, some alarming patterns of behaviour were noted, these affecting both transmission and reception. Even on calls that were not tampered with the fax machine displayed signs of locking up and behaving in a manner not in accordance with the relevant CCITT Group 3 fax rules. A half A4 page being transmitted from this machine resulted in a blank piece of paper 4cm long. the relevant protocol printout in sample #2 shows that the machine sent the correct protocol at the end of the page. Even if the page was sent upside down the time and date and company name should have still appeared on the top of the page, it wasn't. During a received call the machine failed to respond at the end of the page even though it had received the entire page (sample #3). The Mitsubishi fax machine remained in the locked up state for a further 2 minutes after the call had terminated, eventually advancing the page out of the machine.

Regards
Alan Barrow

Communications and the Arts

Our Reference:

Your Reference.

Contact:

FAXED 28.2.94

25 February 1994

Mr Jim Holmes
Corporate Secretary
Telstra Corporation
41st Floor
242 Exhibition St
MELBOURNE VIC 3000

Dear Mr Holmes

Attached are copies of correspondence received by the Hon Michael Lee MP from Mr Alan Smith of Cape Bridgewater Holiday Camp, Victoria, outlining further difficulties he is having with his telephone and facsimile service.

I ask that you investigate Mr Smith's allegations and take all appropriate steps to resolve his problems. I have also written to AUSTEL asking that the matter be included in the scope of its investigation into Telecom's handling of the COT cases.

Yours sincerely

Fay Holthuyzen
Assistant Secretary
regulatory Policy Branch
Telecommunications Policy Division

S/ Letter has originated in Steve Black pls

Steve further to . has already been forwarded to you. Please confirm you will acknowledge direct to Fay Holthuyzen. Ron 2/3/

R11431

GPO Box 2154 Canberra ACT 2601 Telephone: (06) 279 1000 Facsimile: (06) 279 1515

ALAN SMITH
Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland, 3305, Vic, Aust.
Phone: 03 55 267 267
Fax: 03 55 267 205

26 May 1999

Dr Zygmunt Switkowski
Chief Executive Officer
Telstra
Melbourne 3000
and
Mr David Hoare
Chairman of the Board
Telstra
Melbourne 3000
and
Mr Tony Staley
Chairman of the TIO Board
Telecommunications Industry Ombudsman Limited
Melbourne 3000

Dear Sirs,

CASUALTIES OF TELSTRA (COT)
Alan Smith / Telstra Arbitration
Bell Canada International

Please read the attached copy of a letter dated 11/8/95 and addressed to Steve Black of Telstra. This letter was allegedly written by Mr Gerald Kealey of Bell Canada International; it was forwarded from Telstra to the TIO who then forwarded it on to me sometime during August or September of 1995. Either this letter is a complete 'phoney' with Mr Kealey's signature forged or Mr Kealey has written it in the full knowledge that it contained false information and with the intention of thwarting any chance of an enquiry into my allegations that Telstra did not carry out the tests at Cape Bridgewater which were included in Bell Canada International's addendum report of 10/11/93.

At a meeting which was held for COT members at the Melbourne Hyatt Hotel, Mr Kealey advised the members of COT that no BCI representative travelled to any of the sites or exchanges involved in this testing because of time limitations, e.g. the round trip to Cape Bridgewater would require ten hours, plus the time involved in overseeing some 1,675 test calls (probably about another four hours).

Graham Schorer's minutes of this meeting are attached for your perusal.

I am sure that you are all aware that forging a signature or condoning a lie in order to mislead a proposed investigation is either fraud or perjury and I trust you will promptly arrange an investigation into who actually wrote this letter. Whatever the truth that is uncovered, it is bound to confirm that BCI did not carry out or observe the testing at the times shown in the BCI addendum report which, as you are aware, Telstra provided to their defence unit before that unit signed their witness statements under oath.

I also have proof that Telstra used the BCI addendum report of 10/11/93 even though they had also acknowledged that the report was impracticable.

Please advise when you intend to investigate this issue.

Sincerely,

Alan Smith

copy to:

Senior Sergeant Sommerville, Victoria Police Major Fraud Group, Melbourne.

