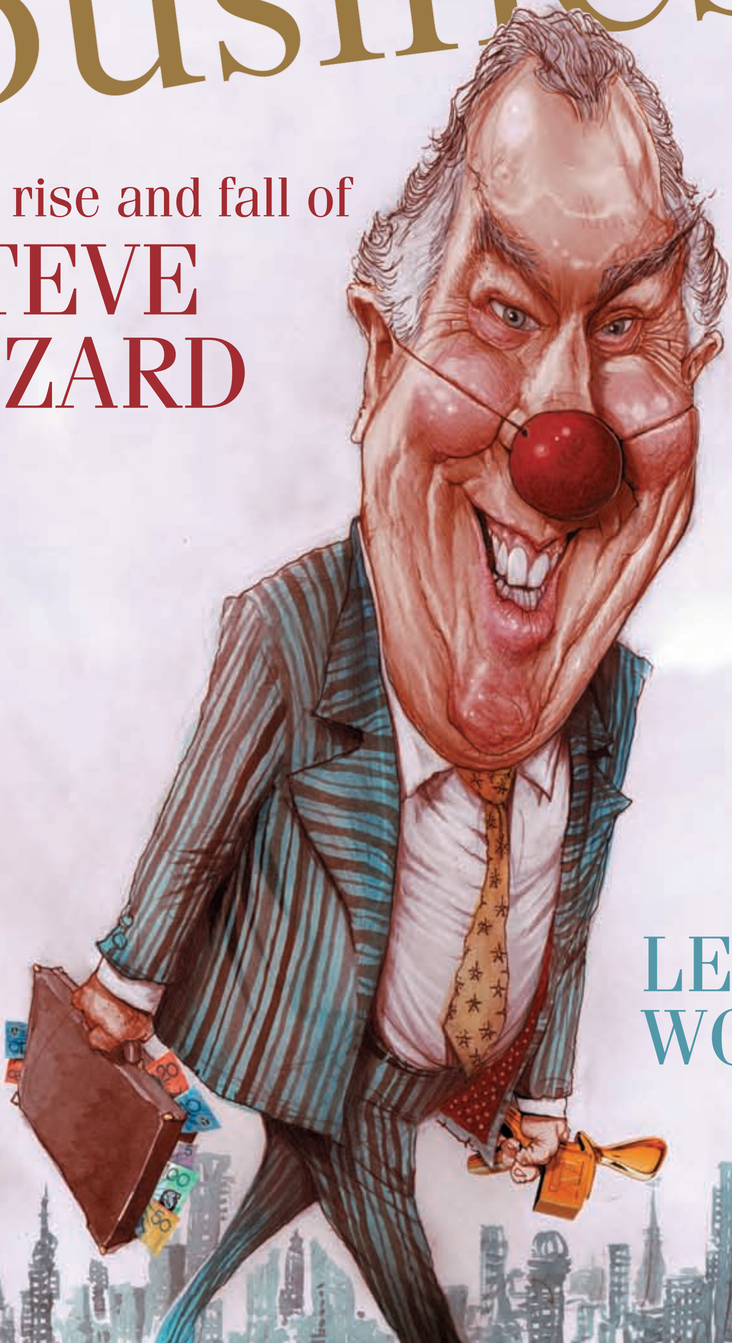
funny business

The rise and fall of STEVE VIZARD



LEONIE WOOD

During more than twenty years of journalism, Leonie Wood has reported on many of the nation's most newsworthy business, finance and political stories. A senior business writer on *The Age*, Leonie has previously worked for *The Australian Financial Review*, *Australian Associated Press* and *The Sun-News Pictorial*. She lives in Melbourne with her son.

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For Charlie

Thank you.

Contents

Shortened forms

ABC	Australian Broadcasting Commission, later Corporation
AFC	Australian Film Commission
AFL	Australian Football League
AIM	Australian Information Media
ASIC	Australian Securities and Investments Commission
ASX	Australian Stock Exchange (now Australian Securities Exchange)
ATO	Australian Taxation Office
CSIRO	Commonwealth Scientific and Industrial Research Organisation
CTI	Creative Technology Investments
DGR	deductible gift recipient (an organisation to which donations are tax deductible for the donor)
DCITA	Department of Communications, Information Technology and the Arts (federal)
DPP	Commonwealth Department of Public Prosecution
EFTPOS	electronic funds transfer at point of sale
FCA	Federal Court of Australia
FINA	Fédération Internationale de Natation (World Wide Swimming Sports Organisation)
FOI	Freedom of Information

IAT	Information Age Travel
IT	information technology
MCC	Melbourne Cricket Club
MCG	Melbourne Cricket Ground
MSS	Multiple Sclerosis Society of Victoria
NGV	National Gallery of Victoria
PAS	Performing Arts Services
PCCW	Pacific Century CyberWorks
QC	Queen's Counsel
RSL	Returned Servicemen's League
SPAA	Screen Producers Association of Australia
TAC	Transport Accident Commission
UFC	United Film Completion Pty Ltd

Author's note

Steve Vizard has become a byword for insider trading in Australia and yet, as his lawyers will rightly remind you, he was never nabbed for that crime. I have not written this book to argue that fine point; it a distinction that, in the context of what Vizard did, I consider increasingly irrelevant anyway. I have written it because the saga of Steve Vizard and his bookkeeper, Roy Hilliard, is one of the most perplexing and bizarre tales I have encountered in more than twenty years of journalism.

I first heard of Vizard's woes as a business journalist on the *Age* back in early 2003, when Hilliard faced committal proceedings in the Melbourne Magistrates' Court. I did not cover the story then, but I listened to colleagues who returned from the court, their eyes aglow with the power of the story. There was Steve Vizard, the chief witness for the prosecution, accused of corporate crimes by none other than his lowly bookkeeper, who in turn was accused of thieving. As I saw it, Hilliard's wickedly clever defence team had spun an elaborate and fabulously distracting fiction: Vizard, I presumed was being framed.

I did not know Vizard personally then and still do not, and in the two years after the committal proceedings I had no particular reason to revisit the story. But on Monday 4 July 2005, when I was far away from the big cities, barrelling along the dirt roads outside Broken Hill, my radio finally picked up a faint signal and so I learnt from a news bulletin that Vizard had been collared by the corporate regulators. I was spellbound. Vizard is a man that so many people in Melbourne believe they know or, more accurately, want to claim as a friend. They recognise him from his television celebrity status, through his extensive social circle, his corporate dealings, his art interests, or simply because their children attend the same schools as his children. People conjure up the most convoluted associations in a bid to claim distant friendship with him. And yet, when it came to the truth, we knew so little about him. There was a remarkably secret aspect to Vizard, one that infuriated the public when it was uncovered.

In the subsequent weeks, I spoke to many corporate leaders, lawyers and Vizard's former associates as I tried to make sense of his actions, and what emerged from those discussions startled me: the anger, the passion, the sense of betrayal inside corporate Australia was simply extraordinary. The quotes roared off the pages of my notebook—and they still do. At the same time, Vizard's team of advisers wanted the public to feel sorry for him; they dexterously fashioned him as a victim. In many ways Hilliard too was depicted as a victim, though usually by journalists who perceived him as an accidental casualty, a dupe who took the fall for his boss.

This is an enigmatic morality tale, a story about power and hubris, greed and disgrace. It's about how two men from very different worlds, the beguiling millionaire and his employee, drawn close through the confidentiality of running a private business empire, viciously turned on each other. The master accused the servant of theft, and the employee turned the key and opened the door on some of the boss's secret business dealings. In the end, it's a story about reckless, unabashed treachery.

To answer the obvious question: no, Steve Vizard did not render any assistance in the writing of this book. He did not respond to my requests for interviews, and I expect that sooner or later he will create his own version of what happened.

As for Roy Hilliard, I did speak with him a few times after the main court cases had finished. There was already plenty of court material to rely on, exhibits and reams of transcripts detailing his version of events, and I watched him intently over many days of his evidence and cross-examination. But in my brief personal interviews with him, I did not feel he was prepared to stray beyond the precise words that he had already told the courts. In short, they were not what I considered enlightening discussions.

There are several key people in the story who declined to participate, and others whom I was unable to contact. Some failed to respond to requests for an interview. I have tried to be fair and accurate and, above all, balanced, although at times I have had to patch together conflicting versions of the same event from court documents, personal interviews and my own interpretation. This is how I saw it.

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This book led me to some truly wonderful and inspiring people, some of whom filled up my days with laughter as they retold anecdotes. I thank all those anonymous people for their unfettered assistance, their hours on the phone, their email efforts, their little piles of documents and tapes, the coffees in their kitchens, and their kind words. Thank you to the many lawyers, senior counsel and some members of the judiciary who gave willingly of their time, experience and insights.

I received absolute support from the *Age* through all this. Thank you to the editors who kept asking in hushed voices about 'the project', to the librarians, and especially to my colleagues who generously shared their memories of past interviews, their common sense, journalistic disciplines, invaluable cynicism and inspiration.

The diligent hands at Allen & Unwin were enthusiastic and endlessly encouraging. Thank you Siobhán Cantrill for overseeing the production train, Jo Jarrah for a tremendous editing effort, and above all to the relentlessly vivacious and supportive Jude McGee, who never let me down.

Special thanks to Ross Ryan, for pacing it out and making it sing when I wanted to murder it all; to Marie Schmidt for getting me there; to Geoff, Gar, Anna, Mary T., Andrew and Karen, the Murrumbeena families, and Mahendra; to my family who for months

stayed absolutely silent about it all and trusted me. Lastly to the man who talked me into it, gentle thoughts.

This book is for Charlie, the first-edition deluxe version.

peadad62 (8.43 am):

Why did Steve Vizard do something so stupid … He had it made, had lots of money, had fame. Why did he do what he did?

taddmore (9.10 am):

It's called greed, Peadad. Nothing more, nothing less.

Yahoo, Australian news message boards, 21 July 2005

'Here they come!' Pinocchio said to himself, and not knowing where to hide the gold pieces he stuck all four of them under his tongue . . .

Carlo Collodi, *The Adventures of Pinocchio*

Prologue

It's a great day for a shaming. Thursday 21 July 2005, and morning sunshine warms the flagstones outside the Federal Court in Melbourne. Blue skies, a gentle breeze, and a small crowd gathering for a public pillorying. The forecourt will serve as a stage. To one side, the elevated stone areas shaded by trees provide ideal viewing platforms for press photographers who have staked their vantage points. Every newspaper, every television station, current affairs crew and popular radio station—they're all here. And already scores of people are lining the footpaths and milling on the fringes of the forecourt. They want to gaze at the wrongdoer too.

Though it may be a little while yet before he gets here. It's early and he's still at his lawyers' offices, finessing the details of exactly what will happen and in what order. He's probably getting some last-minute advice from his brother, from his public relations minders, about how to keep his head up, how not to laugh, how to keep his mouth shut. Instructions on how he must just keep walking when he gets there, just keep going. And standing before him is his dark-haired lawyer with the oversized spectacles, nodding his head and saying over and over, 'It will be fine, Steve. Just go in there. You let us do the talking. You don't have to do anything, okay? Just get through this and we will deal with everything else later.'

And big Steve, his normally sparkling blue-green eyes a little dulled this morning, his face lightly tanned from ten days cruising in the Mediterranean—ah, that cruise, that fine white yacht, that repose—will look up balefully and nod gently. Though really, there's not much left to say. It was all said and signed weeks before. A deal has been cut, and now the deal is on the judge's desk. This morning he's just acknowledging his lawyers, not agreeing, not disagreeing. He's just going along with it all.

'Here he comes!'

'That's him.'

'Over there. Quick. Go, go.'

'Watch out. Move!'

And he comes on cue from stage left, flanked by his lawyers. Steve Vizard strides to court. Head and shoulders above everybody else, he is easy to spot. His elongated face, weighted by two huge slabs of cheeks, is so familiar, so instantly recognisable even years after he quit hosting his late-night television show. From across the forecourt, there's a frantic scramble as television cameramen rouse to life, heaving their film gear high onto their shoulders. Sound technicians lever huge, furry boom microphones over a melange of press photographers and reporters, and the pack forms, swarming and enshrouding the prey. It's a tango of swift angles and tight shuffles, little stabs with stick microphones. And prancing at the back is a jokester who has spied the moment: he's touting an oversized poster advertising breakfast celebrities on a radio show.

'Steve,' the photographers yell. 'Steve, this way. Over here.'

'Mr Vizard, what are you going to tell the court?'

'Mr Vizard, do you have anything to say?'

Vizard is trying not to laugh. You can see he is pressing his lips together hard, taking in the action as burly cameramen jam themselves just a footstep in front of him then lumber backwards and send petite young reporters from the news wire-services flying. Current affairs reporters are badgering him to say something, anything, for the cameras. *Come on, Steve. You're a showman. You know what it's like. Just give us a quick take. How do you feel?* He presses on, head slightly bowed, sticking tight to his lawyers who have formed a vanguard around him, cutting a path through the scrum.

High above the forecourt, a few faces peer from the administration offices of the court. 'It's Vizard,' the court staff whisper to each other. 'My God, look at this.' This has to be one of the biggest media contingents the Federal Court has seen.

Upstairs in Court 8A the second row usually provides good viewing, but today Vizard's minders want seats set aside for his entourage—two entire rows in fact—and large sheets of white paper, with RESERVED spelt in forbidding black letters, are being patted into place sectioning off a buffer zone. Two rows of breathing space to keep the rabble away. Press, radio, television, online reporters—so many journalists are here that it's hard to see how anyone is going to cut themselves a distinctly different angle. But then this Steve Vizard case has so many stories, so many angles, that one view of it will never be enough, one telling of it will never be complete. First it rings true and then it doesn't, and that's because it's a story awash with deceit and betrayal.

Vizard's friends wonder what on earth happened. They struggle to believe that a person as wonderful, kind, charming and as clever as their mate, Steve, could possibly do anything wrong. Heavens, they say, the guy didn't even make a buck out of it. He *lost* money. He's not as bad as everybody makes out. Steve's a charitable soul. He would never do anything to hurt anybody else, would never say anything nasty about other people. Vizard, they say, was a fine man. An honourable man. An ethical man. This must be some sort of accident, some kind of mix-up. Maybe it all stems from bad advice, from the work of clumsy minions. Vizard has medals at home to prove he's a good guy, remember? He's a Member of the Order of Australia (AM), awarded for services to the community. And he's done so much more in unpaid honorary roles. Really, he should not have to endure this public vilification. Leave him alone, they say. Back off.

Which is all fine, it's wonderful to have loyal friends and Vizard sure needs them right now. It's just that Steve Vizard is not quite the man his friends may have thought he was. He is certainly not the man the public believed it was taking to its bosom. But *shh*, here he comes . . .

The heavy wooden door at the rear of Courtroom 8A swivels open and there's Steve Vizard once more, disgorged from the media scrum, swiped through the security scans and ushered into the clinically clean, steel-and-glass environs of the Federal Court. He is no longer laughing. All eyes are pinning him, piercing through him, tracking him as he makes his way slowly along the side aisle of the courtroom, picking a path between reporters still scrambling for a seat. You can see now that he's smartly dressed, though perhaps not to everyone's taste. He's a big man, tailored in a dark-blue pinstriped suit, the stripes a little bolder than some might like. And perhaps it's a nervous thing but he's tugging slightly at those sleeve ends, just getting his business suit to sit a bit easier around the shoulders.

On this July day in 2005, he is still nine months off his half-century but he looks much older. Today he does not have the boyish charm of his television years and his eyes are not twinkling with characteristic cheek. His jowls are heavier these days, though it's probably not just from age and good living. There is stress in his face, a kind of fear in his frame suggesting that while he might welcome you into his world, he is keeping his own space.

He's walking now behind his legal representatives, led by the methodical, quietly spoken James Judd, the Queen's Counsel who will do all the talking. Vizard will not have to say a word to the judge today, though he will have a lot to say later in a written statement. Close by is Ross Freeman of Minter Ellison, a lawyer who has developed a special line in handling bewildered clients whose financial affairs are being raked over by corporate regulators such as the Australian Securities and Investments Commission (ASIC). Clients like Vizard, for example.

Vizard's supporting cast, however, includes more than lawyers. A few friends are stationed at the back of the room. There's Dr Gerard Vaughan, the chief executive of the National Gallery of Victoria (NGV), and Professor Margaret Manion, for sixteen years a professor of fine arts at the University of Melbourne and Emeritus Professor since 1995, a specialist in medieval manuscripts. They're here to lend support, and to testify that the Steve they know and love is really a generous, warm-hearted man.

Always at his side is Steve's devoted younger brother Andrew, an associate professor of veterinary epidemiology at Melbourne University. Andrew, with his pale skin and curly locks, his eyes zeroed in on his elder brother, today will become his brother's keeper.

Just in front of us, seated on those RESERVED signs, are Mike Smith and David Wilson, the media communications duo who helpfully filter the tricky questions and determine which journalist might be sympathetic to Vizard's position, or whose reporting might be, as PR agents like to define it, 'balanced'. So when you read in the newspapers how 'a spokesman for Mr Vizard said' or a 'close family friend said', you might guess that it's one of them: Smith and Wilson, the double-barrelled guns.

Stand up. Judge is here.

It's Fink, the diminutive, curly-haired Honourable Justice Ray Antony Finkelstein, who today happens to be celebrating his eighth anniversary as a Federal Court judge. He's one of the sharpest legal brains in Australia, witty and engaging, widely read and passionate about justice. And he is fast—very fast. Watch him in action and he slices through barristers' rambling arguments with a brusque 'yeah, yeah, okay', daring counsel to tackle the hard arguments or else keep it simple.

He doesn't suffer fools, he doesn't like submissions that are poorly prepared, and he loves cases that have wider ramifications. He'll happily challenge counsel on what they know, or often don't, about recent decisions on similar matters in Britain or the United States. Everyone knows him as 'Fink', and if we were to fast-forward this narrative to the court's Christmas party of December 2006, you might find this judge shaking and stirring some mean cocktails behind the bar—the liquid bar—wearing a fetching T-shirt captioned 'Don't mess with Da Fink'. Newspapers call him Justice Finkelstein; senior counsel bow deeply and call him Your Honour.

Vizard is in the front row now, seated next to Andrew. He is silent and composed, his hands clasped in his lap. But he is clearly nervous. You can see his neck muscles flexing as he breathes deeply and shifts slightly in his seat.

You have to wonder at the man. Not so much at how he will get through today, but at his gall, at his profound stupidity. He's a lawyer too, remember, apparently a smart guy. He's got better than half a brain. So how did he end up here, the butt of everyone else's jokes? What did he say to his wife? How will he one day explain all this to the kids? The kids, for heaven's sake. And to think he was once Australia's Father of the Year, a superstar Dad selected for the masses to praise and emulate—a community role-model no less.

But that's not how most Australians remember Steve Vizard. In their minds, he is still the television comedian, a gangly, goofy prankster. They remember him on *Tonight Live with Steve Vizard* in the early 1990s, all teeth and clumsy interviews. They think he's a larrikin, a bit of a lad. A clever comedian, a brilliant mimic, with a wit that cut down any semblance of self-importance. Remember that Derryn Hunch character with the helmet hair and his 'Shame, shame, shame' invocation? That's the Steve Vizard that some people have come to see today. They want to see him switch on the charm, they want to see him razzle-dazzle with some celebrity fizz. Perhaps he'll give them his autograph.