11 August 1995

Mr Steve Black
Group General Manager Customer Affairs
Telstra Corporation Limited
37/242 Exhibition Street
Melbourne Victoria 3000
AUSTRALIA

Dear Mr Black

I am sorry for the late reply but I did not receive your correspondence dated September 6, 1994 concerning the anomaly found in the date of the test call records. However, Kevin Dwyer did call me in August 1994. Kevin Dwyer and I discussed the tests performed, equipment used both at the originating and terminating office and the test results. I also reviewed my personal travel log to verify the times and dates of my movements from Melbourne to Portland during the testing period.

I was subsequently provided with a copy of the correspondence on August 7 1995 as well as a copy of my original hand written notes on tests performed and the network failures noted.

Specifically, the anomaly involved the start and finish times for the test run for a small number of test calls from Richmond digital exchange (RCMX), test line 03 428 8974 to Portland exchange, Cape Bridgewater RCM (CBWR) number range, test line 055 267 211 (detailed in Section 15.23 of the report).

Unfortunately, the wrong date was recorded in the handwritten notes which was transcribed to the final report for Telstra. It must be pointed out that, while the actual date was incorrectly recorded, this error does not affect the validity of the testing process or the test results and is not a significant factor in assessing the overall performance of the network.

Yours sincerely

Gerald A. Kealey

Gerald A. Kealey
Bell Canada International

ALAN SMITH
Cape Bridgewater Holiday Camp
Blowholes Road, RMB 4408
Portland Vic 3305
Phone: 03 55 267 267
Fax: 03 55 267 265

31 May 1999

Dr Zygmunt Switkowski
Chief Executive Officer
Telstra
Melbourne 3000
and
Mr David Hoare
Chairman of the Board
Telstra
Melbourne 3000
and
Mr Tony Staley
Chairman of the TIO Board
Telecommunications Industry Ombudsman Limited
Melbourne 3000

Dear Sirs,

CASUALTIES OF TELSTRA (COT)
Alan Smith / Telstra Arbitration
Telstra's 'Beer in the Phone' report

I refer you to the attached documents numbered from - A 64557 to A 64561. These are taken from a number of graphs, copies received from Telstra under F.O.I.

My previous correspondence dated 26 May 1999 supports Telstra's defence unit knowingly used a fraudulent report to support their defence under arbitration 'Which is a criminal act'.

FOI document A 64557 titled TF 200 Beer etc dated 25/5/94 is a graph showing tests were conducted on that day on a TF 200 touchphone.

For documents A 64558 to A 64561 are further graphs titled TF 200 beer etc dated 26/5/94.

As you can observe these tests were conducted over a two day period.

In my previous correspondence mentioned above, I provided evidence and enough detail that a fraud had been committed by Telstra and or their agents regarding their defence document titled TF 200 beer in the phone, submitted into arbitration on the 12/12/94.

To further that correspondence, these attached graphs show an alarming discovery.

Considering originally in Mr Bell's report, he acknowledged that my TF 200 touchphone was collected by Telstra on the 27 April 1994 arriving at Telstra's laboratories on the 10 May 1994.

Mr Bell states in Telstra's defence document (report) that when his testing took place, a substance was observed inside my collected TF 200 touchphone, which was wet and sticky to touch (later found to be beer).

On his final conclusion to his findings, Mr Bell states the wet and sticky 'Beer' had caused the locking up of my TF 200.

Yet these attached graphs show tests were carried out on a TF 200 with the final result showing within two days, the 'Beer' had dried.

Example

20 other FOI documents that can also be provided to your office, also support this fact.

- My TF 200 was collected on the 27 April 1994 received by Ray Bell on the 10 May 1994. How could he state in his report that beer was wet and sticky caused my phone faults, when his tests show within two days 'Beer' is dried or almost dried.

- If these graphs attached were taken / tested on another TF 200 touchphone to observe the outcome, why did Telstra state in their defence they tested the TF 200 touchphone collected from Mr Smith's premises on the 27 April 1994.

- Let us assume Telstra told the truth on this occasion in their report, and it was my TF 200 which Telstra tested as shown in these attached graphs - 25 May 1994 to 26 May 1994. How did 'Beer' stay so wet and sticky to the touch when the phone was collected by Telstra on 27 April 1994, 29 days previous.

These graphs and further FOI documents show 'Beer' will not stay wet and sticky for 29 days.

This is further evidence to support a fraud was committed by Telstra to pervert the course of justice in my arbitration.

As for the TIO office, by presiding over a process that has been used to perpetrate a fraud on me in the Telstra - TIO arbitration, in my opinion demonstrates that the TIO as administrator has been part of the team that has engulfed in activities that has allowed the fraud to take place. Why hasn't the TIO investigated these matters raised before.

I trust this matter will NOW be brought up at the next TIO scheduled council meeting on 21 June 1999 as a priority.

This then will show that the TIO and his board are concerned as to what has taken place while administrators to my arbitration.

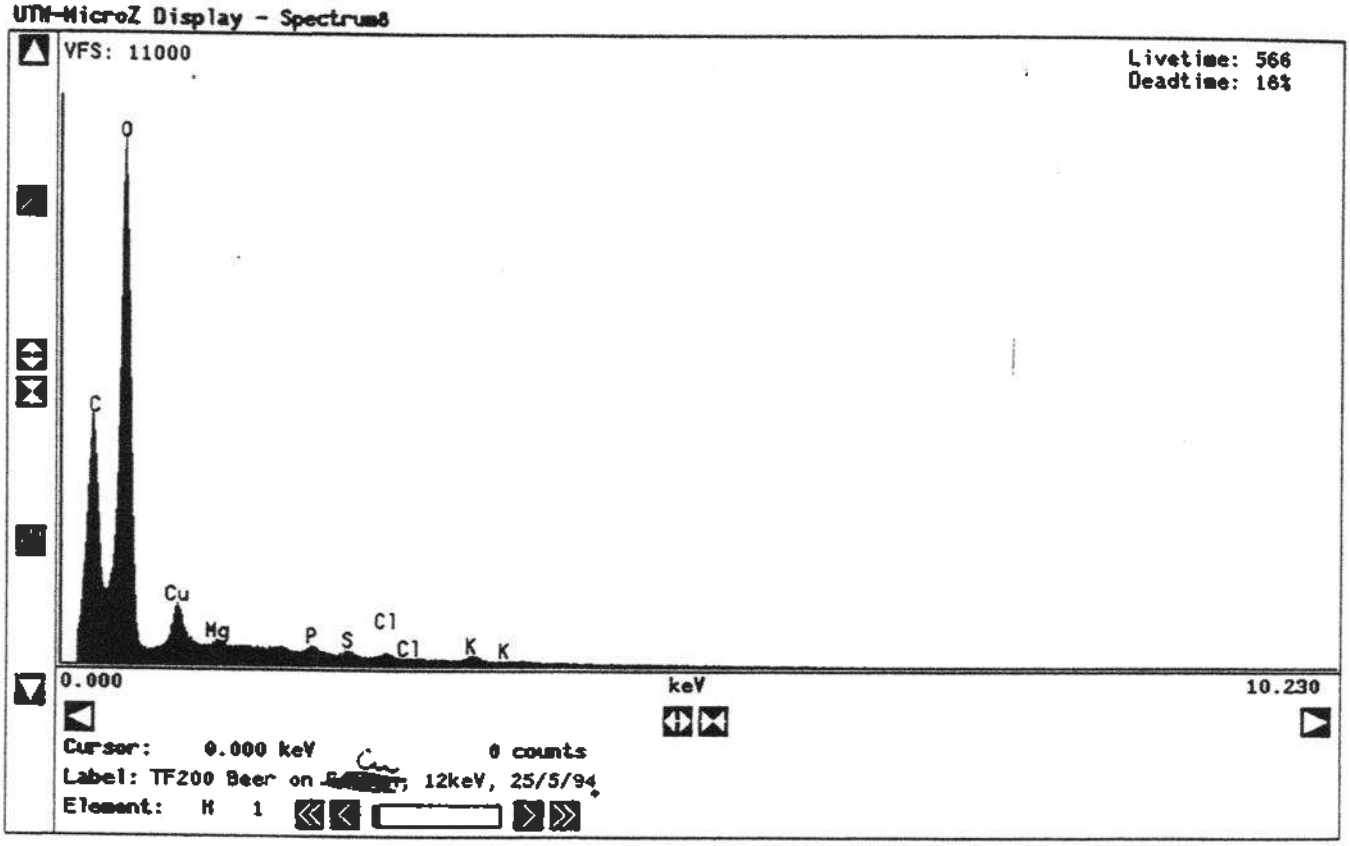
I also trust that the board members of Telstra are likewise provided with the correspondence of the 26 May 1999 as well as the letters and attachments of today's dates.