But all that comedy ended more than a decade earlier when Vizard dropped out of television and implanted himself in the world of commerce. What a surprise he must have been among the suited financiers of Collins Street and Pitt Street, slipping straight off the little screen and into the boardroom. Nobody would say Vizard was a financial whiz, but he had indisputable name-brand cachet, celebrity prestige. Just having him on a company's board was a marketing bonus.

And he had connections—amazing connections—up and down the political and business leagues, and those connections appointed him chairman of the board of trustees of the National Gallery of Victoria and, later, head of Melbourne's Major Events Company, a role that made him, after the Premier, one of the most influential people in the State of Victoria. And, though to some it seemed very strange at the time, Steve Vizard even landed a seat on the board of Australia's biggest company, Telstra. In boardroom after boardroom, he accumulated name-tags, gathering corporate identities for himself like some people collect stick-pins. And by doing so, Vizard effectively compiled a bulging and rather perfect set of letters of reference. Directors around each of those board tables implicitly said to the rest of the world, 'Steve Vizard is fit to serve alongside us'.

But today Steve Vizard—comedian, lawyer, businessman—is in a strange new place. He is in this courtroom, bowed before the law, to accept penalties for serious wrongdoing. And of all his public performances over two decades, these few hours in court will determine his personal and business future. But he won't be speaking a word. If Vizard ever says anything on oath again about why he is here, he runs the certain risk of contradicting earlier sworn testimony he gave—and that would leave him wide open to be charged and possibly jailed for perjury. That's why he won't say anything today. Imagine it. The guy who made his mark with his motor-mouth is in this courtroom, where success hinges on the craft of precise words and pedantic argument, and he is in the unenviable position of having to shut up.

Look again at this man. He was grinning confidently as he came into court, yet he is a man on the edge. He is at once extremely clever and extraordinarily dumb.

1
Soar higher

By the age of forty-five, Steve Vizard had built for himself a perfect and comfortable world. He was blessed with a smart, exuberant and practical wife, Sarah, and five bright, sparkly children—Stephanie twelve, Tom ten, Madeline seven, Jim six, and Olivia four—whom he would send to Melbourne's most prestigious private schools. For holidays he might take the whole family to their luxurious home at the top end of Port Douglas's Four Mile Beach in northern Queensland, or to another just one hour south of Melbourne in the beach-and-bay enclave of Portsea. A few weeks of winter might be spent in Italy or France, Spain or England, perhaps on a Mediterranean cruise with friends, or in the ski-fields of north-eastern Victoria. And his home was something of a landmark in the dappled glade of Melbourne's wealthiest suburb, Toorak; a huge mansion veritably dripping with old-style charm, a 1920s architectural delight designed by Harold Desbrowe-Annear that simultaneously evokes the mannered conservatism of England and the faded glamour of old Hollywood, a house that reeks of respectability and moneyed, established Melbourne—a home well-suited to Steve Vizard, who relished public respectability.

Among his extraordinarily wide circle of friends were some of Australia's most influential and creative players in government, business and entertainment, and he was always near the top of the A-list of celebrities that garnered invitations to this special dinner or that gala performance. This was the kind of world that money could buy. These assets, these friends and this level of influence were testimony to his personal success. And though occasionally he might brag that he loved nothing more than plumping himself in front of the television with a bunch of mates and some takeaway pizza, Steve Vizard thrived on the social life, the networking, the power.

He would host the finest soirees—tantalisingly glamorous parties filled with scores of intelligent and influential people, some from the top end of town, others from the city's edgy and creative corners, always drawing together an exotic and intoxicating mix of personalities. Media industry leaders mingled with federal and state politicians, lawyers, comedians, flash stockbrokers, bookmakers, real estate agents, writers, company directors and artists—and all were just happy to be invited, happy to unwind among such fascinating companions.

And in turn, of course, Vizard snapped up invitations to the right parties, the right cocktail functions, knowing that at these functions he would meet all the right people, who might appoint him to all the right positions. He loved public life. It was a game, a mutually satisfying one. He was climbing his way through the social milieu, sometimes by design and sometimes by accident, and when he landed in the right place, in the right position, he might gain more power and make more money.

Stephen William Vizard cultivated all the hallmarks of Melbourne's tight establishment, but he was not a product of it. He was born Tuesday 6 March 1956, in the midst of great economic and social optimism in Australia. It was the year the flame was lit at the Melbourne Cricket Ground heralding the Olympic Games in Australia, and the same year that lounge-rooms in Sydney and Melbourne basked for the first time in the eerie blue-grey glow of black and white television. Lance and June Vizard no doubt welcomed little Steve with all the joy that usually gushes from first-time parents, blithely unaware that one day their tiny son would be feted like a king on that new-fangled television appliance.

Steve was the first of their four children: Andrew was born two years later, followed a few years later by Fiona and then Jennifer. It was a slightly whimsical middle-class family, led by boisterous, witty and sometimes belligerent Lance and the straightforward, genteel June, who together fostered a stable, happy and loving environment. The children were encouraged to study diligently, help others and always to have fun in what they were doing. It was a strongly supportive, loyal and loving family unit, one that has stuck together tightly through the decades. Steve and Andrew have remained especially close.

Godfrey Lancelot Vizard, or Lance as he was known, looms large over all Vizard's memories as a bit of an adventurer, a raconteur, someone always open to new opportunities. He taught his children to soar higher, to revel in life and to embed themselves in the commuity, and it may be from Lance that Vizard derived his relentlessly optimistic outlook and capacity to rebound from adversity, to dust off his problems and try again.

Lance was the kind of person who packed a lot of life into a single day. Within a year or two of graduating from Melbourne Boys' High School, where he was both a prefect and honoured inter-school sportsman, he had tried a short holiday stint as a jackeroo on a station in New South Wales, tackled some sales jobs and worked briefly as a tutor and a taxi-driver. Then at the age of nineteen, flush with young bravado, he tossed in his commerce degree at the University of Melbourne to become a patrol officer in the

Australia-administered territories of Papua and New Guinea (now Papua New Guinea). 'It is my intention to abandon the course to pursue an outdoor career,' Lance declared in elegant copperplate script as he applied in November 1948 to join the Australian School of Pacific Administration.

One heck of an 'outdoor career' lay ahead. Not for Lance the confines of a regular office. As a patrol officer he tramped on expeditions deep into New Guinea's unmapped jungles. On one occasion the patrol team ran out of food, and another time Lance was pierced by a tribal arrow. He emerged from one rugged, extended foray with a debilitating case of yellow fever, and another time he was swept from a boat during a storm off the Papua New Guinea coast and given up for lost. The cadet patrol service relayed the tragic message to his parents that their dear colleague had drowned, a memorial service was held and just as his fellow officers gathered to swig down a few cleansing ales, in burst the plucky young Lance, a little worn and weary, but very much alive.

Lance Vizard imbued in his children a love of learning, literature and performance. As a young adult Lance occasionally had stories published, and he even took his trusty typewriter all the way to Papua New Guinea where it promptly attracted duty of £1, 2d. Lance complained bitterly to his father, who demanded—and got—a refund from the government. Lance quit the patrol service in July 1952 to care for his ailing father, the Irish-born, university-educated businessman and draper, John Vizard, and soon after Lance married June Elizabeth Purtell, a trained nurse, whose first name is sometimes spelt Juin. Her family can be traced to John Purtell, a labourer and miner of Limerick, Ireland, who arrived in Sydney with his widowed mother and four siblings aboard the *Neptune* in February 1852, aged twenty. John Purtell's great-granddaughter, June, the daughter of Thomas Purtell and Emily Elizabeth Mitchell, was born in 1930.

* * *

Steve Vizard's earliest years were spent at the double-storey home of his grandparents, John and Miriam Vizard, a historic, 1850s bluestone mansion called The Hawthornes, in Melbourne's leafy inner-eastern suburb of Hawthorn. When he was about six years old, Lance and June moved their family a little further out to the modest middle-class suburb of North Balwyn. In Vizard's many writings, speeches, his scores of media interviews and occasional columns, he conveys vividly an idyllic, sunshiny bright childhood, filled with memories of visits to his grandparents' house, of scooting through the suburbs with Andrew when they were not yet old enough to be in school, of fishing or camping or simply messing about down by the Yarra River, or of being swung up high onto the seat of the horse-drawn milk delivery cart in the early morning hours when everyone else was still asleep.

Lance Vizard made a break from suburbia in 1966. His father John, who had been ill for some years, died in February 1965 and the son's grief was compounded two months later when his mother Miriam died of a sudden heart attack. Lance, then in his late thirties, quit his job as a senior manager at Stamina, a menswear and suiting company in central Melbourne, and moved June and their family to the former goldmining settlement of Warrandyte, some thirty-five kilometres north-east of the city. Warrandyte now is on the edge of Melbourne's sprawling suburbia, but it retains some of the distinctive historic charm that has long made it a eucalypt-scented haven for painters, sculptors, writers, musicians and actors.

Perched on a jewel-green hillside, a little way past the turn-off to Kangaroo Ground, is Kembla, a rambling, understated house of cement sheeting and simple timber gables, its front rooms set with square bay windows and French doors. It is a modest yet gorgeous place, a well lived-in home that creaks with the years and one that would have served the Vizards and their four children well. It is this home that Vizard's university and school friends recall when they talk about hanging out and growing up with Steve, and today it is easy to hear the echoes of years past at Kembla, to imagine the many family parties and barbecues the Vizards hosted here, or the languid summers spent lounging by the small 1930s-style stone-lined pool, or simply idling away the hours on Kembla's broad timber verandas.

The Vizards remained here at Warrandyte for almost two decades, and embedded themselves deeply in the community. Local residents recall how Lance and June enthusiastically, and apparently without reservations, threw themselves into community life. Lance struck out on his own by opening a shop, Godfrey's Menswear, which specialised in mid-range men's suits, clothing and school uniforms, and over the years he expanded it into a modestly successful chain of three small stores in Melbourne's north-eastern suburbs. But as busy as he was managing the stores, Lance always found plenty of hours to devote to the local community. He was a justice of the peace and a co-founder of the Warrandyte branch of the Lions Club, a volunteer community organisation that raises money to help people in its local area. He was the Warrandyte Lions Club's first president, in 1972–73, and was so highly regarded that the branch named its annual trophy for outstanding service by a member after Lance Vizard.

June also was highly active in the local community. She was instantly recognisable as the uniformed district head of the Girl Guides and was closely involved in running the Lions Club's second-hand clothing, books and homewares shop. Both she and Lance were regular members of the congregation at St Stephen's Anglican Church, and they helped on the local primary school committee. Residents say that most Friday evenings when the Vizards dined with their children at a restaurant, The Coffee Bean, they rarely got through the meal without someone stopping by to wish them well. 'They held court,' one says. 'You just felt like royalty if you were invited to join the King [Lance] and the Queen [June]—they were just so highly regarded. They were really lovely people.'

Steve Vizard did not make friends easily in his youth, perhaps because he was adolescently gawky. He was tall, rangy and loud—definitely not one of the cool kids. He was, says a former classmate at Carey Boys' Grammar School in Kew, a bit of a try-hard: 'He was all noise and teeth and big mouth, just like you'd see him on the television—almost like a parody of himself really,' the schoolmate says. 'If Steve was in the room, he tended to take a lot of oxygen. He was not a smart-alec, not constantly the court jester, but he was a bit of a dweeb, a dag . . . not a person you would naturally gravitate to. But he was also clever—very clever. And quick-witted, and it was that quick-wittedness that made you think he was a bit of a smart-arse.'

Vizard, though, would admit that he wasn't switched on at Carey; that perhaps he was in a bit of a 'dream world', a bit lost in his own imagination, as he described it later, and only occasionally was he captivated by the rare teacher who could bring the world to life. Dulled by the routine, the ritual, the structures, young Vizard just wanted to break away from it all and get into the real world.

Not that there was anything wrong with Carey—far from it. Carey was a well-respected school, a middle-class and independent all-boys college when Vizard attended, and although it might not have enjoyed the elite cachet of, say, Scotch College or Melbourne Grammar, some of the nation's leaders hailed from Carey—or more correctly, some *aspiring* leaders graduated from its hallowed corridors. A year below Vizard was the tousle-haired Peter Costello, the man who thought he would be king if only John Howard might step aside from the Prime Minister's seat. And one year above Vizard was Peter's brother, Tim, now chief executive of World Vision in Australia and a leading minister of the Baptist Church. Russell Costello, their father, taught social studies and history at Carey for many years. There were journalists such as Michael Gordon, now a senior editor at the *Age*, and Alan Attwood, formerly of the *Age* and now editor of the *Big Issue* in Australia, plus lawyers such as Peter Loftus, who went to primary school with Vizard, and Nick Styant-Browne, a leading class-action lawyer. And up the back of Steve Vizard's class of '73 was Mark Emons, one of the key wheat traders who engineered the Australian Wheat Board's illicit funnelling of $US225 million of kickbacks to the corrupt Saddam Hussein regime in Iraq.

All in all, Carey was a fairly vibrant and well-respected school in the late 1960s and early 1970s. It's just that Vizard didn't like the restrictions and the routine. He certainly participated in extra-curricular activities such as the school dramas and one or two sporting teams, but whatever was going on in young Steve's head in those years worried Lance and June Vizard so much that they took their son to an educational psychologist, as Steve was quoted as saying, 'to see if I was a complete idiot' (Muriel Reddy, *Age*, 6 December 2004). Chances are that Vizard's specialist uncovered little more than an otherwise exuberant youth yearning to put his talents to work elsewhere.

So his heart must have soared when, at the age of eighteen, he was free to stroll among the sandstone buildings of the University of Melbourne's Carlton campus, and count himself among the hundreds of first-year law and arts students for 1974. The disciplines of his private boys' school years were gone; there was no need to attend lectures at university if you didn't want to, only the expectation that you would pass at the end of the year. Importantly, there was a whole new social environment to explore, plenty of vibrant, young and creative minds, and plenty of opportunity to indulge his love of writing. This was the adventure of youth, and university was where Steve Vizard would come out of his shell.

He was talented in his studies, especially in writing and literature, and he was an excellent public speaker, someone who enjoyed performing, so he combined the disciplines of law and arts in a degree that incorporated the mainstay law subjects as well as some more free-ranging courses such as philosophy and literature. It would vest in him a wide and liberal education, and keep the door open for a range of career choices. But while Vizard enjoyed learning, reading and generally soaking up as many different influences and ideas as he could, especially in philosophy classes, he dodged as many law lectures as possible. He once bragged that in his seven long years at university he might have attended a dozen lectures in total. Now that may be a Vizard exaggeration, but his university contemporaries don't recall him attending too many classes either. In one law subject he realised he could opt out of the end-of-year examination if he submitted a 10 000-word essay instead. No sweat for Steve, a former classmate says. He was a fast, fluent writer, who dashed off the essay, and did well.

Andrew Vizard recalled in an interview with journalist Lawrence Money (*Sunday Age*, 7 June 1992) that his brother once spent the winter season hanging around the ski-fields and missed plenty of lectures, so when he was confronted with an exam paper that required him to compare TS Eliot to two other poets and he couldn't think of any other poets, 'he just made them up'.

'—the Spanish poet, de Silva,' Steve interjected during the interview.

'So he put in some of his own poetry under the name of those poets,' Andrew said, 'compared it with Eliot and he got an honour.'

Vizard was a witty and prolific writer, and in 1976 he offered some contributions to the student newspaper, *Farrago*. His first efforts were rambling, gently amusing letters, harmless and naive apolitical takedowns of leading student activists. His letters played to a welcoming readership and *Farrago*'s editors wanted more. They suggested he write a series of reviews of cheap restaurants in and around the nearby suburbs of Carlton and Fitzroy. It was a chance for Vizard to wine and dine his latest willowy blonde date or to pop in at one of the many local comedy clubs, then write a quick three hundred words or less, keeping it tight, witty and harmless. 'Eating out avec Stephen Vizard' was first published in September 1976, and though it was meant to become a staple of the paper, Vizard contributed just three columns before buckling down for third-year exams. But the following year he discovered a new opportunity for indulging his love of writing and comedy, this time through performance.

Comedy on Australian campuses in those years mostly revolved around student revues, and at Melbourne University the comedy tone for many years was set by the wildly creative students of architecture who spent months at a time developing scripted sketches, music and often anarchic performances for the annual Archi Revue. It proved to be a training ground for dozens of highly talented writers, technical producers and actors, including leading comedians such as the ginger-bearded Rod Quantock, Mary Kenneally and Alan Pentland, who in 1983 all wrote and starred in the ground-breaking Australian sketch comedy television series, *Australia, You're Standing in It*.

Vizard found his initial opening in the Law Revue of 1977, which was the first revue staged by students of the law faculty in many years. He joined forces with a second-year commerce student, Tony Rickards, who in later years cut a career as a dramatic film actor, a horseracing tipster, a comedy writer and a performer, especially on the *Punter to Punter* team. The pair sparked instantly and developed a collaborative relationship that Rickards says remains firm after three decades. Rickards cites Vizard as one of his biggest creative influences and claims him as one of his best friends. They are godfathers to each other's children.

Vizard remained an integral contributor to the Law Revue for the next four years, but he and Rickards grabbed their opportunities to perform off campus as well. The pair teamed up with virtuoso pianist Paul Grabowsky, comedy writer and performer Geoff Street, and Michael O'Neill, who in later years played Dr Steve Harrison in the highly popular television series *GP*. Together they formed The Hardy Perennials. In 1978 they took their show to Foibles Theatre Restaurant in Carlton, one of the new-wave comedy clubs that in the late 1970s sprouted in streets and alleys in suburbs close to the university, and it was during these club performances that Vizard's talent for mimicry came to the fore.

John Lewis, now an independent producer of documentaries, remembers that 1978 season at Foibles. He was one of the club's joint managers at the time (and more than a decade later he was the first executive producer of *Tonight Live with Steve Vizard*). Vizard was about twenty-two then but, says Lewis, he already had all the hallmarks of a smart comedy writer and performer. Vizard seemed to have flair, Lewis says, for casually taking the audience into his confidence, 'and that's a very, very hard thing to do'. It seemed he could slide effortlessly into eerily accurate impersonations of lounge singers, television stars and politicians. He seemed to understand intuitively the timing and mechanics of a joke, and how to develop ideas from the embryonic stage into a full-blown sketch with punch and, says Lewis, late at night when the show had finished and everyone was winding down, Vizard often would take to the stage and sing. He would croon into the early hours, adapting the schmaltzy yet luscious timbre of lounge singers such as Frank Sinatra or Mel Torme, faithfully reproducing the precise phrasing, and keeping the stragglers in the audience, the cast, crew and staff in raptures.

This was Vizard's first taste of real public acclaim; he was gaining the confidence to put his creative talents on the line, and to try different platforms for his writing. He even won a Melbourne University writers' fellowship in 1979 which he put towards writing a one-man play, *Cole's Funny Picture Person*. It was staged over four weeks at the university's Guild Theatre. The success of simply performing—of getting up and giving it a go—no doubt would have been exhilarating and addictive, but Vizard wasn't about to toss away a potential legal career just to indulge himself in the limelight. For now, he could and would do both.

Vizard finally graduated from Melbourne University in late 1980, armed with a few first class honours for subjects in law and arts plus a work record that included two years as a tutor at St Mary's College and a short spell as a travelling salesman selling socks and jocks. He was still very much a 'dweeb', but in seven years at university he had mostly shucked off the insecurities of his youth and became a gregarious and highly sociable young man, endowed with an ever-expanding sphere of friends. Now he was ready to strike out and make his fortune.

2
Climbing the ladder

'There must be a better way to earn a living,' Steve Vizard moaned to his lunch companion. 'Are we just selling our souls? Is there anything else to life?'

Big, juicy existential questions were laid on the table some time between the entrée and the main course, just as Vizard's lunch partner pondered if perhaps they hadn't had one glass of wine too many. Here was Vizard, a non-equity partner in a mid-tier Melbourne law firm, more than five years out of university, very financially secure and with clients clamouring for his attention, and still he couldn't make up his mind if he really wanted to be a lawyer. What are we doing in law anyway? he would ask aloud. Is this what we want to be doing when we're fifty? Is that when we say thanks and realise that's all there is?

His lunchtime companion always laughed at these ramblings. They were the usual mumblings of discontent from fellow lawyers all over town. Law could be a tough gig, especially when you lost important cases. But with Vizard it was a troubling prospect for other reasons. He really was split between the security of the day job at law firm Herbert Geer & Rundle, and the creativity of the life he pursued at night. By day he would be in his corporate suit, corralling his clients and drawing up deals. Yet nights would find him deep in the world of entertainment, listening to politically pointy, spiky-haired urban comedians at John Pinder's The Last Laugh Theatre Restaurant comedy club in Collingwood, or upstairs at Le Joke. Or he might be at the Comedy Café in Fitzroy and its upstairs Banana Lounge comedy club.

Other nights, Vizard might be collaborating with writer mates such as Tony Rickards and his colleagues from the radio show *Punter to Punter*, or with comedian Ian McFadyen, devising scripts for films or television series that they perennially hoped might get picked up by one of the big networks. Or he would be heading out to dinners, parties, opening night functions with entertainers—just being social, being his gregarious self and squiring women around. He and McFadyen met around 1982, and for a while the pair dated sisters—McFadyen met comedian Mary-Anne Fahey, and Vizard briefly dated Mary-Anne's sister, Bobbie Waterman. 'He had lots of friends,' a former Herbert Geer & Rundle colleague says. 'And I mean *lots* of them.'

A fellow entertainer suggested Vizard always seemed to be on the circuit for new contacts, new friends. He was loyal and earnest but he seemed to be setting himself up for a life that would resemble a whirlwind social game: 'Steve has very different sets of friends, from different echelons,' the entertainer says. 'He would be hanging out with comedy friends one night, the next night he might be with a bunch of company directors, and the next night he'll be with his school friends. He's a butterfly just doing the social rounds—he has a huge circle of friends, and he hates to lose one.'

And in the mornings over coffee, colleagues at Herbert Geer & Rundle would hear Vizard's big raucous laugh bounce off the thinly partitioned walls as he leaned back in his chair and regaled the office with tales of how some time after midnight he had met a glamorous international film star or shared a drink with lesser lights of the

Australian stage. For those who listened to these tales, and whose lives rarely intersected with any of these entertainers, it felt like Vizard was a kind of peephole into this strange other world. He had a formidable list of contacts, many of them in the entertainment and sporting worlds, and he had charm. And, most importantly, he had the imagination, industry knowledge and intellectual smarts to bring all of those things together and make money for the law firm.

Vizard had spent the first two and a half years after graduating from Melbourne University at Weigall & Crowther, a seventy-year-old, mid-tier law firm specialising in commercial litigation, property law and tax matters. What he did there is not especially memorable; it was the lowly, mundane work of articled clerks. But the offices, most conveniently, were tucked away in Little Collins Street just behind the prestigious Australia Club, only one block from Melbourne's law precinct and one block from the wealthy stockbroking and commerce houses of Collins Street. It was convenient because for someone just starting to feel his way in the world, this corner of Melbourne was a networkers' paradise. Lunchtimes could be spent simply getting out and about, making connections, yarning with bright young lawyers and ambitious financiers, enjoying the social game.

It was lawyer and businessman Andrew Fairley, then a partner at Herbert Geer & Rundle, who had headhunted Vizard from Weigall & Crowther in 1983. He saw a smart operator, someone who had become well known among entertainers especially but also in the sporting world, a young lawyer who was not overly academic and who understood how to strike a commercial deal. Herbert Geer & Rundle, like Weigall & Crowther, was a mid-tier law firm with about ten partners. It was housed in a sleek new high-rise office building in central Melbourne, and in the mid-1980s it was considered a firm going places quickly. It offered what other more traditional and conservative firms would term, with a perceptible sniff, 'innovative solutions'. Tax planning was a specialty.

Fairley had developed a niche advisory role negotiating contract terms and salary packages between football clubs and their star players in what was then known as the Victorian Football League. Salary packaging for big-time footballers was innovative stuff in those days, and Fairley and Vizard struck deals on behalf of the clubs that regularly featured substantial, tax-effective superannuation payments for players. 'You could just tell that Steve was a good negotiator, a good commercial lawyer. He knew the principles of negotiating, he knew which way was up, he had an eye for the chance,' Fairley says. 'He used to fascinate me. He was *so* articulate, so switched on.'

Vizard put those skills to play in another sector as he devised structures for investors wanting to benefit from lucrative tax breaks on offer in Australia's film production industry. From 1980, the federal government allowed film financiers to claim tax deductions equivalent to 150 per cent of their actual investment. If by chance the film generated a profit, the investment gave back even more because investors would pay only half the usual rate of income tax on the profits. For canny investors, it was a fabulous way to manage their tax bills. These tax-effective schemes, known as 10BA arrangements, unsurprisingly triggered a flood of money into the local film industry with the level of tax-related investment skyrocketing from $25 million in 1981–82 to $120 million the following year, and to about $185 million in 1985–86 before they were wound back.

Vizard became a clever engineer of film financing structures and company trusts while he was at Herbert Geer & Rundle. He worked his contact book hard and became quite a deft hand at matching prospective investors with ambitious film projects, drawing on friends in the entertainment industry, in other law firms and in the commerce world.

But some aspects of Steve Vizard's working habits troubled his colleagues. 'He would just disappear for a day or two—just did not come in,' one colleague says. 'And when you'd ask he'd say, "I just had to get this stuff done". I mean, he got the [legal] work done but I always knew he was more of a writer, a scriptwriter, and that sometimes he would be working away on stuff that was not legal stuff [related to Herbert Geer & Rundle]. I would sense that he had a need to meet some deadline.'

If you were going to work with Vizard, you had to get used to his absences. He was busy with comedy and busy acquiring a taste for some of the finer, more stylish aspects of life—he was busy having fun. In those days, he loved to mingle with the social set who skied at the Victorian resorts of Falls Creek and Mount Buller, and once a month he gathered a group of close friends for lunch in the opulently appointed grand dining-room of the Windsor Hotel in Melbourne. Certainly some of this socialising was done with a sense of irony; in part it was about cultivating an image and subverting the establishment by appearing to be part of it. But much of it was genuinely about pursuing aspirations.

'I remember we asked Steve along to have a hit of tennis one day, you know, old mates, that sort of thing,' a former university friend says. 'And we were there in our old shorts with beat-up racquets. Steve turned up in what looked like brand new tennis whites—the shoes, the socks, everything. He was like a parody of a tennis player. He looked like what he must have thought tennis players were *meant* to look like. Sometimes I felt a little like the character Nick Callaway in *The Great Gatsby*—you know that scene in the movie where he's looking up at the big house? Steve just seemed to be moving on, drifting away, and starting to live a life with money. We didn't have anything like that. We were skint.'

Comedians break beyond the club circuit for an excellent reason—to make money. They take up breakfast radio shifts or guest roles in light entertainment programs on television, and they plug away for years, gradually realising that, yes, this is the life of a comedian. It was much the same in the 1980s. Clubs were fabulous platforms for rising stars, wonderfully encouraging environments to test new material, but no one expected to make their fortune doing stand-up in Melbourne.

It was producer Bob Weis who, in early 1984, began banging on the doors of Australia's commercial television broadcasters, berating them to get behind local talent and give comedians a break. If the Australian Broadcasting Corporation (ABC) could generate some action and success with shows such as *Australia, You're Standing in It*, *The D-Generation* and some brilliant political satire by Max Gillies in *The Gillies Report*, surely the three commercial operators could give it a go. Money, obviously, would help kick-start a program, and so would commitment. Weis telephoned Gary Fenton, then program director at HSV-7 in Melbourne, and after some yarning about the relative merits of drama and comedy, he won Fenton's firm commitment that if someone came up with a sufficiently decent comedy show then Fenton would showcase it to the network executives.

Weis banged on the next door, and the next, and finally he garnered $85 000 from the Australian Film Commission (AFC) to finance a pool of comedy writers, all drawn from Melbourne's prolific comedy club scene, who would partner into teams and come up with some sketch comedy ideas suitable for fashioning into a television show. The ball was rolling. He corralled a squad of writers, including Ian McFadyen, McFadyen's then-partner Mary-Anne Fahey, Peter Moon, Alan Pentland, Mark Neal, Glenn Robbins, Eddie Zandberg, writer Philip Dalkin and of course Steve Vizard, whose stock repertoire in those days amounted to a range of impersonations, including a deadly accurate take-off of the television variety show star Don Lane. And after months of tapping away on word processors and typewriters in their dimly lit rented apartments, and after weeks of improvising and testing sketch styles, a team of writers that included

McFadyen, Fahey, Moon, Zandberg, Pentland, Neal and Vizard finally 'won' the AFC kitty. They devised an hour or so of random sketches, admittedly a little uneven in quality, fashioned them into a forty-minute pilot, and delivered it to Gary Fenton at Channel 7.

In those days, Australia's commercial broadcasters were not truly networked; HSV-7 in Melbourne, for example, was owned by the Herald & Weekly Times Ltd newspaper group yet its sister station in Sydney was owned by another newspaper group, John Fairfax Ltd (later known as John Fairfax Holdings). But regardless of their parentage, the stations in different cities would join forces to gain bargaining power over the national advertisers and to finance the production of new shows. Funding a new program was a national commitment. So just because a taped proposal for a show made its way to Fenton's desk in Melbourne did not mean it would win network approval, and when Fenton asked Seven's network executives from all the other states to put their money behind McFadyen's proposed sketch comedy show he was knocked back cold.

Fenton refused to surrender so easily. He too had done a little comedy writing in the 1970s, and he perceived a spark of promise in the way the McFadyen team had gelled. There was something a little edgy and innovative, yet very raw, about the sketches already taped, and McFadyen and the other writers seemed hungry to churn out more. Fenton took the sketches to the only man in Melbourne who could make a show happen, the legendary boss of HSV-7, Ron Casey, who immediately gave Fenton the nod. The $60 000 left in the AFC comedy-writing pool would finance a further eight episodes of the proposed new comedy, and Melbourne's HSV-7 would finance production of the program by itself. 'Case backed me in—he found the money to do it,' Fenton says.

The Eleventh Hour, starring Vizard, McFadyen and Fahey as well as Peter Moon, Glenn Robbins and Mark Mitchell, finally debuted on Friday 22 March 1985. The early material was tentative, and it showed, but the program had some high points and each week it attracted more viewers.

Imagine what Vizard's lawyer mates thought when they saw their business partner on late-night television, in make-up, with false moustache and wig, sending up the self-important doyens of the television world. Here he was as lounge singer Dean Martin, making a tribute or celebrity 'roast' to Jesus Christ; and here he was doing his well-worn rendition of Don Lane, or mimicking George Negus of *60 Minutes*. It was perceptive stuff and Vizard started to gain a little mainstream acclaim. But he was not yet committed to the kind of hours that television demanded. On production days, when he was meant to be patting on the Negus moustache on location in a South Melbourne alley, Vizard would be delayed at the Herbert Geer & Rundle offices dealing with clients. The demands of the two working worlds encroached on each other, and Vizard would not resolve those competing demands—the long hours of law versus the promise of show business—for some years.

When Seven's network bosses failed to commission a second series of *The Eleventh Hour*, the disappointed comedians split and looked for new shows elsewhere. Vizard simply went back to his day job. In mid-1986, he was offered a role inside the big team of lawyers working at the Melbourne-based international mining group, CRA Ltd. For the next two and a half years, instead of dealing with individual clients as he had done at Herbert Geer & Rundle, Vizard was one of several CRA lawyers who haggled over the details of international financial contracts that kick-started huge mining and steel-making projects; he helped draw up the original financing arrangements for the company's jointly owned $400 million Hi-Smelt pig-iron project in Western Australia, which finally began production in April 2005.

It was a job that required Vizard to fly regularly to Germany, England, Switzerland and Japan—replete with the illusory prestige that international business-class travel and five-star hotels entailed—

and it taught him some invaluable skills. It was at CRA that Vizard learnt the art of tough business negotiation: how to look like he was yielding to insufferable demands while always clawing back more for his side of the deal; how to extract tighter conditions from his opponent while giving himself plenty of room to move in the future. It also made him realise that the most successful corporations fix their sights on very long-term goals; financial structures they put in place now might only yield profits decades later. Yet while all this hard-headed dealing was going on, Vizard was writing television and film scripts in his spare time. He would jot down ideas when cooped up in hotel rooms in London or Geneva, and formulate them in detail during the long-haul business-class flights. But while he was pinioned to the busy life of a lawyer he had limited opportunities to put the ideas to use.

It was in late 1988 that Vizard finally fielded a telephone call from Seven's Gary Fenton, one that paved the way for a career change. Fenton was fighting a rearguard action at the time, trying to claw back ratings from the Ten Network, which had snapped up comedians McFadyen, Mitchell, Fahey and the other keen talents from *The Eleventh Hour*. They had grouped with a host of classy writers, including Doug MacLeod, Peter Herbert and Peter Rowsthorn, and produced *The Comedy Company*, which debuted on Ten in February 1988. It proved such a success that Ten rescheduled it from Tuesday evenings and lined it up against Channel 9's top-rating *60 Minutes* in the prime Sunday evening timeslot.

The Comedy Company soared to the top of the ratings; week after week it rated well into the 30s, causing heartburn for rival broadcasters. Even the ABC was faring better with comedy than Seven; for a few years it had fostered a tight clutch of writers and performers known as the D-Generation—Rob Sitch, Tom Gleisner, Santo Cilauro, Magda Szubanski, Margaret Downey and Michael Veitch—who, like Vizard, drew their roots from Melbourne University's revues. (They were joined in 1987 by a promising writer and actor, Jane Turner, who had performed in the long-running television drama series, *Prisoner*.) Seven desperately needed its own sketch comedy to attract younger audiences, so Fenton commissioned the D-Generation to do four moderately successful one-hour specials for HSV-7 in 1988. But when some of the D-Generation crew opted to host a breakfast shift on commercial radio, four D-Generation writers and performers were left in limbo—Szubanski, Downey, Veitch and Jane Turner, all hugely talented and enthusiastic performers. So, thought Fenton, here was a network in search of a comedy program, and here were performers in search of a show. He knew someone who could bring it all together.

When Fenton rang Steve Vizard, who at the time was in Geneva on business for CRA, he tossed him a lure. This would be a make-or-break opportunity, he said, to devise his own sketch comedy show. 'And I said to him, "Steve, I figure it's terrific to see *The Comedy Company* doing so well, but there's a part of me that just goes *grrrr*, and I figure there's a part of you that goes *grrrr* as well. And I want you to think about that for forty-eight hours, because I want you to be a part of it. But none of this part-time crap—it has to be full-time for a year. Really give it a crack".'

Vizard was surprised and a little stunned by Fenton's offer. It seemed to come out of the blue, and yet all along the prospect of returning to television had been stewing away at the back of his mind. It was tempting to walk away from law, but at the same time that would be highly risky. Vizard took three weeks to ponder the offer. 'I wrote a great huge list of why I shouldn't move,' he told journalist Karen Kissane (*Time*, 23 April 1990), and it was not quite as simple as tossing aside a highly paid legal career; now there was a wife to consider.

In March 1988, Vizard had married Sarah Jane Wilmoth, the vivacious love of his life, a practical and very sociable partner who could parry Vizard's wit and laughingly knock his ego down to size. She was the youngest of six children born to Edward Russell Wilmoth and Mary Joy Southwell of Malvern; one of her three sisters, Wendy, who is twelve years older, is a judge of the Victorian County Court, and one of her two brothers, Peter, who is about two years older than Sarah, is an author and a journalist at the *Age*. Steve Vizard once said he was captivated by Sarah's 'dancing green eyes' and that the day she agreed to marry him 'my life was irrevocably filled with happiness'.

So there were several sound reasons to stay exactly where he was: 'Career-path, money, just been married, going to have kids, respectability—all the reasons I never wanted to do entertainment in the first instance,' he told Kissane. 'And then, on the other hand, there was just the simple reason that if I didn't do it, I'd kick myself.'

From the outset, Vizard let Channel 7 know that his commitment had to be matched by the television network. He wasn't leaving a highly paid legal career just to do a brief eight weeks of sketch comedy. The network had to pay him well, it had to give the program a decent budget, and it had to guarantee a double season that would cover him for at least the first year. In short, it had to stand resolutely behind Vizard and his convictions. He got all that, and more.

3
'Go to air'

When television success came for Steve Vizard, it turned out to be a meteoric ride. Inside four years he rose from near-obscurity to be one of the most prominent—and best paid—performers on Australian television. *Fast Forward*, the sketch comedy show that made Steve Vizard a star, marked the start of an extraordinarily close and lucrative relationship for both Vizard and Channel 7—a relationship that survived Seven's disastrous commercial hurdles when it sank into receivership, and which endured despite Vizard's enormously frustrating behaviour on *Tonight Live with Steve Vizard*. In the end though, Seven made millions of dollars out of Vizard and Vizard made millions out of Seven.

When Seven's program director in Melbourne, Gary Fenton, realised he had Vizard's support for a new sketch comedy program, he wasn't going to risk being knocked back by his network colleagues. He had suffered a curt rejection in 1985 when he suggested a second season of *The Eleventh Hour*, so this time Fenton went to the network meeting well prepared. He fetched from his old files a one-hour special of *The Eleventh Hour* that he had commissioned in 1986 but which, for various reasons, Channel 7 never aired. He selected a few of its sketches, edited in three more from *The D-Generation* specials of 1988, and took the lot—along with Steve Vizard—to an executive meeting in Sydney. Fenton wanted his peers to focus on the constructs and appeal of sketch comedy, he wanted to show them how it operated and explain how it could draw viewers and boost Seven's ratings. But when he ran through the compilation of comedy sketches and the proposal for *Fast Forward*, Seven's various state-based programmers 'simply fell about laughing,' Fenton says. 'It was not even debated—they said, "We'll order the first fifteen or sixteen of them".'

The plan was for a fast-moving show, one that toyed with viewers' experiences of watching television or videos, exploiting how they could snap from one channel to the next and become absorbed in an entirely different show by simply touching buttons on a remote control. No single sketch should run too long, and *Fast Forward* would have a harder edge than rival comedy shows on other networks. It would be sharp and classy. It might need a mature-age classification, which would bump it into a timeslot after 8.30 pm, and while it would not include swearing or outright crudity, there might be sexual references.

Vizard was an excellent salesman, a shrewd marketer, and Seven's bosses were sold. But he was faced with a daunting timetable. 'He didn't even do a pilot,' a former colleague says. 'They [Seven] just said "go to air".'

Over the next few months, Vizard telephoned comic colleagues Peter Moon, who had been in *The Eleventh Hour*, Geoff Brooks and Steve Blackburn, who had written and performed in *Australia, You're Standing in It* on the ABC, and he brought in all four of the former *D-Generation* performers, Magda Szubanski, Jane Turner, Michael Veitch and Margaret Downey. The formidable Gina Riley, with her big, sultry, cocktail-lounge voice and keen talent for mimicking overblown singers, joined later. 'It was really just a matter of Steve saying, "Hey, do you want to come into my show?",' a former colleague says.