I await that outcome.

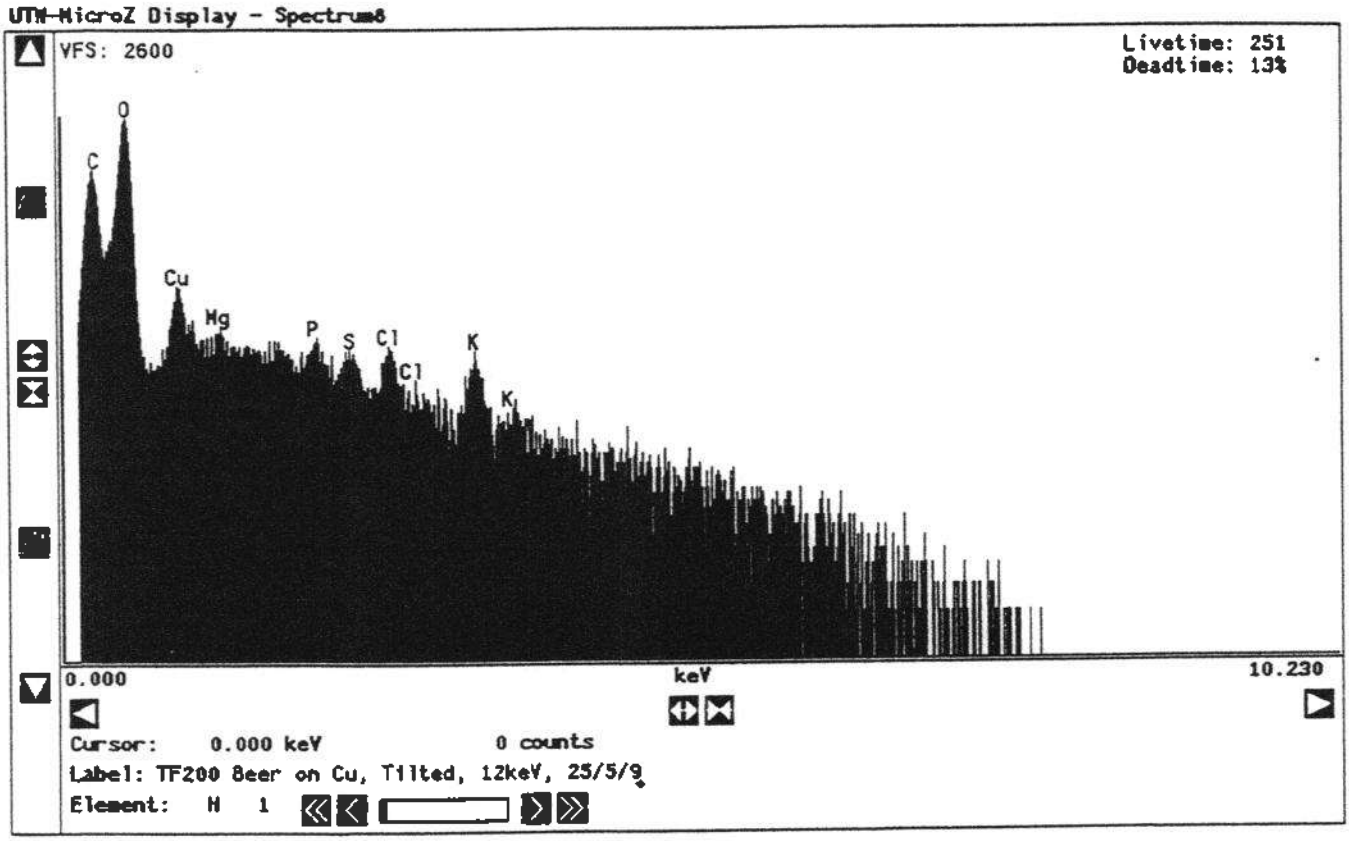
Yours sincerely

A. Smith

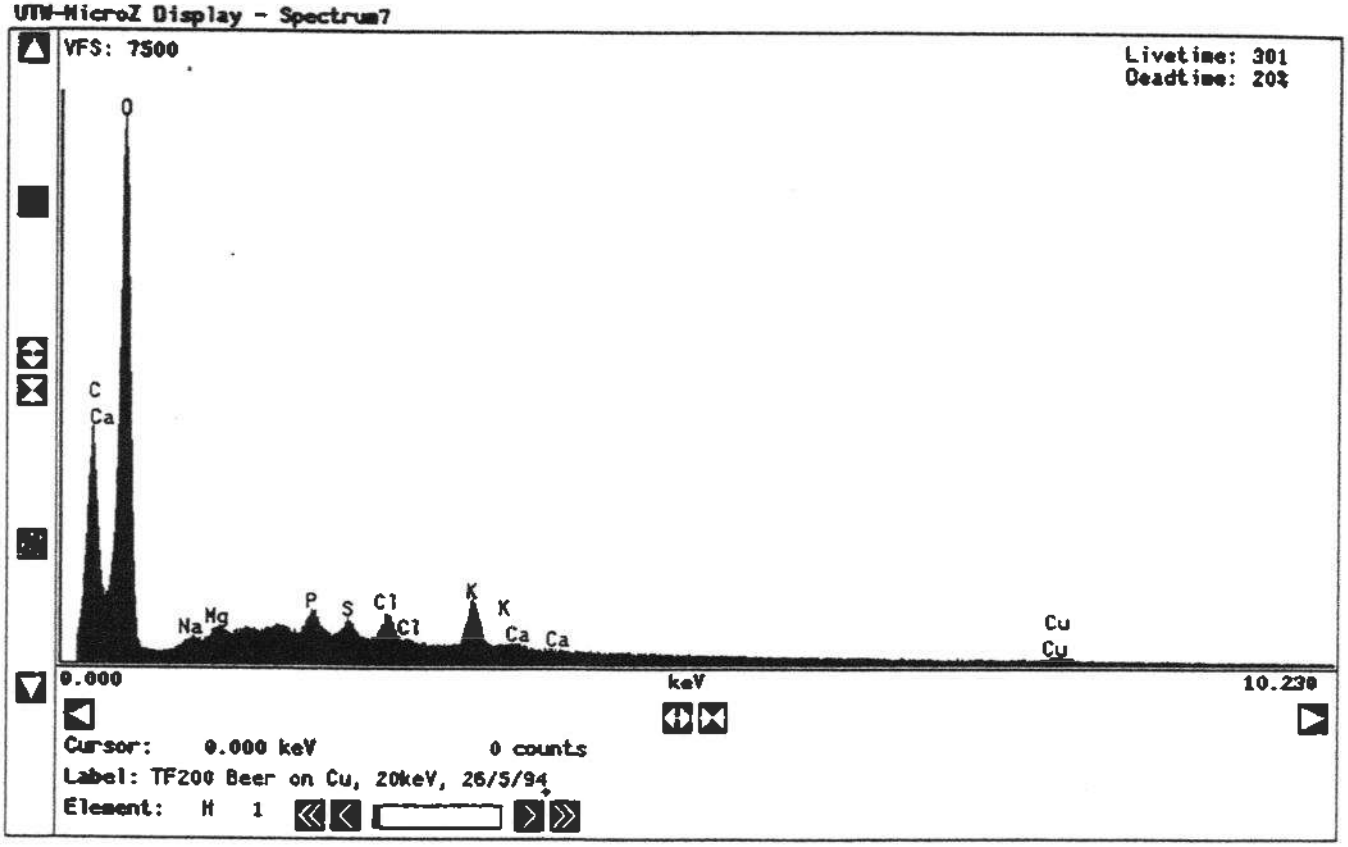
cc. Senior Sergeant Sommerville, Victoria Police Maton Fraud Group
St Kilda Road Melbourne