Peter Nicholson and Paul Jennings, whose Rubbery Figures moulded hand-puppets enjoyed their own show on the ABC in 1987 and 1988, asked if they could be a part of it, and they devised some wickedly funny sketches, including one written by Brendan Luno that became a running gag. It depicted the smoking, swearing, drinking, beer mogul John Elliott as he growled at the world in general, 'Pig's arse!'.

The crowning glory of *Fast Forward*, the man who held it all together, was director Ted Emery, who switched to Seven to do *The D-Generation* specials after many years at the ABC where he had worked on the long-running music program, *Countdown*. Emery gave *Fast Forward* its distinctively fast, slick and energetic tone. He could gently manage performers' bulging egos without stifling them, placate frustrated production staff, and always generate a few compact minutes of luscious and sassy, high-quality work.

Fast Forward was tightly scripted and usually filmed on location with sets that, in the words of one television producer, were built to last forever. It debuted on Channel 7 on 12 April 1989, but it was not immediately successful and endured a bumpy start in the ratings. By September, however, it had won plenty of critical acclaim and viewers. Inside Channel 7 the show was a triumph.

Fast Forward relentlessly parodied the icons of Australia's television industry, its business community, its government and social institutions. It parodied iconic television shows such as *Lost in Space* and *Get Smart*, romantic advertisements for credit cards, and wholesome films such as *The Sound of Music*—it even parodied an advertisement for Shell petroleum which, in turn, had been a parody of the classic Steve McQueen film *The Great Escape*. The show featured Magda Szubanski as the ditzy television reporter 'Pixie-Anne Wheatley'; Margaret Downey sent up current affairs presenter Jana Wendt and introduced a new character, 'Gina Hardfacedbitch'; and Geoff Brooks and Steve Blackburn revived their dogged yet hapless sales duo, 'Arthur and Wayne Dodgy', two bow-legged brothers who seemed joined at the hip and mouth.

But it was Vizard who, initially at least, became the face of *Fast Forward*. Behind the scenes, he was everywhere—a writer, a performer, the producer. Put him in make-up, behind the actor's mask, and he was transformed into a wild array of characters. One week he might be in black-face and topped with a turban as Indian rug-seller 'Roger Ramshett'; the next, he might be 'Darryl' the gay airline steward, perched cross-legged next to Michael Veitch, each on tiny, aeroplane jump-seats, their safety belts neatly clipped and tightened. Or he might be the bald-headed young acolyte seeking wisdom from Peter Moon as 'Grasshopper', the master guru whose unorthodox advice on how to deal with bullying by fellow students amounted to: 'Budgie Tits, why don't you just beat the shit out of them? . . . Tell me, you rat's arse . . . what do these students say, Donkey Dick?'

Vizard could deftly tug and twist the recognisable traits of well-known television personalities. He exaggerated their serious demeanour, exploited their sense of self-importance and instantly reshaped viewers' perceptions of their television idols. In a heavy black wig, his glossy hair slicked down and one eyebrow cocked, he became the perennially outraged journalist 'Derryn Hunch', barrelling down the lens of the camera, challenging the viewer to get as serious as he was trying to look. Of all Vizard's impersonations, it was this portrayal of 'Hunch', an imperious, never-say-die television presenter who ploughed through sentences with a curiously up-kicked intonation—all modelled of course on the intensely serious television and radio presenter, Derryn Hinch—that hooked viewers on the Vizard brand of humour.

Fast Forward proved to be everything that Seven's bosses had hoped, and Steve Vizard was even more than they had hoped for. He was an unusual performer: he could be schmaltzy and slick, a bit daggy, definitely breezy, and his laughter was contagious. In short, his appeal crossed generations of viewers, and by October 1989 the network executives had realised his true star potential—Vizard seemed to be the ideal showman to host a late-night variety program.

Seven was faring strongly in the viewer ratings between 7.30 pm and 10.30 pm with its portfolio of Australian drama and light entertainment serials, and now the network bosses wanted to extend that success into the later hours. The network wanted a 10.30 pm, live, studio-based variety show that would combine comedy and news, music and interviews. It was a bid to draw in extra viewers who would normally turn off the television at that hour when the late news programs began, and to show them that, yes, late night television could be fun and a little crazy sometimes.

Vizard was keen on the idea, but understandably wary of the demands it would make on his time, especially now that he had a small family to consider. Sarah was just weeks away from giving birth to their first child, Stephanie, when Seven's bosses proposed the variety program. He conceded that a year of writing, performing and producing *Fast Forward* had proved draining, and to perform for at least another year, five nights a week, every week, was more than he really wanted. But not everyone inside Channel 7 thought having Vizard as frontman for a variety show was a great idea. One reservation was that by slotting him into such a prominent role so early in his career, Seven risked losing Vizard to burn-out. Vizard could be a whirlwind at times, and nobody wanted him to fade. Still, the new program would be another challenge, another platform in Vizard's multi-faceted career. And there was the prospect of more money; Seven's bosses could be very persuasive when they wrote salary cheques—a former colleague said Vizard was on close to $400 000 a year by early 1990, a huge sum in those days and more than most corporate bosses earned. Vizard agreed, and he signed a new deal to create a new show, *Tonight Live with Steve Vizard*, beginning early 1990.

Firstly, though, Vizard needed to rearrange some business affairs. During 1989, Channel 7 did all the production for *Fast Forward* and all the crew and performers were employed by the network. Now Vizard took charge of it all. His private company, United Film Completion, would own the rights to both *Fast Forward* and *Tonight Live*, and both shows would be produced by an external production house. In November 1989, he set up Artist Services Pty Ltd with Andrew Knight, a comedy writer and producer who had worked alongside Ted Emery on *The D-Generation*. Knight had met Vizard only a few times before 1989, and he rejected the initial offer to work on *Fast Forward*. 'I said, "No, fuck, no—I don't do sketch comedy",' Knight says. 'Two days later the film I was working on fell over, and there I was.'

On the face of it, Knight and Vizard had little in common apart from their enthusiasm for ideas, writing and producing films and television shows. They didn't mix in the same circles, and while Vizard aspired to the corporate life, Knight liked to be considered an anti-corporate. Yet after they formalised their business partnership through Artist Services, Knight became one of Vizard's most important associates as co-owner, executive producer and a key writer inside the production house.

Over the next six years, Artist Services grew into one of the busiest television production houses in Australia. Through Vizard, it cut an exclusive deal to do television production for Seven and to supply the network with programs devised by Artist Services. At its peak the production house employed scores of writers, producers and technical assistants.

But in an industry where discontent about intellectual property, earnings and payment abounds, some writers and performers who worked on shows produced by Artist Services felt that the company cut deals a little too sharply. As well, some writers and performers were unhappy about delays in the payment of 'residuals', the share of royalties or sales they were meant to receive when Artist Services sold its programs to pay-TV.

4
Tonight Live

Tonight Live with Steve Vizard, the program that made Vizard very wealthy and elevated him to superstardom inside Channel 7, represented both the high point of his television career and the low point. Certainly some people who worked on the show have warm and friendly memories of their time at *Tonight Live*, and some say Vizard encouraged them to work to their hardest. But for many others, *Tonight Live* was a difficult and disappointing experience. Seven's former network director of production and program development, Des Monaghan, says:

> In the first year, *Tonight Live* was a great plus for everyone, and in the second year it started to be less of a joy. Why? Because Steve started to lose interest.
>
> Steve is an extraordinarily talented man. He is exceptionally bright, both as a performer and as a writer. He has great judgement about what works and does not work. He can focus with remarkable intensity, and to great effect. But he is possibly the most frustrating human being I have ever had to deal with in my life because he has the attention span

> of a gnat, and trying to nail him down is like trying to nail jelly to the wall.
>
> He gets bored very easily . . . and I think that might be [because] a lot of things just came easily to Steve. It's all been easy to achieve, and those of us who know him and like him—and I do—work with him and applaud him, and are then staggered by some of the inexplicable things he chooses to do.

Vizard demonstrated all of these frustrating elements on *Tonight Live*. The show was intended to be a little chaotic, a little disorganised, and Vizard too could be bumbling, edgy and distracted. But at least in the early days his jumbled manner was captivating and his nervous energy was engaging. The show totally revolved around him. The studio cameras sought him out, and when the camera was not paying Vizard attention the viewers hungered to find out how he was reacting; they fed off his vitality. His immensely expressive face, all but overwhelmed by an unusually large and almost perfectly triangular grin, set the tone. It could portray naivety, uncertainty and vulnerability and a split-second later burst into paroxysms of laughter. He was a superb mimic and he exuded vigour. His eyes would sparkle and engage, and in that moment all semblance of 'Steve, the star' dissolved into simply 'Steve, the mate'.

The cameras would follow him backstage, trailing cables along the bleak corridors behind the studio, all the while tantalising *Tonight Live*'s home viewers, wooing them, lulling them into thinking Vizard somehow would unlock the secrets behind the artifice of television. Other times, as he bounded into the studio, Vizard would break that invisible barrier between the celebrity and his adoring fans by reaching out and touching the audience—literally—by slapping hands with those in the front row, making the connection, merging with the flock.

But have a look at Vizard in the trial episodes of *Tonight Live with Steve Vizard*, filmed over one week in November 1989, and what you see is a very nervous man. Nervous with good reason, because just hours before the first pilot episode began, the company that owned Channel 7, Christopher Skase's Qintex Australia Ltd, asked a judge to put all its companies into receivership. The Qintex empire was broke. *Tonight Live*'s crew had no idea if they would have jobs by the end of the week, and they had no idea if the network's receivers and managers, David Crawford and John Allpass of Peat Marwick Hungerford, would let the show develop into the new year. Those first few nights, Vizard didn't shy from the network's crippling financial dilemma; he even invited some heavyweight business commentators into the studio to discuss the network's prospects and pondered his own precarious position.

'I actually gave up my career in law—and what a good career move it was,' he moaned. 'To give up a career in law, at a time when I was flying overseas, first-class, travelling around the world a lot, Lake Geneva, all that . . . and to join the television industry at this particular point in time. Good move?' He turned to his music director, his old friend from university, Paul Grabowsky, and entreated, 'Why *are* we doing this tonight? Why?'

When someone fired back the single word, 'Money,' Vizard derisively replied, 'Yeah, well, that's the point of it, isn't it?'

Tonight Live launched on 30 January 1990, and five nights a week for many, many weeks—and eventually years—the show always began the same way: Grabowsky's eclectic, cool New York-style jazz arrangements played over taped footage of Melbourne-by-night street scenes. The camera would take viewers into an Italian or Vietnamese restaurant where late-night diners slurped down pasta and noodles, or it would pan along the rows of tiny swaddled infants in Melbourne's maternity wards. There might be footage of shiftworkers sorting mail at the city depot, or seamstresses at their sewing machines, doughboys tossing pizza, or the camera might track the tail end of a dog as it trotted in its skew-whiff way along shadowy city streets.

Then Vizard would amble onto the set, porcelain coffee mug in hand, all gawky limbs, and dressed smartly from business jacket to leather brogues by the iconic mid-market clothing retailer Country Road. As Grabowsky and the studio band threw themselves into a jaunty opening theme, heavy with brass, the audience would cheer and holler at Vizard. His substantial set of upper teeth would clamp down on his lower lip, and he would simply gaze at the audience with a stunned grin, as though a little surprised to find them all packed into the studio. His eyes would twinkle, signalling he was about to let them in on a secret or a surprise. And then would follow the 'pause', the moment when Vizard and Grabowsky synchronised their movements—Grabowsky with his shoulders heaving up and down at the piano, Vizard with a single finger of his mug-free hand waving energetically—until they approached the final chord of the theme song. And together they would nod or punch the air or shrug their shoulders, the cue for the start of the show.

As Vizard sank into his padded chair, he would suck his teeth sharply—a little too loudly—and launch into a rapid and topical patter about the day's events. Not one issue he raised would last more than a sentence or two. He would push the pace, his eyes darting around the studio seeking praise for his gags, and in his characteristically self-deprecating way he would dip his chin and look coyly into the camera. He was constantly swivelling in his chair, his head flicking left then right. He would fiddle with the program's running sheets, then shuffle the papers, straighten them, slap them down on the desk, shuffle them again, lightly punch his fist onto the desk at the end of each sentence before looking to the floor crew for direction. He was thinking fast.

'Guests,' he would say. 'Have we got guests? We have got guests coming out of our ears!' He would call men 'mate' and women 'darling', throw in a few crude and gratuitous sexist one-liners, usually punctuated with his mouth hanging half open and his tongue rolling around the inside of his lower lip. He leered at female guests generally, baiting the audience to whoop and whistle and indulge in a little blokey behaviour. His penchant for 'naughtiness', for subverting authority, was part of *Tonight Live*'s attraction. Special guests, and sometimes the production crew, did weather forecasts using maps fashioned variously from, say, a butcher's tray of steak and sausages, or a platter of tropical fruit. Sexual innuendo was a mainstay of *Tonight Live*. During one lame studio advertisement for cat food, Vizard laboured again and again over the word 'pussy' and dropped a series of puns about dining and pussies as he clumsily tried to feed a pet cat at his desk.

On one occasion the show was produced by work-experience students, and on another evening Vizard hosted it from his home, replete with tiny tot Vizards. Another night, biting bull-ants were loosed over his desk and he spent some time flicking the little nibblers from his trousers. Always, Vizard fostered the image that he was just a well-educated knockabout fellow from the 'burbs—albeit now a rich one—who had happily stumbled from the world of law and commerce into the surreal universe of television. Here he was—the lucky one—in control, full of matey conniving and cheek, and ready to share it with the viewers.

Dennis Pryor (*Age*, 10 February 1990) said a successful variety show host needed excellent improvisatory skills, wit, intelligence and stamina, while all the time appearing laid-back and relaxed: 'Vizard has these qualities . . . He can convey surprise and incredulity so that you really believe none of this was written in advance by his lively team of writers . . . If Vizard doesn't collapse under the five-nights-a-week strain, if the writers can keep it up, if the channel can keep its nerve as well as its budget in the face of the bankers, we may well be seeing a major success.'

The rather more acerbic Sydney writer, food critic and arts impresario Leo Schofield kept his comments in the *Sydney Morning Herald*

(10 February 1990) to a bare minimum: 'It's a long while since I've seen anything quite as appalling as the new *Tonight Live with Steve Vizard* show on Channel 7', he wrote. 'As amusing as a burning orphanage, it plumbs new shallows of banality.'

Yet *Tonight Live* rated fabulously in its debut year. 'When it was hot, it was magic,' says Des Monaghan. 'The show could fire on all cylinders one night and be the talk of the town the next day, or it could backfire awfully, and that unpredictability was part of its charm. Viewers never knew if they were going to get a classy, intelligent show filled with bright wit and razzle-dazzle, or a veritable rumpus room of crude one-liners.'

Politicians and Hollywood stars, dry business commentators and community heroes, anyone who appeared on the show risked being ambushed by Vizard's pithy interjections. During the long-running airline pilots' strike, Vizard tried to needle a very youthful, though deadpan, James Strong, the former head of Australian Airlines who later became chief executive of Qantas. Sandwiched between curly questions about the devastating effects of a pilots' strike were Vizard's quietly insistent demands that Strong share details about his penchant for distinctive bow-ties. Did he prefer silk or cotton? Vizard asked. And is it easier to undo, er, silk ties at night? Boom-boom.

Towards the end of an interview with Australia's first female commercial airline pilot, Deborah Wardley-Lawrie, Vizard blithely asked her, 'Could you fly a plane?'

'Oh yeah,' she replied.

'So you were a qualified pilot?' Vizard seemed genuinely stunned.

Comedy writers say that the best live work usually contains an element of danger or subversion, so that the audience should never be able to predict the outcome. The recipe for *Tonight Live* was double doses of anything subversive, and plenty of irreverence and mayhem.

Vizard called in colleagues from *Fast Forward* and some from *The D-Generation*, writers such as Steve Blackburn, Geoff Brooks, Peter Moon, Gina Riley and Brendan Luno, and later he called on old friends from *Punter to Punter*, Tony Rickards, Mitchell Faircloth and John Rothfield. But the lead writer was Mike McColl-Jones, a former stalwart of Nine Network's *Graham Kennedy Show* and an aficionado of the television variety show tradition. Andrew Knight was a creative consultant for the new show, and Ted Emery was a director; both continued to work on *Fast Forward*.

Vizard wanted *Tonight Live* to ripple with a series of 'stunts'. He constantly badgered the show's writers to come up with wild proposals for pranks to play on audience members or bizarre requests to ask celebrity guests. Camera crews would intrude into pubs and homes for impromptu interviews, viewers would send in jokes via a facsimile machine while the show was on air. It would be wild and crazy, untamed and unapologetic, and everyone had to be considered fair game for a dig. *Tonight Live* would bow to no one.

Yet for all that local writing talent, *Tonight Live* emerged as an unabashed rip-off of David Letterman's well-known and highly successful nightly television show in the United States. Whole segments were stolen from Letterman's show and adapted with only minor tweaking, almost as a fey acknowledgement to the original source. The similarities passed by many Australian viewers who had never seen Letterman's show. But for anyone who had travelled to the States in the 1980s, *Tonight Live* was almost indistinguishable from the original. In a curious kind of way, frizzy-haired, lanky Vizard even looked a bit like Letterman.

Former *Tonight Live* crew members and some of its writers happily admit Letterman's show was the genesis of their format; they purposely set out to copy it. 'We did steal it, didn't we?' Vizard told the audience one night. 'Theft is the word we are looking for.' Live television variety shows all over the world invariably imitate

Letterman's formula, they say, and success breeds success so why muck around with a brilliant tradition? Letterman was a dynamo, and the face of late-night television in the States; if Vizard could pull off something close to Letterman, then the *Tonight Live* show would be a winner.

Producer John Lewis believes Vizard failed to fully adapt the Letterman mode. 'He didn't go for the heart and soul of Letterman and push it all the way through,' Lewis says. 'He went for the safe option. He stuck with the scaffolding, the template of Letterman, but he didn't inhabit it the way he should have. That was the tragedy of it, the sense of betrayal [of the formula]—he seemed to take something really fresh and the freshness just leached out, and that was because Steve didn't like people laughing at him whereas Letterman wouldn't care. There was a limit past which Steve just would not go.'

Television critic Paul Leadon (*Sydney Morning Herald*, 3 February 1990) described it as 'a very convincing facsimile of the original. It's as slavishly accurate as we poor antipodean imitators can manage. But what the hell, if you're gonna steal, steal from the best. Right?' It was hard to discern, Leadon contended, if Vizard was really a variety show host or merely parodying one.

Tonight Live's light entertainment style drew a big chunk of under-forty viewers to the Seven Network, viewers who were prime targets for national advertisers. From the start, the show's promotional breaks were jammed with slick ads for car companies, banks and insurance groups—and the subsequent ratings success gave Seven's chiefs the chance to slip in more ad breaks, at premium rates. For Channel 7's bosses—and its bankers, who were owed some $750 million—financial success was an enormous relief, but it also made Vizard a prime target for poachers. And the biggest poacher in the game park in mid-1990 was Kerry Packer.

On 19 July 1990, Packer regained control of the trophy Nine Network from Alan Bond's crippled financial empire when shareholders in Bond Media agreed to issue Packer new shares (which took his shareholding beyond 50 per cent) in lieu of repaying him $200 million of preference shares. So three and a half years after he sold Bond Nine's two stations in Melbourne and Sydney for $1.05 billion, Packer won back control of the Melbourne and Sydney stations *plus* stations in Brisbane and Perth for just $200 million. One of his first, and most publicised, moves was to slash the Nine Network's costs, cruelling the long lunch and champagne habits of its star performers and plucking out shows that failed. It was a ruthless yet necessary exercise, and one that demoralised many long-time Nine Network employees. But cutting costs was not Packer's only strategy; he wanted to cut the legs off Nine's ailing opponents at Seven and Ten.

And so it was that just one week after he snatched back the Nine empire, Kerry Packer summoned Steve Vizard, Seven's golden boy, for a private chat at his luxurious home in Bellevue Hill. Vizard happened to be in Sydney that weekend with the entire *Tonight Live* team as they prepared for five nights of live broadcasts from Darling Harbour. Packer must have made him feel very much wanted, because eventually he slapped down a tempting package for Vizard to abandon his contract with Seven and move down the road to Nine.

Exactly how much Packer offered, Vizard never revealed publicly, but clearly it was fabulously big. He immediately contacted his Artist Services partner, Andrew Knight, and called an urgent meeting that weekend with Channel 7's top two executives, Bob Campbell and Des Monaghan. Seven's bosses must have cringed. Raiding the talent-rich Seven Network to snare Vizard and Knight, two highly creative talents in the ascendancy of their brilliant careers, was precisely what a wily fox like Packer would do. Now their top-rating star and his partner-producer and co-writer were considering breaking their contract with Seven and decamping to the Nine Network, and Seven risked losing their key man and the rights to two of their strongest programs, *Fast Forward* and *Tonight Live*.

Talks between Vizard, Knight and Seven's executives lasted for eighteen hours, almost without a break. Campbell and Monaghan tried some cajoling of their own. They proposed other deals to entice Vizard, they flattered him, reassured Vizard and Knight that they would always have the freedom to run with their ideas at Channel 7. Campbell and Monaghan emphasised how the network had already supported the pair for more than a year and that Seven had no intention of backing off now. But, hey, they warned, this was a network in the hands of bankers—not a network with the keys to the bank vault.

Vizard wanted guarantees and a committed retainer. He pointed to the excellent advertising revenue he was generating for the network, the success of the programs, how strongly they rated and how, through his programs, Channel 7 was enjoying a new lease of life.

Yes, said Campbell and Monaghan, that's true. But let's be straight. What you have on the table from Packer sounds great, but what you already have with us is a binding contract. Break it and we sue.

So at 4 am the next day, Vizard and Knight emerged with a new Channel 7 contract, one that moderately boosted Vizard's existing retainer and padlocked Artist Services to the network for five years. Vizard had rebuffed one of the most lucrative contracts then on offer in Australian television. About two weeks later, when word about Packer's offer leaked, Vizard defended his decision to stay with Seven, saying it offered a much better environment to be creative and take risks.

According to a front-page article by Robin Oliver in the *Sydney Morning Herald* on 18 August 1990, Packer was prepared to pay Vizard a whopping $15 million sign-on fee. On top of that, Vizard would have received $2 million a year and Andrew Knight $1.5 million. The budgets for both *Fast Forward* and *Tonight Live* would have been boosted by 20 per cent, and Vizard–Knight's Artist Services would have secured an open-ended deal to develop and produce comedy and drama for the Nine Network. It was a breathtaking package, though one that Vizard never confirmed publicly.

What Vizard got from Channel 7 was a moderate improvement on his existing personal retainer, a five-year contract, plus an exclusive deal for Artist Services to devise new programs for Seven until July 1995. He and Knight would receive $1 million a year between them, though Vizard got the bigger share, and $1.2 million a year was paid to Artist Services to come up with program ideas for Channel 7. As well, Seven would continue to buy *Fast Forward* and *Tonight Live*, shows that industry pundits at the time suggested cost more than $10 million a year to produce.

Vizard's rationale for knocking back Packer's millions was not so much the threat of legal action from Seven, but the guarantee that Seven would provide him with creative opportunities. He could have accepted Packer's extraordinary offer and fought Seven through the courts, and he might have won. But the Nine Network was in upheaval and there was understandable concern that, despite every contracted promise from Packer and his lieutenants, Vizard and Knight might have ended up shackled inside a highly controlled environment at the Nine Network. There was also a strong element of simple loyalty to the network that had fostered their careers. Says a former Seven executive, 'Steve Vizard has every reason to be grateful to the Seven Network—every reason. It treated him extraordinarily well . . .'

Steve Vizard's ego was soaring in March 1991. *Tonight Live with Steve Vizard* rated high as one of the Seven Network's most successful programs, *Fast Forward* was the most popular comedy show, and in that month Vizard was crowned with the *TV Week* Gold Logie.

He was, at least in the eyes of viewers who voted, the most popular television personality in Australia.

Now one of Melbourne's newspapers wanted to feature Steve Vizard in the first of a light-hearted series focusing on celebrities acting out storybook fantasies. It was to be a photographic portrait, accompanied by only the briefest few paragraphs of text—the picture would speak for itself. But only someone with a dash of daring, a dose of the devil-may-care, might go along with this. Which character would Vizard choose? The prince who kissed the sleeping beauty perhaps? Maybe the emperor who wore no clothes, or a swashbuckling, patch-eyed pirate?

Vizard shuffled through the costume selection, made his choice, then, with a dab of make-up patted onto his long, wooden face and taking a deep breath, he turned to the camera lens and switched on the performance. Photographer Bobbi Fabian's resulting portrait of the celebrity is a haunting study of fantasy and reality, lightness and dark, and even after all these years it remains a singularly shocking image: Vizard as the naughty boy-puppet, the lying Pinocchio. He is all arms and angles and he is pulling curtly at the hem of his braced lederhosen, his large head topped by an undersized, pert mountain cap. His face is twisted obliquely and his mouth is gaping in jest. His curving rubber proboscis is altogether too bizarre to be real, but it is Vizard's eyes that suggest trickery is afoot. These are not the eyes of a naif; they are loaded with adult cunning, as though he is about to pull a stunt on you, one that will stun and dismay. And the newspaper captioned it, 'Who's Been Telling Lies Then?'.

Fabian's photograph captures Vizard in unexpected ways. He is very much a boy who never grew up, a prankster without reins, who simply wanted to have fun and, yes, sometimes at the expense of others. He was always supremely confident of his own potential, and he learnt early how to get what he wanted. Charm would lure an endless array of friends, his intelligence would win respect, and the combination would secure for him the confidence and trust of power-brokers.

Vizard is highly literate, clever and gregarious, and he can work a room like few others. Heads turn when he arrives at cocktail parties or social functions, and the whispers rustle through the throng: 'It's Steve.' 'Steve's here.' 'He's here.' He galvanises men especially. They flock around him in small packs, exchanging head-nods with him and shoving their hands out for a shake. They begin with small talk and end up convinced that Steve, their newest acquaintance, is one of their mates. They are easily won over. He's a great guy, they say, a lovely person, genuinely warm and friendly, and genuinely interested in their relatively unimportant lives. Some men will readily declare, without a blush, that they love him, and they reel with anger when anyone questions his integrity. They state their undying support for him, and talk of the Steve that most people don't know, the one who is always there with a kind word when someone in the family is ill or who sends a bouquet of flowers when he knows times have been especially tough. Again and again, they declare they have never heard Vizard say a nasty word about anyone. Never, ever—he wears it like a tenet. And he never carries grudges.

But knock gently on the door of the entertainment industry, whisper the name 'Vizard', and the response is a drawn-out, wary 'Yee-es?'. It is loaded with caution. Certainly Steve Vizard has some solidly loyal friends and many supporters who genuinely wish him well, even when they are criticising him, but the level of antipathy elicited by the mere mention of his name is surprising.

'He's the epitome of the super-alpha male,' a Melbourne television producer says, 'but he's not entirely sure how to be a person. Steve never says "no", so you have to work out if "yes" is "yes" or "no". And in that sense, he's a bit of a coward. He hates confrontation of any kind—he always gets other people to do the dirty work for him.'

Another former colleague says, 'One thing Steve is absolutely brilliant at is not delivering on promises—he always lets you down. When it came to looking after you, his idea of a good time and yours are very different.'

A long-time entertainment industry associate believes nothing about Vizard was ever as it seemed. 'Even I don't feel I know him,' he says. 'He's very charming and he engages with people brilliantly. It's just that over a long period you become aware that he's more complex than most people. You suspect that he's running an agenda behind the discussion.'

Of course that's not the way the comedy writer Mitchell Faircloth sees Vizard. He thinks many people in the entertainment industry are simply jealous of his friend's success. 'Steve Vizard was an absolutely fantastic person to work with,' Faircloth says. 'We all had our frustrations with him, because he is a very creative person. If you are working with creative people, you are getting ideas here, you are getting ideas there, and you would have to follow Steve this way or that way, working out which way his mind is thinking now, or fighting for the idea . . . He is one of the most decent people I know and I love him, actually,' Faircloth says, 'because he cares about people. He cares about his friends, and he sticks with them in good times and bad. My experience of Steve is he is a thoroughly ethical person, absolutely. I never, ever believed that he had done wrong. I know him to be a thoroughly ethical person, and he is a very, very good friend.'

That was also the general view in 1990: Steve Vizard could do no wrong. And when Channel 7 re-signed him to a new five-year contract no one could have foreseen the troublesome four years that lay ahead. A parade of producers, writers and crew members quit *Tonight Live*, disenchanted by what they perceived as a ruthless environment. 'He went through seven executive producers in three years,' a former *Tonight Live* producer says. They included John Lewis, Bob Phillips, Chris Greenwood, Paul Melville and Rick McKenna.

Greenwood joined *Tonight Live* in early 1991 and he seemed to identify very quickly what made Steve Vizard tick: 'I've heard comments that people think that Steve's a smart arse,' Greenwood told journalist Tony Squires (*Sydney Morning Herald*, 11 March 1991). 'I would argue with that and say that Steve is a very bright, intelligent bloke who is new to television. What you're getting is exuberance . . . He's very hard to produce because he's crackling with ideas all the time and always asking the impossible . . . I'm spending a lot of time making sure that Steve's enthusiasm isn't crushed . . . I keep on reminding people that it's only his second year in television—literally. It's a toy to him. If you take those elements away, you deaden the man.'

But as *Tonight Live* entered its second year, critics were less forgiving of its myriad flaws. Channel 7's executives had envisaged a show something like *The Tonight Show Starring Johnny Carson*—a mix of smart, sassy and topical humour, some serious interviews and music—but Vizard's version sometimes resembled an extended slapstick routine occasionally interrupted by useless interviews with wasted pop stars and buffered at either end by overly serious news bites.

Vizard always met the terms of his contract with Channel 7—he performed for a minimum number of nights and participated in marketing the show and the station—but he didn't want to host *Tonight Live* forever. Some producers say he didn't want to host it at all. One former *Tonight Live* producer says Vizard 'hated' the work that went into the show's regular production meetings and writers' meetings, and he never seemed to apply the kind of focus and commitment needed to make each episode soar.

Vizard suggested the franchise would not be threatened if he took one night off each week. He wanted to spend more time with Sarah, little Stephanie and new baby Tom (born March 1991), and perhaps *Tonight Live*'s inherent unpredictability would be enlivened by rotating fresh and untried faces through the compere's seat. It was a fair argument, and Vizard's host duties were pared from five nights to four and then to three. Several comedians, politicians, rock stars and even international celebrities stepped in as guest hosts. Some proved to be excellent replacements; occasionally the comedian Richard Stubbs, who had assumed host duties from Vizard every Friday, won more viewers than his boss. What did that tell the network's executives about Vizard? The obvious: that he was not indispensable and, formidable talent though he was, Vizard's star, along with his enthusiasm, was waning.

His late arrivals and absences became more frequent, and sometimes the show's producers were on tenterhooks wondering if their star planned to turn up that night or if they would have to hunt down a replacement. 'It was one of the greatest puzzles in TV at the time—who would be hosting *Tonight Live* that evening . . .' a former Seven manager says. 'It was not uncommon for me to get a phone call at 5 pm in the afternoon from the poor executive producer at the time saying, "We can't find him, who should we use?". It caused more internal debate than any other issue at that period . . . But dealing with recalcitrant stars is part and parcel of the job description. Steve Vizard was never a *prima donna* . . . and excuses were not Steve's strong suit—he did not use them. Often he would carry on as if nothing had happened.'

By late 1992, the otherwise solid relationship between the star and the station had strained. Vizard had become restless and ambitious for adventures outside television, and he slowly began detaching himself from *Tonight Live*. He and Andrew Knight had a welter of ideas for sketch comedy programs, variety shows, dramatic miniseries and films that could be produced by Artist Services and sold to Seven, but by 1993 Vizard was impatient about getting those ideas transformed into programs. *Tonight Live* had become little more than a bothersome distraction for him.

'Sadly the days of slavery are over—you cannot make people work for you if they don't want to,' Des Monaghan says. 'If people do not want to service the contract, then it [the contract] has limited value.'

And so, with no regret on either side, *Tonight Live* folded at the end of 1993. After five relentless years of sketch comedy and live performances, Steve Vizard was free of the shackles of the television world. He immediately peeped over the parapet of the Seven citadel and glimpsed opportunities for wealth and acclaim in the outside world. Now it was time to change pace and embrace other challenges. It was a time to appreciate how far he had come and what he might yet achieve, and a time to discover where, at the age of thirty-seven, Steve Vizard fitted in the world.

5
Pillar of the community

The summer of 1993–94 was a natural turning point for Steve Vizard in more ways than one. His father, Lance, the rambunctious leader of the Vizard clan, died at Christmas at the age of sixty-four after battling cancer. Lance had taught his children that community duty and respect for others were among the highest priorities, and that to be part of the local community meant participating fully in it and not expecting anything in return. That summer, Vizard must have vowed to grasp every opportunity that came his way. He was ready to learn, loaded with ideas about how the media worked, and he had ego and contacts in equal abundance. So, one by one, Vizard began accumulating titles.

There was no transitional period, no waiting around for the phone to ring. Vizard simply stepped out of television and walked straight into an array of boardrooms. He was still on a retainer of close to $1 million a year as one of the Seven Network's contracted stars—one of the 'faces' of the network, one of its 'ideas' men—and he made occasional guest appearances as required. His jointly owned Artist Services remained one of the country's busiest television and film production houses, generating some thousand hours a year of comedy and variety shows plus network specials through its exclusive deal with Seven. But Vizard was interested in more than just television and entertainment. Over the next decade his list of achievements, which was routinely handed to anyone seeking biographical background information about him, swelled to fill twenty or so pages, each crammed with line items about his directorships, industry awards, advisory roles and honorary titles. At one stage, it even included a list of the speeches he had made, where he made them and, of all things, who was sitting in the audience at the time.

Vizard may have been a lot of things but he was not bashful. He was here, he was there; he was everywhere that the public and its institutions would have him. He was a veritable civic boy-wonder, someone who gave so generously of his time and his money that no role was too onerous. He was a director at the Australian Children's Television Foundation from 1991 to 1997, and president of the Screen Producers Association of Australia for about two years from 1994. Between 1994 and 1996, under Victoria's then-Premier Jeff Kennett, he was a member of the Victorian Council of the Arts, which was a division of the Department of Arts, Sports and Tourism, and in May 1995 he was one of twenty-three non-government appointees on the Victorian Communications and Multimedia Taskforce, a Kennett-initiated panel that advised how to get government services online and fully accessible for payments, queries and information. In April 1995 he became chairman of the government-owned documentary production house Film Australia, and seven months later he joined the advisory panel of the newly formed Australian Commercial Television Production Fund, which would allocate $55 million of government funds over three years to new Australian drama series, documentaries and children's programs.

That's a formidable list of achievements already, but wait—there's more. He was a member of the advisory board of David Syme & Co (then-publisher of the *Age* newspaper in Melbourne and now known as the Age Co Ltd), a national spokesman for National Literacy Year, a patron of the Addiction Research Foundation, and in the early 1990s became an ambassador for World Vision. He was on the Sony Foundation and the Alannah & Madeline Foundation, a charity that lobbies to keep children safe from violence. He was an advisory member of the board of the State Library of Victoria Foundation, and although he was not involved in the library's subcommittees Vizard was 'available to be called on if required'. (Library insiders could not recall ever asking for his help.) His resume also listed Variety Club of Australia awards, Logie awards and Writers Guild awards, and although many were won not by Vizard personally but by teams of writers and by the production house Artist Services, it all helped to bulk up his profile.

Charity after charity, honour after honour, Steve Vizard's resume was like a tally room; every title he accumulated and duly recorded was akin to a vote of praise or respect from each organisation, company or government body—and from all the people that stood behind them.

Vizard became a non-executive director of TAC, a state-owned organisation that compensates victims of road trauma, in March 1994. At the time TAC was chaired by Margaret Jackson (the former chairman of Qantas), who is married to lawyer Roger Donazzan. Donazzan was a former close colleague of Vizard when the pair was at Herbert Geer & Rundle in the mid-1980s. In appointing him to the board, State Treasurer Alan Stockdale noted Vizard's legal experience, saying it would be 'invaluable' and that he expected the television celebrity would 'lift the organisation's profile with young people'. More practically, TAC wanted Vizard for his insights into television marketing. It was about to embark on a series of heavily publicised and visually confronting campaigns to cut the road toll, and Vizard was asked to head the board's marketing and accident prevention committee.

Vizard would say he joined corporate boards and advisory panels to learn, and he would say every person should make the biggest possible contribution to society in whatever way they can. 'I do it because I want to learn about stuff,' he wrote in 2003 (*Age*, 23 August, 2003). 'I see them all as part of the spectrum of life. One of the reasons I get involved in (boards and companies) [*sic*] is that I want to be connected in the life of people around me . . . I want to know how phone calls are made. I want to have a measure of understanding and control over stuff that relates to my life.' So when anyone offered him a directorship at a publicly listed company, or yet another charity, or an industry lobby group, or one of countless special advisory panels for governments at both federal and state levels, it seemed that Vizard found it almost impossible to say no.

Terry Winters is the chairman, and a long-time board member, of the Multiple Sclerosis Society of Victoria (MSS). 'I've been waiting for some time for this call,' he says at last. 'Years.'

He said Vizard joined MSS Victoria in May 1994. The society's annual reports do not show how many meetings he attended, but by May 1996 it was clear to fellow board members that Vizard was a very busy man. He had missed a lot of meetings, so they quietly suggested that his interests might lie elsewhere. His absences may have irked some MSS board members back then, but some of those directors were especially annoyed when Vizard fronted the Federal Court in 2005 and casually used his past association with MSS Victoria as a way of bolstering his credibility.

Said Winters: 'He used his connections. I must say when we saw his interviews where he would say that he was a director of MSS we just thought, "Mate . . .". We got no commitment, no contribution from him. I sit on a number of boards, and I know how challenging it is to stay across things and really add value. I'm sure that a number of boards brought him on because they thought—if it was a charity board—that he might donate some money or [cultivate] his great network. But I don't recall he ever brought us anything. We would have brought him on [in 1994] because we saw him as a very bright marketing person, someone who would have been able to reach out to our communities, particularly on the donor side. But I don't recall Steve ever being involved in a board committee, and I don't recall him ever really adding much value—though he ensured everyone listened when he had an opinion on something.'

Rod McGeoch served on the board of the Sony Foundation at the same time as Vizard, and he had a markedly different view of how his friend participated at that charity. In a letter to the Federal Court in 2005 in support of Vizard, McGeoch described him as a 'conscientious' director 'who has attended almost every meeting and made a more than meaningful contribution to the success of the Sony Foundation . . . At no stage has he ever attempted to have his association with this company advantage himself, but rather conversely he has given of himself as willingly as any other member of the board.' And, McGeoch told the court, despite Vizard's wrongdoing he would support his friend 'because fundamentally he is a good person'.