UTM-MicroZ Display - Spectrum8
VFS: 11000
Livetime: 566
Deadtime: 16%
O
C
Cu
Mg
P
S
Cl
Cl
K
K
0.000
keV
10.230
Cursor: 0.000 keV 0 counts
Label: TF200 Beer on [redacted]; 12keV, 25/5/94
Element: H 1

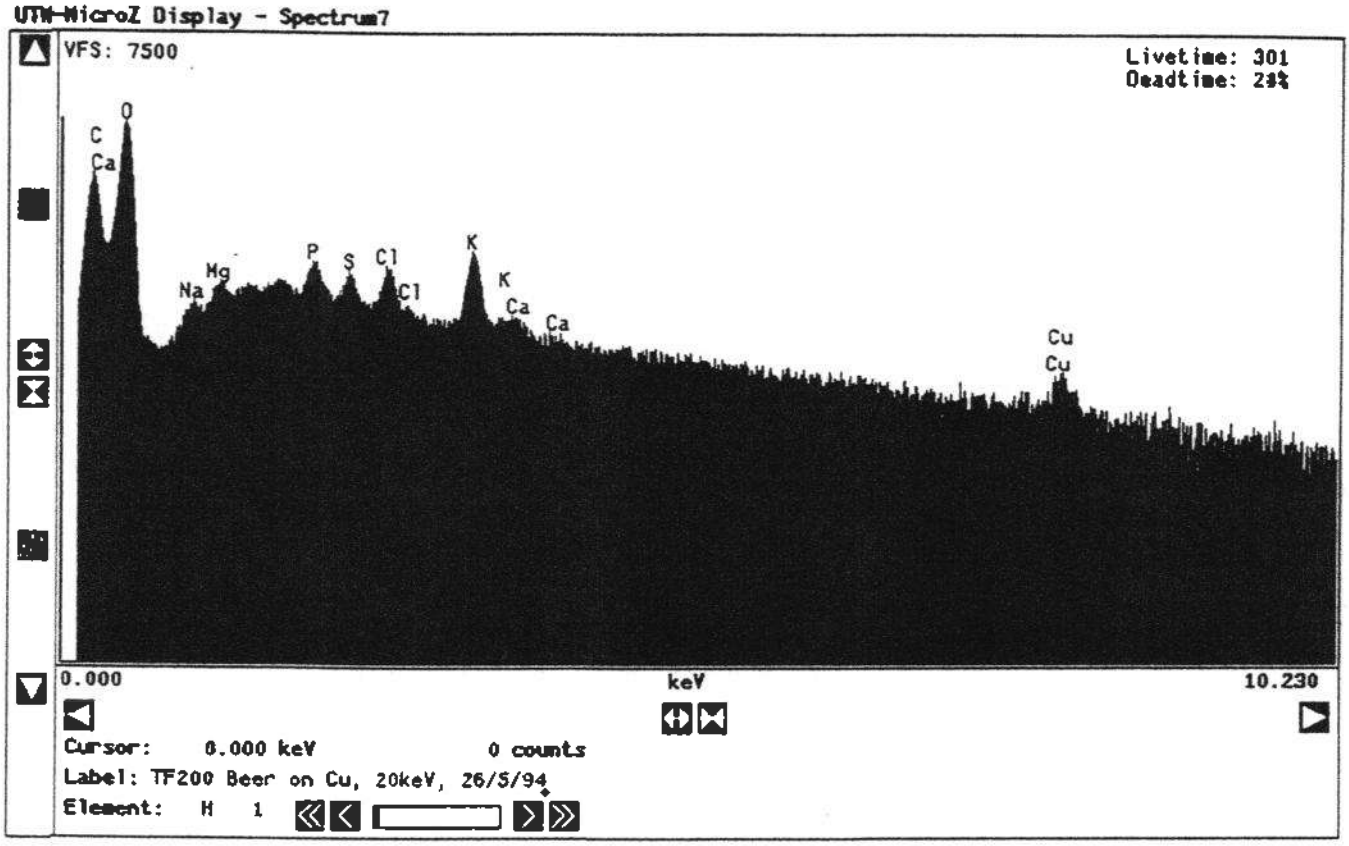
A64537


UTW-MicroZ Display - Spectrum8
VFS: 2600
Livetime: 251
Deadtime: 13%
C
O
Cu
Mg
P
S
Cl
Cl
K
K
0.000
keV
10.230
Cursor: 0.000 keV 0 counts
Label: TF200 Beer on Cu, Tilted, 12keV, 25/5/9
Element: H 1