Politicians in particular liked Vizard's easygoing style, his disarmingly self-deprecating manner and his immediate recognition among the public. He struck them as an excellent figurehead, someone who, if they could win him to their kind of thinking, might make a canny addition to the party ranks. But Vizard had never shown any interest in party politics. So it was a huge surprise to everybody—Vizard included—when, on a Sunday morning in September 1994, the *Sun Herald* in Sydney raised his name as a possible candidate for the ultra-safe federal Liberal seat of Kooyong in Victoria, saying 'he has apparently received the endorsement of Liberal Party president Tony Staley'.

Vizard in Parliament? You could almost hear the collective choke on the breakfast Weeties that morning. Kooyong was not a slum posting: it was bluer than almost any other blue-ribbon seat in Australia; it had been the hallowed home of esteemed former Prime Minister Sir Robert Menzies from 1934 to 1966, and was held for the following twenty-eight years by the eternal prime ministerial aspirant, Andrew Peacock. This was sacred Liberal turf. The idea that Vizard would be shoehorned into Kooyong sounded preposterous, but it seemed to gain credence when it was repeated on television that morning by the doyen of the Canberra parliamentary press gallery, Laurie Oakes.

Almost immediately Vizard began fielding calls from political powerbrokers, including Victorian Liberal Michael Kroger, as well as a few senators trying to cajole him across the line. And then, as he later told journalist Mike Safe (*Australian Magazine*, 25–26 February 1995), journalist Ray Martin was on the telephone 'wanting to do a live interview with me from my farm. They were going to get helicopters down there . . .' It was getting out of hand.

Vizard issued a press statement the following day, saying 'Federal politics might look exciting on the surface but I quit sketch comedy two years ago'. He flatly rejected any suggestion that he would enter politics, saying such claims demonstrated how little some people really knew about him. That didn't douse the speculation though: a year later, and his name was raised as a potential candidate as Lord Mayor of the City of Melbourne. And in 1998, when Vizard enthusiastically secured a role as one of the Australian Republican Movement's representatives in a two-week public debate about potential models for a new constitution, plenty of highly influential people watched him and wondered if perhaps the celebrity-cum-businessman wasn't secretly angling for a run at political life.

While he accepted all these external directorships, Steve Vizard's own business empire was cruising along, constantly generating income from various sources such as Artist Services, his contract with Seven and a spread of investments including shares and property. This income was channelled into a network of discretionary trusts and unit trusts; Vizard controlled at least ten companies that were trustees of these trusts. His main company was Performing Arts Services (PAS), the trustee for the Performing Arts Services trust. (The beneficiaries of this trust are Steve and Sarah Vizard, and the heirs of the estate of Lance Vizard—namely, Vizard, his mother June and his three siblings.) In 1996, PAS was superseded by Performing Arts Holdings.

Other companies wholly owned by Vizard during the 1990s included United Film Completion (until it was wound up in the late 1990s) and Performing Arts Investments. He controlled various private superannuation funds and, like many people with diverse business interests, he had several shelf companies for specific purposes. A little income also came from Roxby Park Primary Producers Pty Ltd, wholly owned by Vizard, which operated the family's farm at Roxby Park, a historic homestead set on 1247 hectares at Gnarwarre, about twenty kilometres west of Geelong. Vizard acquired Roxby Park for just over $1 million in early 1992, and a decade later he sold it for $5.15 million to the South Australian tuna tycoon and racehorse enthusiast, Tony Santic, whose mare, Makybe Diva, made racing history when she won the Melbourne Cup in three consecutive years.

But there is a related company in the Vizard group which is of particular interest, and it too is a beneficiary of the PAS trust. It is a charitable trust called the Vizard Foundation, which was established in February 1991 and is funded entirely by annual donations from the PAS trust. Throughout the 1990s, the PAS trust usually donated about $150 000 a year to the Foundation, and by 2005 Vizard's associates claimed PAS had gifted it some $11 million in total. In recent years, serious questions have been raised about the way Vizard handled the charity's assets. But it is not accurate to say that the Foundation was devised to minimise Vizard's tax expenses. The charity has contributed altruistically to the community. There is no doubt the Foundation helps the Lions Club provide discounted accommodation for relatives of sick people visiting Melbourne's hospitals; it fostered, for a time, young Australian artists; and it set aside a tract of land south of Roxby Park for the exclusive use of agricultural and veterinary researchers from Melbourne University in their studies of crop sustainability and the role of genetics in the development of fine wool.

It was through Lance's links to the Lions Club that in 1992 the Vizard Foundation first began its charitable operations. The Lions Club's Melbourne branch perceived a need for hostel-style facilities or private units that could be rented to people from rural communities or interstate who needed medium-term accommodation while close relatives or friends underwent lengthy hospital treatment in Melbourne. So in early 1992, the Vizards purchased a two-storey, Queen Anne-style property in Clarendon Street, East Melbourne, just a few blocks from where Lance and June were then living on Hoddle Street, East Melbourne. They renamed the property Vizard House, and Lions Club Melbourne took responsibility for the day-to-day management of the discount accommodation business.

It was a good deed and perhaps deserving of recognition, so later that year the Lions Club of Melbourne awarded Steve Vizard the Melvin Jones Fellowship, an award respectfully handed out by Lions Club International as 'recognition of a commitment to humanitarian work'. Within Lions, it is high praise indeed. It is considered one of the club's greatest honours because it signifies generosity, compassion and concern for the less fortunate. But the fellowship is not an 'award for international humanitarian services' as it was sometimes described in government press releases about Vizard. In fact, anyone who donates the equivalent of $US1000 could receive the fellowship, or if someone donated $US1000 to Lions Club International in honour of a particular person then that person's name—like

Vizard's—would be entered into a database at Lions Club International headquarters in Illinois, and he or she would receive a lapel badge and a commemorative plaque. The term 'international humanitarian services' actually refers to the activities of a trust fund in Illinois where the donations are deposited. Lions Club International uses the trust account funds for international relief—for earthquake rescues and assistance, flood damage, emergency food supplies, water purification systems, tsunami relief and so on. As a senior Lions Club official in Australia suggests, being a recipient of the Melvin Jones Fellowship, while certainly honourable, is not really the kind of thing one would put on a resume, as Vizard did.

The second of the Foundation's charitable enterprises consists of the 60 hectares of land at South Roxby, which is used by agricultural researchers from Melbourne University (where Andrew Vizard is an associate professor in veterinary science).

And lastly, the Foundation invested millions of dollars buying Australian art. It was this activity that would later prove highly contentious for Steve Vizard. The Vizard Foundation was an avid collector of art, an activity which is recognised by the Australian Taxation Office (ATO) as 'charitable' if the art is publicly exhibited so that it provides some educative value and enhances the culture of the community generally. Vizard appreciated many genres of art, historical and modern alike: art that told stories, art that evoked a heritage and tradition, as well as art that challenged traditional form. He was not what anyone would call an expert, but he appreciated great paintings and the craftsmanship of fine silverware. He was intrigued by how people related to images and icons, how they came to identify their place in the world through art and literature and history. He cherished the rarity of heritage items, and he enjoyed acquiring coveted items and displaying them.

In 1992, when prices in Australia's art market tumbled the Vizard Foundation purchased a host of significant paintings at auction.

Among its prized acquisitions was Sidney Nolan's *First Class Marksman*, one of twenty-seven in Nolan's series that depicted the bushranger Ned Kelly and which was exhibited in Paris in 1948. *First Class Marksman* changed hands for $825 000 in 1989 but was acquired by the Vizard Foundation three years later for just $450 000. It hung briefly in Vizard's home, but in late 1992 he negotiated for it to be loaned to the National Gallery of Victoria (NGV). Since then, *First Class Marksman* has been to Canberra and New Zealand for exhibitions alongside twenty-six other Kellys from the 1948 exhibition, all of which were donated to the National Gallery of Australia in Canberra by arts patron Sunday Reed. It remains on display at the NGV in Melbourne. In December 1993, in an interview with journalist Wendy Tuohy of the *Age*, Vizard discussed some of the Foundation's acquisitions to that date:

> When pushed, Vizard admits the foundation has made about 100 similar buys, and made long-term loans of many of them to public galleries and collections. 'We've got good Margaret Prestons, Conrad Martens—a very early Australian painter—Perceval, John Olsen, Boyds, different Australian artists . . . I don't profess to be a great expert, but I do have a real interest in it.' . . .
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> Although he says *First Class Marksman* has special meaning to him, because it is said to be the only one in the Kelly group not painted by Nolan at Heide in Bulleen but 'round the corner from where I grew up in Warrandyte', Vizard insists he wants the important works he buys to be in the public domain, rather than above his mantelpiece.

Later in 1992, while Vizard was still purchasing paintings from the colonial and mid-twentieth century eras at auction, he and Professor Margaret Manion of Melbourne University developed a plan to use some of the Foundation's funds to help aspiring young artists. Instead of funding the artists directly, the Foundation would buy their work through commercial galleries and exhibit them, in theory helping to enhance the artists' reputations and, hopefully, boost sale prices for their other works. The Foundation's collection of 124 pieces of modern Australian art from the 1990s, assembled by a panel of advisers, was loaned, not donated, to the Ian Potter Museum of Art at Melbourne University where it remains. The modern art collection is solely focused on Australian art during the single decade of the 1990s (although at least one piece dates to the mid-1980s), and it is hallmarked by big, bold canvases, sculptures and installations. It includes pieces by Emily Kngwarreye, Howard Arkley, Sally Smart, Stieg Persson and Angela Brennan.

Separately, the Foundation collected fine works of colonial-era presentation silverware—a favourite interest of Steve Vizard—as well as some valuable gold and silver Australian coins. Some of the coins are on loan for display at the Gold Museum in central Melbourne, and the entire colonial silver collection was exhibited at the Geelong Art Gallery as part of celebrations marking the centenary of Australia's Federation. The Foundation also made a curious one-off diversion into antiquities in 1994, when it purchased at a London auction a selection of ancient Celtic, Greek and Roman artefacts. These are in the care of the classics museum on the upper level at the Ian Potter Museum of Art.

All these philanthropic deeds of the Foundation helped to enhance Vizard's reputation as an exceptional, community-minded, public-spirited individual. He was an Australian cultural hero of the 1990s—more correctly, a cultural cheerleader—and on 9 June 1997 he was duly honoured in the Queen's Birthday list as a Member of the Order of Australia (AM) 'for service to the community, particularly through the Vizard Foundation, and to the arts'. On 1 January 2001, he received the Centenary Medal for 'outstanding service to the arts, major events, philanthropy and the community'.

There are myriad reasons why wealthy people donate to charitable institutions, and the most obvious and transparent justification is simple altruism; most people give away their money because they can and because they want to, and they do so with no expectation of getting anything in return other than a swelling feeling of satisfaction. Some donors, however, expect quid pro quo; they want a tax break, or they want to enhance their public image by being seen to be generous. Some wealthy people donate to charity because it gives them a sense of control over their finances; they donate because they believe funds that might otherwise have gone straight to the government's consolidated revenue—for spending on defence, health, welfare and so on—are needed in areas that they believe warrant special attention, such as art or music institutions, schools, science, or health facilities in remote communities. Not all donations to these causes are tax deductible, however. In Australia, only donations that are made to organisations bearing the official status of 'deductible gift recipient' (DGR) can be claimed as a tax deduction. These include public hospitals, public universities, special funds for building schools, public museums and health-related charities. So anyone giving cash or other donations to, say, the Red Cross or the Royal Children's Hospital can claim a dollar-for-dollar tax deduction.

But most registered charitable institutions in Australia are *not* deductible gift recipients; donations to churches cannot be claimed, for example, because they are not generally recognised as fitting the policy-driven imperatives that would make them worthy of DGR status. Nor is the Vizard Foundation recognised as a DGR. It *is* registered as a legitimate charitable institution so it does not pay any tax, and it will remain tax-free as long as its assets are displayed or used for public educational or cultural purposes. But because the Foundation is not a DGR, anyone making a donation to the Foundation cannot claim that gift as a tax deduction.

In other words, when the Performing Arts Services trust distributed funds to the Vizard Foundation each year, neither the PAS trust nor its individual beneficiaries (the Vizard family members) could claim that donation in their tax returns. The effect of donating was to reduce the overall pool of funds available to the remaining beneficiaries, so that each of the PAS trust beneficiaries ended up in exactly the same position for tax as if he or she had received a larger distribution and then peeled some off and donated it to a deductible gift recipient. To look at it another way, the Vizards were not 'better off' by donating to the Foundation; they still had to pay tax on whatever they received from the trust.

Just one kilometre from the central hub of Melbourne is the cradle of the nation's sporting heritage, the Melbourne Cricket Ground (MCG). It is a vast arena, a spectacular cauldron that bears witness to the city's unquenchable passion for sports. Here, millions of people have watched international cricket tests, Olympic Games, Commonwealth Games and, of course, Australian Rules football. It is the headquarters of Australia's biggest sporting club, the Melbourne Cricket Club (MCC), where applicants wait decades before they can become a member—some 164 000 people currently are on the membership waiting list. In November 1997, just four months after Steve Vizard was honoured with the Order of Australia, he entered the sanctum of the MCC elite: he was appointed to the club's committee.

Passion and commitment are the usual prerequisites for a position on the MCC committee, and fellow committee members contend Vizard was genuinely interested in what the club represented, in its history, its heritage and the significance of the ground as a 'people's ground'. 'When we talked about those things, he would fire up,' says an MCC committee member. 'He certainly wasn't there to watch the footy, but he was interested in what the ground was all about.'

In 2003–04, Steve Vizard was on the subcommittee in charge of museums, which managed the MCC's collections of memorabilia—the same committee that looks after the Australian Gallery of Sport and the Olympic Museum—and he served on the subcommittee in charge of managing the MCC's grounds, its buildings and events. A fellow committee member recalls Steve Vizard spent a lot of time working through the development options when the club was planning to demolish and rebuild its huge seating stand on the northern wing.

The full committee of the MCC convenes twelve times a year and usually it throws in an extra workshop or seminar for board members. In 2003–04, Vizard attended just six of those twelve meetings; the following year it was seven and he was granted leave of absence for two of those meetings. As for his attendance record, fellow committee members close ranks. 'I just think that as a principle, my experience with Steve as a member of the committee should remain within the committee—you cannot draw positive or negative conclusions from that,' one committee member says. 'I always found him easy to get on with . . . he was helpful, a good lateral thinker, enthusiastic.'

Says another: 'Well, Steve was an exceptionally busy guy who took on a lot of things. There were quite a few issues that he was genuinely able to help with his skill set. And there were other meetings that were to do with the clubs that he would have been bored with.'

So was his contribution sufficient? 'It probably was not ideal,' says one committee member. There was some concern that Vizard failed to turn up as a committee-host for some of the big sporting events, 'but having said that, you have different skill sets for different [committee] members. I thought he was a good contributor. He was certainly very good on the committee . . . [but] I don't think he's a "detail" person. He's just not into detail—he's a lateral thinker . . . a very bright man, a very intelligent man.' And he was a welcome addition to the MCC committee because of his involvement in arts and culture, media and marketing, the committee member said.

Charities, media, sport and of course the arts: Steve Vizard was the consummate all-rounder. By the late 1990s, he had achieved a level of credibility, at least among politicians, that garnered him yet more appointments and more honours. Victoria's then-Premier Jeff Kennett appointed Steve Vizard chairman of the council of trustees of the National Gallery of Victoria on 28 August 1998, in what was considered a generational baton-change for the NGV. Kennett says he had known Vizard since the late 1980s, and once he became Premier in 1992 he was keen to put younger people into key administrative roles, especially in areas such as the government-funded arts bodies. 'It was a prestigious institution and therefore a very important job,' Kennett says. 'I appointed him because I believed he would bring a great deal of energy to the job, that he would attract a new range of sponsors, and that he would probably be a major contributor to the gallery given his own, publicised support of the arts and the development of his own Vizard Foundation.'

Vizard, then forty-two, would be the relatively young face of a vibrant gallery as it embarked on a huge overhaul, refurbishing its landmark headquarters on St Kilda Road, just across the Yarra River from central Melbourne, and expanding into new gallery premises at Federation Square. Vizard was expected to be a figurehead, not an executive, a promoter who would use his connections to generate fervour about the gallery and help raise funds. And he has numerous loyal and staunch supporters inside the arts world who say he was precisely the kind of person the NGV needed at the time. Gerard Vaughan, who became chief executive of the NGV in 1999, told the Federal Court in 2005 that Vizard 'gave thousands of hours of public service' to the gallery, that he 'worked tirelessly to maintain and increase the profile of the NGV' during its refurbishment, and that Vizard enhanced the NGV's relationship with corporate sponsors and inspired staff to think more creatively.

But there are several others, including Jeff Kennett, who say that Steve Vizard, the man the government hoped would stimulate a rush of new sponsors to the gallery, was too often absent, was not an effective leader, that too much of the decision making for the gallery's refurbishment fell to others, and that gallery executives and other board members silently covered for him.

'Sadly, my expectations of him through his appointment were not met,' Kennett says. 'Steve was more often prepared to do the "public work" in front of cameras, but not the hard yards. He was rarely punctual, he would rarely accept responsibility in any way if it put him at risk, he was very slow to respond to correspondence, and he did not provide the personal drive that I had hoped he would provide. Had it not been for the work of others on the board, in particular Jim Cousins [NGV deputy president], the redevelopment of the gallery I fear may never have occurred. So I personally felt let down and [I] was harshly critical of myself for having made such a fundamentally inaccurate assessment of an individual's personal traits.'

Other critics say Vizard never delved deeply into his own pocket to support the gallery's fund-raising activities. They argue that the leader of the gallery should do precisely what he entreated others to do, and that whereas the Vizard Foundation received some $150 000 a year from the PAS trust (according to Vizard's estimates), the NGV received considerably less in financial donations from the wealthy businessman.

Vizard stepped down as chairman of the NGV board of trustees in April 2004. A press release issued by the state government at the time suggested he wanted to devote more time to his family and other commitments. Vizard's departure was portrayed as yet another baton-change; he had served for six years, and now it was time to move on. There was, of course, no mention that for the previous twelve months corporate regulators had been trawling over every aspect of Vizard's financial affairs.

In April 2001, Kennett's successor, Steve Bracks, lauded Vizard as a 'successful businessman and an outstanding community leader' when he formally announced Vizard would take on the highly influential role as head of the Victorian Major Events Company. This is an unusual government organisation charged with the highly specific purpose of luring world-class sports and entertainment events to Victoria; being appointed Major Events chairman is a little like being bestowed with the state's crown.

The previous incumbent was Ron Walker. Walker is a ginger-haired, distinctly majestic, former property developer, one-time Lord Mayor of Melbourne, a co-developer of Melbourne's Crown Casino, a former treasurer of the Liberal Party and confidant of Prime Minister John Howard. When it comes to moving and shaking and getting things happening in Victoria, people turn to Walker. For ten years as head of Major Events, Walker had entreated and successfully cajoled international promoters to bring their blockbuster events to Melbourne: Formula One Grand Prix races, motor-cycle races, World Cup soccer matches and swimming championships, sailing championships, aerobatic shows, fashion exhibitions, hot-air balloon championships and a feast of other events were on the calendar. By succeeding Walker, Vizard was stepping into big shoes.