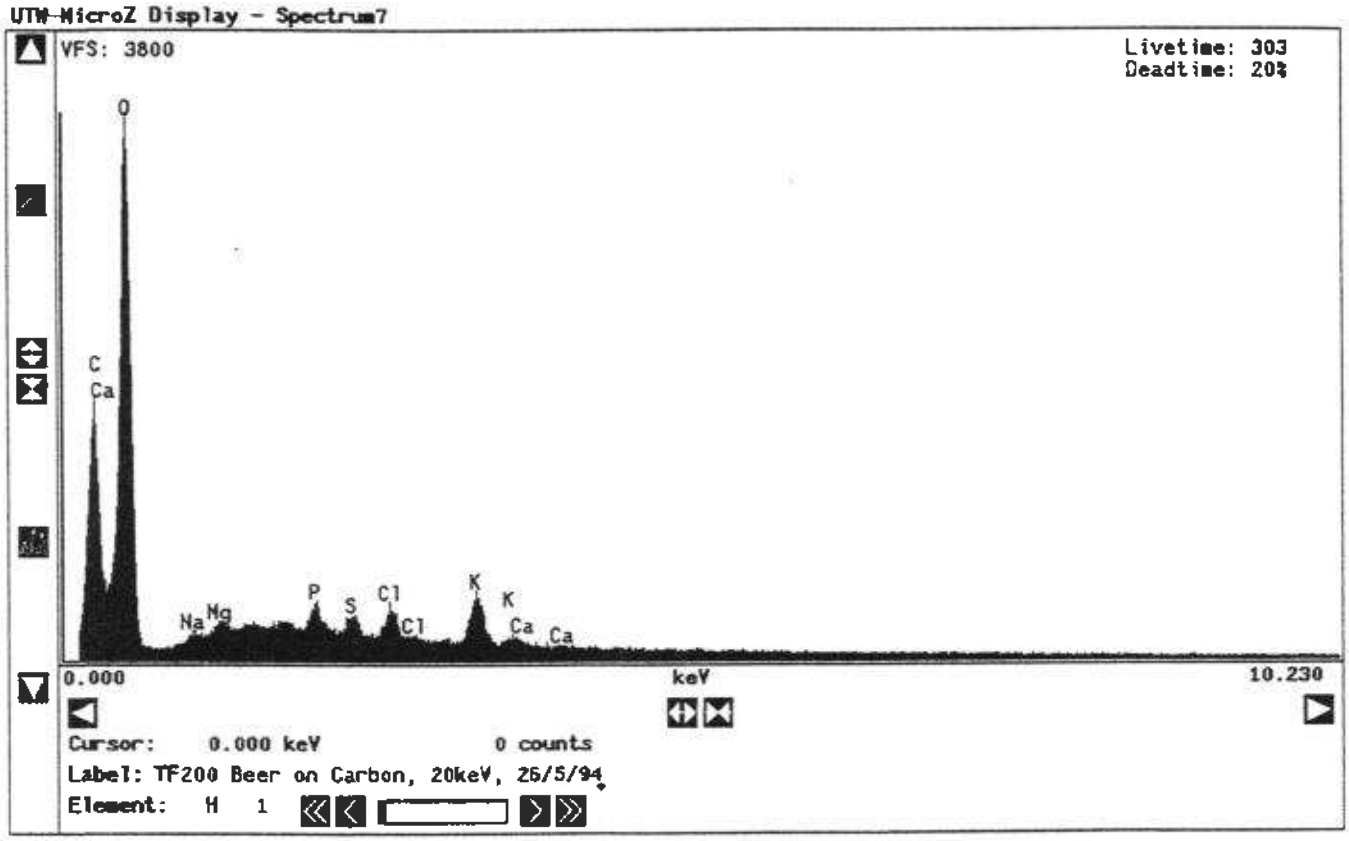
A64538


UTW-MicroZ Display - Spectrum7
VFS: 7500
Livetime: 301
Deadtime: 20%
O
C
Ca
Na
Mg
P
S
Cl
Cl
K
K
Ca
Ca
Cu
Cu
0.000
keV
10.230
Cursor: 0.000 keV 0 counts
Label: TF200 Beer on Cu, 20keV, 26/5/94
Element: H 1

A64559


UTW-MicroZ Display - Spectrum7
VFS: 7500
Livetime: 301
Deadtime: 23%
C
Ca
O
Na
Mg
P
S
Cl
Cl
K
K
Ca
Ca
Cu
Cu
0.000
keV
10.230
Cursor: 0.000 keV 0 counts
Label: TF200 Beer on Cu, 20keV, 26/5/94
Element: H 1

A64560


UTW MicroZ Display - Spectrum7
VFS: 3800
Livetime: 303
Deadtime: 20%
O
C
Ca
Na
Mg
P
S
Cl
Cl
K
K
Ca
Ca
0.000
keV
10.230
Cursor: 0.000 keV 0 counts
Label: TF200 Beer on Carbon, 20keV, 26/5/94
Element: H 1

A64561

Alan Smith
Cape Bridgwater Holiday Camp
Blowholes Road, RMB 4408
Portland Vic 3305

31st May 1999

Dr. Zygmunt Switkowski
Chief Executive Officer
Telstra

and

Mr. David Hoare
Chairman of the Board
Telstra

and

Mr. Tony Staley
Chairman of the TIO Board

Dear Sirs,

CASUALTIES OF TELSTRA (COT)
Alan Smith / Telstra Arbitration
Bell Canada International

Please read the attached copy of a letter dated 11/8/95 and addressed to Steve Black of Telstra. This letter was allegedly written by Gerald Kealey of Bell Canada International. It was forwarded to Mr. John Pinnock T.I.O. from Telstra when I had asked the T.I.O. to investigate my concerns - that the BCI tests were impracticable and should not have been used by Telstra in their defence of my claims lodged under the (F.T.A.P.)

It appears this letter was sent to Mr. Pinnock to stop him investigating any further.

Either this letter is a complete phoney with Mr. Kealey's signature forged or Mr. Kealey has written it in full knowledge that it contained false information.

At a meeting to discuss the BCI tests - held at the Melbourne Hyatt Hotel late 1993, Mr. Kealey in the presence of Don Pinel of Telstra and other COT members, stated because of the limited time frame to which BCI had to complete their charter/testing, they did not visit the individual COT members or their exchanges. They only visited the exchanges where the tests actually originated from.

Austel and a number of Senators were informed of this situation, including the Senator Richard Alston, who at this time was the shadow minister for Communications in the Coalition Government.

Our concerns were the lack of time that Telstra had allowed BCI to correctly investigate the COT claims and visit the on site exchanges of the individual COT members.

How then can Mr. Kealey state, 22 months later as shown in his letter dated 11/8/95 i.e:

> *"I also reviewed my personal travel log to verify the times and dates of my movements from Melbourne to Portland during the testing period"*

It should also be made clear that the Cape Bridgewater Exchange Portland was the furtherest of all the COT member exchanges which were not visited by BCI - at least a *ten hour* round trip from Melbourne.

If this signature accompanying the letter dated 11/8/95 was knowingly placed on that document by Mr. Kealey, then as an agent of Telstra he is equally guilty of gross misconduct.

The fact that Telstra knowingly used the BCI addendum Cape Bridgewater report to support their defence of my claim lodged under the (FTAP) - when FOI documents show Telstra was fully aware as early as June 1994 that the BCI addendum report was impracticable, therefore, this proves beyond all doubt that Telstra acted in a fraudalant manner to prevent the course of justice.

It should be noted that the letter dated 11/8/95 was alledgedly forwarded to Telstra 3 months after my award had been handed down on the 11th May 1995. This further supports that the misleading and deceptive conduct by Telstra continued after my arbitration.

Will the CEO Dr Zygmunt Switkowski and David Hoare Chairman of the Board of Telstra, and Mr. Staley Chairman of the Board of the TIO office please inform me to what they intend to do in regards to the above matters raised.

I await your earliest response.

Sincerely,

A. SMITH

cc Senior Sergeant Sommerville, Victoria Police Major Fraud Group Melbourne