My formal request for state government documents pertinent to Vizard's appointment as Major Events chairman turned up just two pieces of paper. The first was a letter from Premier Bracks to Vizard, dated Friday 30 March 2001, inviting him to accept the role for three years. His tenure would begin almost immediately, on Monday 3 April, and would expire on 30 June 2004. There is no written response from Vizard—at least none that remains on the government files; nothing along the lines of, 'It is with great pleasure that I hereby accept'. Nor did the Freedom of Information (FOI) request elicit any documents confirming that in 2004 the government extended the term of Vizard's original appointment by a year.

A second letter released under FOI was headed 'Strictly Private and Confidential'. It is dated 30 June 2005 and is addressed simply to the Victorian Major Events Company at its headquarters in Albert Road, Melbourne. It appears to have been hastily typed because a word or two was dropped along the way:

> Dear Board Members.
>
> I hereby tender my resignation, Effective . . ., as a Chairman and Director the Victorian Major Events Company.
>
> Yours sincerely,
> Steve Vizard, AM

It must have been especially important to get that 'AM' in there, because whoever drafted the letter remembered Vizard's honorific but not some of the more pertinent information. In exquisitely tiny round-hand measuring barely half the size of the typed script, and just after 'Effective', someone has inserted the crucial word: 'immediately'.

6
Plugging into dot.coms

By the federal government's reckoning, Steve Vizard was a safe bet to slide onto the board of Telstra without fear of public rebuke. If all went well, Vizard might even be welcomed as a refreshing change from the career bureaucrats, corporate dignitaries and favoured sons that landed padded boardroom seats and declined to budge for years. For all his numerous appointments to charities and advisory panels, his few corporate roles and his substantial private business interests, in 1996 Vizard did not have widely recognised or proven credentials at the big end of town. His political acumen and commercial credentials were largely untested but he could boast strong and friendly high-level contacts across the media industry, he had imagination and novel ideas, a fresh attitude and optimism, and he had connections—everything Telstra needed at the time.

After all, Telstra was shaping up as the most influential player in Australia's bid to be part of the new communications universe. It controlled the copper cables that threaded Australian homes and offices with telephony systems; it operated the country's biggest wireless telecommunications system; it owned 50 per cent of the then-fledgling pay-TV operator Foxtel, and it wanted an internet presence. The new millennium loomed as the new information age yet Telstra, like its peers around the world, was still a long way from grasping the implications of having news, videos, sports broadcasts, music and email spewing into millions of households over several different communications devices.

Few households had an internet connection in those days, and the big questions revolved around what might happen to telecommunications carriers such as Telstra if consumers decided they would rather watch entertainment on their personal computers instead of the television in the corner of the lounge-room. Indeed, what would happen if consumers decided that all their information and voice communications should be delivered remotely, via wireless instead of cables, and by using tiny hand-held devices instead of box-like fixed units in their homes?

Telstra was not alone in pondering these matters. Until the mid-1990s, Australia's media groups largely considered their domains impregnable; they controlled the traditional delivery platforms of newspapers or magazines, three free-to-air commercial broadcasters and networked radio stations. But it was not until the advent of pay-TV in 1995—just as businesses started connecting to the internet—that media organisations realised how many alternative outlets they were up against, especially on the internet. The business of funnelling information to the public was changing swiftly.

In late 1994 and early 1995, the newspaper group John Fairfax Holdings started considering new delivery outlets for its editorial content, and initially it was drawn to pay-TV. Its first move was to join the Australian Broadcasting Corporation and Cox Communications of the US to develop two pay-TV channels in Australia: a children's channel showing light entertainment and the arts, and a news channel that would combine Fairfax's editorial resources with the ABC's television and radio units. The companies formed a three-way joint venture called Australian Information Media (AIM), hiring around one hundred people and investing some $30 million building dedicated studios at the ABC's premises in Sydney. AIM's business plan was stymied, however, when it failed to convince either Foxtel (then jointly owned by Telstra and News Ltd) or Optus Vision to include its channels on their pay-TV services.

As AIM fizzled, and eventually shut down in September 1995, Fairfax was working on another approach to pay-TV. In April that year, over lunch with Steve Vizard, Fairfax's then-deputy chief executive Michael Hoy discussed the prospect of the newspaper group joining forces with Artist Services to develop pay-TV programs focusing on, say, television reviews or travel; Artist Services could do the technical production using Fairfax's newspaper-based content. Fairfax directors were entranced by the idea and in early August 1995, immediately after Artist Services' five-year contract with Seven Network expired, the newspaper group turned the proposed alliance into a deal.

Fairfax bought 50 per cent of Artist Services from Vizard and Andrew Knight for just over $9.2 million. The deal crystallised Vizard's fortune, handing him a little over $6 million and leaving him with a stake in the business that both he and Fairfax hoped to grow further. Knight, a 50–50 founder with Vizard, received considerably less than Vizard—about $3 million. The lopsided cut was due partly to Vizard's last-minute decision to transfer into Artist Services the back catalogue of *Fast Forward*, another sketch comedy show *Full Frontal* and *Tonight Live*, owned by United Film Completion, so that these could also be distributed to the pay-TV providers.

Barely two months after merging with Fairfax, Artist Services signed a $1.5 million deal to provide Foxtel with one hundred hours a year of drama and comedy programs; only 20 per cent of the programs needed to be first-runs, and the rest could come from Artist Services' back catalogue. And in February 1996, Artist Services struck another pay-TV supply deal, acquiring the exclusive rights to sell to pay-TV the formidable library of programs owned by the Australian Broadcasting Corporation. It promptly wrapped both these distribution deals into a single platform when, a few weeks later, it launched the Comedy Channel, then a three-way venture between Artist Services, Foxtel and another pay-TV operator, Galaxy. The Comedy Channel would feature twenty-four hours of comedy shows sourced from both Artist Services and the ABC, including iconic shows such as ABC productions *The Norman Gunston Show*, *Frontline*, and *Mother & Son*.

So by early 1996, Steve Vizard had well-established private business interests in the ownership, production and distribution of pay-TV and free-to-air programs—all areas that Telstra was keen to understand.

Almost immediately after the Liberal–National Party coalition won government in March 1996, it took steps to pare the Commonwealth's Telstra stake from 100 per cent to 66.6 per cent, and eventually to sell out completely. The Howard Government wanted to raise billions of dollars to cut government debt and generate budget surpluses, and it argued that after loosening the shackles of government ownership, Telstra would be in a better position to strike new alliances in communications and media. The Howard Government wanted to act quickly, and one of its first moves was to eradicate some of the Telstra boardroom operatives whom it believed might jeopardise the Telstra share sale process.

Telstra's chairman, David Hoare, its then-chief executive Frank Blount, and senior members of the Department of Communications, Information Technology and the Arts (DCITA), in consultation with then-Communications Minister Senator Richard Alston, quietly began sounding out senior business leaders, gauging who might be interested in taking a seat on one of the biggest companies in Australia. It was top-secret corporate manoeuvring, and they tapped Vizard on the shoulder in late July 1996. Senator Alston had known Vizard for some years, first crossing paths in the early 1990s, and again in 1994 when the businessman became president of the Screen Producers Association of Australia (SPAA), the peak lobby group for independent television and film producers. Alston at the time was the Opposition's spokesman on matters related to communications, and over the next two years Vizard would lobby the senator vigorously, trying to lock in his potential support for SPAA's proposals on tax-based incentives that might stimulate investment in Australian film and television production.

There are no written records about how Vizard was asked to join the Telstra board in 1996, at least none that survive in the files of the former minister or at the DCITA. What does exist is a letter that appears to have been faxed from Vizard's offices to Alston on 5 August 1996 in which he confirmed he had nothing to hide in his financial dealings, and a letter dated 25 September confirming Vizard would get a seat on Telstra's board. In this latter missive, John Neil, an assistant departmental secretary, specifically requested that Vizard keep news of his appointment secret for a little while and not contact anyone at Telstra about it. Two days later Alston telephoned each of Telstra's eleven directors and asked six to stand down immediately.

Out went deputy chairman, the investment banker Mark Burrows, one of the board's newest appointments who had joined only ten months earlier. Also dumped were former union leader Bill Mansfield; IBM's chairman Brian Finn; stockbroker Steve Wilson, and a former government bureaucrat Helen Williams. Another long-serving director, John Menadue, resisted strongly and threatened to call in his lawyers; he was told he had one hour only to make up his mind. Melbourne lawyer Peter Redlich had indicated just weeks earlier that he planned to retire.

The boardroom sackings were brutal and sudden, and bluntly demonstrated how the Howard Government wasn't going to mess around. Alston wanted a slightly smaller board with 'more firepower', and in what amounted to a nasty backhander for the outgoing directors he said the new board members had 'talent, drive and demonstrated success in the commercial market'.

In came Ross Adler, the chief executive of Adelaide-based oil and gas producer Santos, and John Stocker, the former chief scientist at the CSIRO, plus three men whom the journalist Paul McGeough, writing in the *Sydney Morning Herald* on 14 September 1996, cannily identified among the new 'power elite' in Howard's Government. They were John Ralph, the former chief executive of mining house CRA and then-chairman of Foster's Brewing Group, whom McGeough noted was 'likely to be rewarded soon with a Government appointment'; Anthony Clark, then a senior partner at accountancy firm KPMG, described by McGeough as a 'great friend' of Howard; and Steve Vizard. All were given an initial tenure of four years, during which Telstra would shift from government control into private ownership. It would be a complex evolution.

Between 1996 and 2000, Telstra progressed from a company with annual revenue exceeding $15 billion and profits after tax of $2.3 billion, into a group generating almost $20 billion of revenue and $3.7 billion of after-tax profit. But along the way the company sliced its workforce from 74 000 to about 51 000, cut capital expenditure, outsourced jobs, and tackled—not altogether successfully—a welter of new competitors in its Australian fixed-line and wireless businesses. It installed a new chief executive in early 1999, replacing Frank Blount with Ziggy Switkowski, and as Telstra approached the new millennium it vowed to transform every aspect of its telecommunications operations into digital systems.

The metamorphosis could not come soon enough: miniaturised technology had triggered an unprecedented wave of consumer demand for communication gadgets. Everyone wanted lighter, tinier and more mobile devices; they wanted to trade in cable-based phones and bulky personal computers for flip-top wireless units and laptops that they could tuck into their satchel and carry to their favourite café. For carriers such as Telstra, mobile phone usage rates skyrocketed, millions of households demanded internet connections at home, and intercontinental cables with huge data-carrying capacity had to be draped across the seabeds to meet what was expected to be a mind-boggling surge in demand for data-based services such as email. In North America and Europe, a rash of multi-billion dollar mergers and alliances fused some of the world's biggest telecommunications companies with technology developers. And all this helped trigger a share-market boom.

In 1999, the US Nasdaq Composite Index, which measures the total market value of thousands of technology-related companies, more than doubled as investors put their money behind almost any technology-related proposal. It seemed any spruiker with an internet angle, even companies that did little more than design websites, could command millions of dollars, indeed *billions* of dollars, of fresh funds with little or no attention paid to profit reckoning. Investors just wanted a slice of the latest technology company, whatever it was, and fleet-footed investors who bought early into a dot.com stock realised they could sell the stock quickly and make a fortune. Telstra needed to switch on, and switch on fast.

So in November 1999, when Telstra directors were offered the chance to visit Silicon Valley in California and listen to the spiels of some of the world's internet and technology mavens, nine of the twelve directors signed up immediately, including Vizard. It was a whirlwind tour, one that impressed on Telstra's directors the adventure and mind-numbing potential of the new technology, as well as the awesome implications that all this investor commotion had for raising capital.

They emerged goggle-eyed—'turbo-charged', as one said—certainly a little woozy with the jargon, yet buzzing with ideas about how the lumbering telecommunications giant of Australia might take the initiative. They mused about the possibility of Telstra buying stakes in other technology companies or formalising alliances that might later be floated on the stock exchange, perhaps raising billions of dollars. As CEO Switkowski put it, Telstra wanted to become 'the internet sun around which all the other planets would revolve'. It was fuzzy corporate self-analysis, and it fed some pretty dumb decisions.

One of the biggest proposals that didn't go ahead was formulated in March 2000 when Bob Mansfield, who assumed Telstra's chairmanship in late 1999, held some quiet discussions with media tycoon Kerry Packer and proposed Telstra might stump up some $11 billion to take over the Packer-controlled media group Publishing and Broadcasting Ltd. Mansfield convened a day-long meeting of fellow directors to discuss the plan.

'There was a lot of nervousness about the deal,' one director said, 'and we went around the table and spoke individually about it, about what we thought. Everyone else voted against it, except Ziggy and Bob [and one other]. So Bob went out and he actually rang the prime minister . . . and when he returned he said that the prime minister said he was mightily relieved.'

Just days later though, on 20 March, Telstra revealed plans to coalesce in a proposed share-swap merger between an accountancy software group called Solution 6 Holdings and a website applications company, Sausage Software. Telstra already owned shares in Sausage Software, so if everything went according to plan Telstra would emerge with 40 per cent of the merged Solution 6/Sausage Software group. Based on their respective share prices, the deal valued the proposed Solution 6/Sausage Software company at some $4.5 billion—an extraordinarily inflated price for a fledgling internet applications group. But the Solution 6/Sausage Software deal never went ahead.

Discussions lumbered on for a few months, during which Solution 6 dumped its chief executive Chris Tyler after learning he had a criminal conviction for marijuana possession dating back to 1985, and ultimately the deal fell apart as investor confidence in technology shares generally began to slide.

Just as the market was coming off its peak, however, Telstra made its biggest mistake. On 13 April 2000 it revealed plans to merge its international operations with those of Richard Li's Hong Kong-based Pacific Century CyberWorks (PCCW). This was a radical move indeed. Telstra was putting billions of dollars behind Richard Li, one of the most controversial business figures in Asia at that time; it was investing in a heavily debt-laden company that was viewed with considerable suspicion in Hong Kong. Telstra initially agreed to buy 40 per cent of PCCW's Hong Kong-based mobile phones business and invest $US1.5 billion in PCCW securities which could be converted into shares. All up, Telstra considered the $3.5 billion deal with PCCW essential to its long-term plan of entering the growth telecommunications market in China. But in the following months, as PCCW's share price fell and the value of telecommunications assets around the world tumbled, the pricing and structure of the deal had to be constantly reworked. It was not until 2005 that Telstra bluntly admitted error and defeat with the PCCW deal. By then it had written off about $3 billion of PCCW-related investments.

Now, while Telstra was toying with these multi-billion dollar deals, Steve Vizard was also out there, playing the share-market and enduring exhilarating ups and downs as share prices for technology stocks doubled and then plunged. He was not a novice to the market though; Vizard had traded shares for several years, and although his portfolio lacked exposure to the spectacular growth companies of the late 1990s—the so-called dot.coms of the technology sector—he did have one or two direct investments in unlisted technology stocks.

Since joining Telstra's board in 1996, Vizard had widened his private business interests, moving beyond television production and media distribution deals and into the internet sector. His Artist Services joint venture with Fairfax, however, had proved problematic at best. He felt Fairfax didn't understand the creative dynamics and financial demands of a production house.

So in late 1998 when the respected British television and film production group Granada Media offered $28 million for Fairfax's holding and the balance of shares owned by Vizard and Knight, the money was snapped up. It was a big price, especially considering that by 1998 many of Artist Services' key writers and producers had quit. Vizard appears to have made at least $11 million before tax from the two-step sale of his shares in Artist Services.

He remained a consultant to Granada and chairman of its Australian operations, but in his private capacity he turned his attention to the investment opportunities in the emerging internet sector. One of these was Sportsview.com, a joint venture between Vizard; his friend Eddie McGuire, Australia's highest profile television personality, the president of the Collingwood Football Club, and most recently the former chief executive of Nine Network; and Stuart Simson, formerly a senior executive at John Fairfax Holdings. The balance of about eight per cent was owned by an unlisted company, Virtual Communities, which had been set up to sell cut-price computers to trade union members and schools. (Vizard was one of many investors in Virtual Communities; others included the St Vincent de Paul Society, the Sacred Heart Mission, the trade union movement and stockbroking houses.)

Sportsview's owners believed that the swelling popularity of the internet would create simple marketing opportunities for football clubs, and if clubs were smart enough, they could use websites to develop much closer ties with their existing members and attract revenues from non-member fans by selling merchandise online. They could create interactive websites where fans might chat with their favourite players and feel more connected to the gossip around the club; in effect, the clubrooms—the camaraderie, the social life, the revenue-raising side of the business—could go online. By early 2000, Sportsview had secured the rights to develop websites and other online marketing capabilities for four AFL clubs: Collingwood, Carlton, Hawthorn and Western Bulldogs. Sportsview's vision was ambitious though; it wanted to push beyond text-based websites, invest the club's websites with sound and videos, and perhaps one day show football games on the internet.

And that's where Sportsview's interests—and those of Vizard—came into direct conflict with Telstra, which negotiated with the AFL throughout 1999 and 2000 to secure blanket internet rights for AFL activities including, eventually, telecasting football games. Yet Vizard's perceived conflict was not limited to this Sportview/Telstra nexus. He was also a member of the MCC committee which, aside from matters related to the AFL's broadcast rights, wanted the MCC to retain control over all online activities for AFL games played at the Melbourne Cricket Ground, including the all-important football finals series in September. It is not entirely clear how Vizard handled this conflict at the MCC, although it apparently caused a little discomfort. One committee member suggested everybody around the MCC board table knew that Vizard was a Telstra board member and readily recognised how that conflicted with the MCC's own struggle to control broadcast rights at its own ground. But few apparently grasped the third dimension that pitched Sportsview against *both* Telstra and the MCC. 'It came out in the wash,' one committee member said. 'At that point, the conflicts were clear—or it became clear—so we obviously bore that in mind.' Vizard's conflict was not so easily resolved at Telstra, where in 2000 his involvement with Sportsview increasingly troubled other directors.

Until Sportsview generated revenue, however, it would remain little more than another website hopeful—with big plans, lots of spruiking and almost no way of assessing its inherent value. Its breakthrough came on 30 January 2000, when the stock-exchange-listed internet technology developer, MultiEmedia.com Ltd, agreed to buy new shares representing a 22.6 per cent stake in the company in return for Sportsview receiving three million MultiEmedia shares plus $1.2 million cash.

MultiEmedia, headed by Adrian Ballantine and Geoff MacLeod-Smith, was just starting to garner respect among some leading financial institutions that wanted to use its internet technology to build e-commerce transaction platforms for their small- to medium-sized business customers. But in early 2000, MultiEmedia was particularly interested in Sportsview's AFL website potential because it too had interests in this area. MultiEmedia had developed websites for two AFL football clubs, Richmond and Melbourne, so together Sportsview and MultiEmedia controlled website and online contracts for almost half the AFL clubs. It was a formidable bloc. It only took a few weeks after the share issue announcement for the boundaries between Sportsview and MultiEmedia to blur as Sportsview's representatives seeped into the executive at MultiEmedia. Shaun Levin, a close business associate of Vizard over many years, a former financial officer and chief executive of Artist Services, and at the time a general manager of Granada Media, became MultiEmedia's chief financial officer. On 23 March, Levin joined MultiEmedia's board.

For Vizard, MultiEmedia's link-up with Sportsview proved especially lucrative. On 29 February, MultiEmedia convinced Vizard to join the board with the offer of 4.5 million options, exercisable into MultiEmedia shares at 20 cents each. The options would be his director fees, and the board agreed that Vizard could exercise up to 2.25 million options immediately so he could meet a tax liability. MultiEmedia's shares at the time were trading at around 80 cents each, so the options were well 'in the money'.

When Vizard's appointment was formally announced to the stock exchange the next day, MultiEmedia's directors offered the predictable spiel about how 'absolutely delighted' they were that he was joining the company. Vizard said he was 'looking forward to the growth and development of Sportsview' now that MultiEmedia was one of its shareholders. But Vizard could barely wait until the ink was dry on the press release. One day later he wrote a cheque for $450 000 and converted 2.25 million of the options into shares. And just five days later he began selling those newly acquired shares, so that by 9 March—on the eve of MultiEmedia releasing its half-year results to the stock exchange—all 2.25 million of his MultiEmedia shares newly converted from options had gone. He made a cool $1.35 million within a week, just by joining the board.

But it was not until 22 August, some five months later, that Multi-Emedia investors, and the stock exchange learnt Vizard had cashed in his shares. MultiEmedia's then-chairman Adrian Ballantine later told journalist Kate Askew (*Sydney Morning Herald*, 9 July 2005) that the board 'would never have said you can sell the shares the next day'. Vizard's share sale 'was a shock to us . . . we looked like dummies,' Ballantine told Askew.

In fact, there were two tardy notices about Vizard's share trading released to the Australian Stock Exchange on 22 August 2000. Both were submitted by Vizard's external accountant, Greg Lay, a senior partner of accounting firm Clarke Bentleys (now known as Bentleys MRI). Lay was responsible for filing Vizard's tax returns and his firm had charge of auditing Vizard's companies. Lay apologised to the ASX for the delay in submitting the notices and blamed it on 'an oversight . . . We have endeavoured to promptly provide notifications as soon as we became aware of the situation.'

The second notice submitted on 22 August related to Vizard's shareholding in Oakton Computing. Vizard was chairman of Oakton, and when it debuted on the stock exchange on 2 June 2000 he was cited as owning 500 000 ordinary shares in his name and 900 000 options exercisable at 20 cents each. (The options could not be exercised for the first two years and would expire in August 2010.) That placed him among Oakton's top twenty shareholders. On 18 August, like other Oakton directors, Vizard signed a notice reaffirming he had a relevant interest in 500 000 shares and 900 000 options—unchanged since early June. But three days later, Greg Lay told the stock exchange that when Oakton floated, Vizard in fact had an interest in another 750 000 shares which were owned through five trustee companies. For reasons that were not revealed to the exchange, these shares had not previously been disclosed either to Oakton or to the stock exchange. In other words, when Oakton floated, Steve Vizard, the company's chairman, had an interest in 1.25 million ordinary shares, and not 500 000 as first indicated.

The revisions did not end there, however. Six days later, Greg Lay once again revised Vizard's Oakton holding. With a brief apology for the delay, Lay told the exchange that one month earlier—on 28 July—one of those five Vizard trustee companies sold 48 200 of its Oakton shares. (Vizard finally exercised his 900 000 options into shares a year later, and in 2002 he sold 1.1 million of his 2.1 million Oakton shares for $1.2 million.) Inside Vizard's empire, there appeared to be some pretty lax bookkeeping or an extraordinary disregard for the statutory requirements of disclosing share trades.

Around the time that Vizard's minions were pumping out correction notices to the stock exchange, the directors of Telstra were becoming increasingly concerned about Vizard's direct and indirect investments in small internet technology and internet communications businesses—investments that were valued at millions of dollars. By one account from inside the boardroom, there was rising alarm about which ones had ambitions that intersected with Telstra's plans. When Vizard's links to this or that internet company were mentioned in the media, there were a few quick glances and raised eyebrows in the corridors at Telstra, but of special concern was his involvement with Sportsview.

One version of events suggests that Vizard was confronted by the chairman, Bob Mansfield, and at least one other director about a perceived conflict of interest arising from his links to Sportsview. Vizard denied he had any conflict, and said that if one arose then it could easily be managed. One source said Vizard was asked to go beyond merely managing that conflict, and instead to divest himself of his Sportsview interest. He refused and, so the story goes, Mansfield and chief executive Ziggy Switkowski then indicated to the government that Vizard would have to step down. The government agreed, and Vizard's exit from the board was announced publicly in September 2000. The company said simply that Vizard had decided not to stand for re-election when shareholders met at the annual meeting in November.

But a different account of Vizard's departure suggests that high-minded concerns about Sportsview were merely a ruse to get rid of him, and that Vizard was dumped because, along with at least three fellow directors, he strongly opposed the controversial multi-billion dollar PCCW deal that had been promoted by Mansfield. Yet another version suggests Vizard and fellow directors Cecilia Moare and Christopher Roberts were sacrificial lambs, dumped from the board because 'the government also wanted to be *seen* to be doing something about Telstra—I mean, this was when the shares were falling and we were very much on the nose.'

The reason why Vizard left Telstra is not entirely clear, but when push came to shove, he was shoved. Inside sources say he was 'fired'. That is not the way it was portrayed at the time, however. 'He did not want people to think he had been fired,' a government source said. 'I think he was concerned about the media asking about why wasn't he going for re-election, so he was wanting to massage it.'

Said a former Telstra boardroom colleague: 'Steve was very conscious about his public image in all this and he wanted to manage the way it would be presented.' He was extremely concerned that nothing should be said publicly that would damage his image or reputation. The government and Telstra acquiesced and, amid the furore about Telstra's PCCW deal at the time and with share-markets plunging, Vizard's departure was played down.

Between 1 July and 17 November 2000, when Vizard officially stepped down from the board, Telstra directors convened with surprising frequency, holding eleven meetings in twenty weeks. Vizard attended eight of those meetings. When he finally packed up his Telstra papers and farewelled fellow directors, he received a superannuation payout from the company totalling $81 980.

7
Farewell to Hilliard

On a warm Tuesday evening in mid-October 2000, a small party of Steve Vizard's closest acquaintances gathered at Willows Restaurant, a fine-dining establishment set in an elegant, heritage-listed mansion on St Kilda Road. It was a pleasantly convivial group and across the two reserved dining tables there was plenty of gentle banter as glasses of wine were raised in wave after wave of toasts.

Steve and Sarah Vizard were farewelling their long-time personal bookkeeper, Roy Hilliard, as he retired after nine years inside the Vizard empire. Hilliard wanted to embark on a luxurious overseas cruise with his partner, Margaret McCready, and to take in some tourist sights while he was still relatively young, in his early fifties. And later, when they returned, he thought he might buy some land or perhaps a house a little way out of Melbourne. Only two days before, the couple had signed contracts to sell their eighth-floor apartment in the Park Central complex a block or two down the road from Willows, and they figured that after discharging the mortgage there would be plenty of money from their other investments to set themselves up for life.

Retirement had been on Hilliard's mind for a while. He told

Vizard back in February that he wasn't sure if he wanted to stay in the job, then he changed his mind. There were a few things troubling him about the job but he'd also had some worrying health scares—his doctor had detected an irregular heartbeat. So Hilliard changed his mind yet again and decided to make a clean break. He gave his boss notice in July, leaving enough time to track down a new bookkeeper.

It didn't surprise Vizard when Hilliard decided to go. Something about his attitude had changed, Vizard said later, because 'Roy seemed to be tired of the job and paying less attention to detail'. Hilliard had been almost a part of the family and, according to Vizard, the pair had become 'extremely close . . . we trusted him with every matter of our lives'.

But Vizard soon hired a new man, Barrie Stevens, to take over the financial side of his affairs. Stevens was an old hand, a laconic straight-shooter and a highly experienced bookkeeper who could trace his career in finance and accounting all the way back to 1951 when he started a twenty-five-year stint with ANZ Bank. In recent years he'd been a finance administrator at Buchan, Laird & Bawden, the architecture arm of the Buchan construction group, and in the few hours Hilliard had so far spent with him, he seemed a pleasant enough fellow.

So all was in order for Hilliard to move on. Yet his ears pricked that evening at the Willows. Perhaps he was being paranoid, perhaps he had something to fear, but as the night wound down he fastened on to an otherwise trivial and patently light-hearted remark. One of Vizard's closest advisers, lawyer Ross Millen from Deacons, leant across and, as if to reinforce just how crucial a cog Hilliard had become in the inner circle, he jokingly stage-whispered to Vizard, 'Roy should be killed. He knows too much.'

Roy Hilliard was an unusual figure in Vizard's life. For one thing, he had little in common with the crowd of mostly highly confident, lively men who flocked around the celebrity. He was easily as tall as Vizard, solidly built with overly long grey hair flopping to one side, yet he walked with a slight stoop, as though the weight of the world was on his shoulders only. These days, Hilliard is a dour, carefully spoken man whose leaden demeanour betrays great sadness. He has been through hell, and more than a few times since that retirement dinner Hilliard has tried to silence his private demons, at least once by shovelling handfuls of pills into his mouth and chasing them down with cognac. Roy Hilliard under stress veers close to suicide.

But in October 2000, the idea of killing himself never entered Hilliard's head. He was reasonably happy, just two days away from taking that much-anticipated Cunard cruise with Margaret. Ahead lay London, then perhaps a short tour of the ruins of Athens before they boarded an ocean-liner and sailed across the Mediterranean Sea, through the Suez Canal to Singapore. A few days of rest, and they would fly back to Australia in late November. Cruises were Hilliard's special peace, with endless days of sunshine and tours of historic ports, or hours spent idling on deck with his finger marking his place in a book as he mused about what a splendid life money could buy. The food was usually fabulous, the service impeccable, and one felt quite privileged just to be on board.

How many cruises had he taken anyway? Way back, if he really stretched his memory, Hilliard might just recall trotting down a railed gangplank in the spring of 1956, lugging bags behind his mum and dad as the little family from Hertfordshire made their first steps in Australia. Behind them on the Peninsular & Oriental Steam Navigation Co's *Strathnaver* were hundreds more British migrants, all 'ten-pound Poms', and all with achingly big hopes of making a new life, new wealth, in the relative safety of Australia.

And there was the uncertainty that at any time his father's wartime experiences would come back to haunt them. Not the bombs and terror that so many endured, but the memory that Roy

Ernest Hilliard had been involved in killing two fellow British soldiers while on guard duty in occupied Germany. Perhaps that was why Roy and his wife Norah, twenty-nine, travelled to the other side of the world; after the court martial, there would never be any escape from the stigma in England. But Norah, a strict Catholic, suffered too. Imagine her shame—shame piled upon shame—knowing that she could never take back what her husband had done, never curb his drinking and would always suffer his abuse.

After only two years in Australia, Roy Ernest Hilliard uprooted the family again and shipped them to Auckland, New Zealand. But the Hilliards' idea of a better life in the Antipodes just never happened. Norah was taken ill with epilepsy, and as her husband's drinking worsened the family started to fall apart. Little Roy was terrified of his father, and his self-esteem withered. And of all the tragedies wrought on this sad little family unit, Roy's kid brother Rory was killed accidentally when just seven years old.

Once he finished school it seemed Roy never stopped looking for a better life. He was sharp and intelligent but, job after job, year after year, Hilliard would swap and change roles. First there was a host of bookkeeping jobs back in England, then a short stint in Auckland with the oil company BP New Zealand, followed by temporary bookkeeping jobs, again in England. He didn't have formal qualifications, but he invented some 'to increase my chances of obtaining a job' he said later. And then in mid-1984, at the age of thirty-five, Hilliard flew to Melbourne to start his life again. He landed a bookkeeping job with Glen Iris undertakers Drayton & Garson, but quit twelve months later and joined Wandana Travel agencies as company secretary and bookkeeper. Considering Hilliard had barely warmed the seat elsewhere, Wandana looked like a career move. And it was through Wandana Travel that Hilliard met a singularly important contact who gave him hope that perhaps he could cut a space for himself in the world of business and start to make something substantial of his life.

Christopher Graham Wood was a Melbourne historian and academic with special interests in fine arts, architecture and history. He was developing his own modest, though thriving, business hosting small groups of tourists to Europe, Asia and North Africa. His specialty was enthralling his clients with a vibrant and comprehensive understanding of how a region's art or music, philosophy or politics, developed. Hilliard saw great potential in all this. He figured Wood should expand the business, and he proposed they should join forces. So in April 1989, he stumped up $14 500 for a 50 per cent stake alongside Wood in a company they called Information Age Travel (IAT). It seemed to be a smooth relationship. In any year, Wood might be travelling overseas for several months, leaving Hilliard with all IAT's accounting and bookkeeping matters. Wood's wife, Kristen Jane Hellstrom, dealt with the clients and helped to organise tours. The whole business, at least initially, was run from Wood and Hellstrom's small apartment in St Kilda.

And what a debut year it was for little IAT. Countries of Eastern Europe were opening up after the Cold War, the Soviet Union was disintegrating and tourists were keen to venture into more difficult and remote regions well off the usual tourist trails. But Saddam Hussein killed the momentum. When Iraqi forces invaded the neighbouring oil state of Kuwait on 2 August 1990, oil prices almost doubled overnight, the US currency plunged and Western forces gathered to rout the dictator. Travel, especially to the Middle East, became seriously expensive and a little more dangerous. Information Age Travel was hit as hard as any other travel agency. Customers cancelled their travel plans or cut back their itineraries, and IAT's cash flow began to dry up.

It is true that IAT restructured at that time, but there is some dispute about exactly what happened inside the organisation. One version says the downturn in international travel triggered Hilliard's decision to leave the company. Another version, told to a court by

Kristen Hellstrom in 2001, raises serious questions about Hilliard's competency and honesty. In any case, Wood, Hellstrom and Hilliard agreed the most obvious expense to cut was Hilliard as a full-time bookkeeper. It must have been tough for Hilliard—at around forty years of age, he would have to strike out and find a full-time job elsewhere. He wanted to keep his hand in the IAT business, though. It was his money in there, and he wanted to help as much as he could. So Hilliard suggested, and his colleagues willingly agreed, that, for no salary, he would keep doing all IAT's banking and daily financial duties.

Hilliard lodged his curriculum vitae with a jobs placement agency and in time was called to an interview with Greg Lay, a senior partner at an accountancy firm Clarke & Co (later known as Clarke Bentleys, and more recently as Bentleys MRI), and Winston Wade, a senior finance executive at the television production house, Artist Services. Sure, Hilliard's CV was a bit lengthy—there'd been quite a few jobs over the years—but he was out to impress. So, just as he had done in England, he fiddled it a bit, puffed it up with extra credentials.

Lay and Wade were interviewing a string of candidates on behalf of a high-profile person who needed someone to take charge of all the internal bookkeeping for his private companies. The client's business was expanding and his personal financial affairs needed a dedicated hand. Discretion was required, of course, because this client was someone who was always in the public eye. But it would be a full-time job, and there might be higher-level responsibilities in time.

Hilliard was intrigued, but he made it clear that no matter what was on offer he still wanted to do his bookkeeping duties at IAT. That was not negotiable—IAT was partly his business and his colleagues needed his bookkeeping skills. It was hardly a hurdle for Lay and Wade. They liked the quietly mannered Hilliard, they liked his appreciation of art and wines—the man had character—and after they shook hands and ushered Hilliard out the door they picked up the phone and dialled Steve Vizard.

Hilliard came aboard almost immediately, on 29 July 1991. It must have seemed a glamorous role, working for Steve Vizard, the comedy king of television. Laid in front of Roy Hilliard, in all its dubious glory, was the magical world of celebrity, of fame and ego and fortune. And your starting salary, Roy Hilliard, is—hear the ker-ching—$45 000. That's about what a mid-ranking suburban accountant got in 1991. Forget that Vizard was pulling in some $800 000 a year from the Seven Network, *plus* the proceeds he got from Artist Services' production deals, *plus* the revenue from selling *Fast Forward* and *Tonight Live* to the Seven Network. Forget his portfolio of investments. Hilliard would get a fraction of his boss's income plus the occasional Christmas bonus of, say, $2500 and maybe as much as $7500, yet he would be trusted with the most intimate details of his employer's financial affairs. Perhaps Hilliard expected that his salary would jump in later years (eventually it did reach $60 000 a year). Or perhaps Vizard suggested a different kind of financial incentive for his bookkeeper, one that later might make Hilliard very comfortable indeed.

Vizard's rapidly growing business empire was not in quite the order that Hilliard expected, however. The previous bookkeeper had been seconded full-time to Artist Services, so Hilliard had to devote his energies to sorting out the finances of Vizard's two biggest companies, Performing Arts Services and United Film Completion. He discovered the financial statements and tax returns had not been done for two financial years. And there were a few problems disentangling Vizard's personal expenses from his business expenses. All the money, of course, was Vizard's—it was his personal business group—but legitimate business expenses would attract a tax deduction; personal expenses would not. It was, Hilliard said later, 'a very confused situation'.

For the nine years that Hilliard stayed with Vizard, he became very familiar with every aspect of the entertainer's life. He knew almost every business proposal and every family expense. He paid the school fees, the solicitors' fees and invoices for builders, and he signed cheques to buy paintings and wine. He knew the status of every bank account, and the value of the assets and he knew every share that Vizard added to his portfolio. Nine years of balancing the books and liaising with the bank was all locked in Hilliard's memory. And over those nine years, Hilliard idolised his boss. He adored his charming manner, his never-say-die confidence and his bright ideas. Vizard was a determined, focused and driven businessman, and Hilliard soaked up every iota of strength he could draw from him. Private reservations about what Hilliard considered sly financial dealings by Vizard didn't seem to sway the bookkeeper from doing exactly what he was told. 'He's a hard man to refuse,' Hilliard said later. 'He has qualities that I admire and that I perceive as a lack in myself—oodles of self-confidence, ability to think on his feet, things like that. I was, quite frankly, in awe of him and I was anxious to please, basically. And I did my best.'

Hilliard adored his boss so much that over the years he began to use the same institutions that Vizard did. He used the same bank: Westpac. And when Hilliard's wealth swelled into the millions of dollars—yes, millions of dollars, despite his relatively meagre salary—he and Vizard used the same bank manager at Westpac Private Bank, the division that handles wealthy individuals. They both collected rare stamps; they even traded stamps with each other. And they both appreciated and collected fine wines, though Vizard preferred the hardy Australian reds and Hilliard liked an exotic tipple of cognac; he even advised his boss on the installation of a wine cellar in the family's mansion. In time, quietly and discreetly, the bookkeeper slipped into the routine of the Vizard family like an old companion.

Once Hilliard walked out of Vizard's life, though, it should have been for good. It should have been a clean separation for the former bookkeeper, and an easy transition for the new man, Barrie Stevens. All those banking matters and the cashbooks and the ledgers, all the stresses of dealing with someone else's money, were in the hands of Hilliard's successor. No more shucking funds from one account to another and constantly debiting Steve Vizard's inter-company loan accounts. Bank authorisations, paying bills and pleasing the master would be Barrie Stevens' problem—good luck, Barrie Stevens!

Stevens, though, didn't think the Vizard accounts would be overly complicated. It was a matter of knowing where the chequebooks were, who might be the best contact at the bank, preparing monthly reports to hand to accountancy firm Clarke Bentleys, and making sure the bills were paid. Doing Vizard's accounts was not 'rocket science', he said. Though perhaps there hadn't been enough time for Hilliard to acquaint Stevens with the Vizard set-up, to explain how things operated with the famous businessman. There were a few details, one might say, that Stevens might find odd—quite unusual, in fact—but the new man seemed sharp enough, and even if Stevens couldn't operate a computer and relied instead on handwritten accounts, there was always the external accountant, Greg Lay, to help him out. After all, Lay knew plenty about Vizard's empire too.

As one of the senior partners at accounting firm Clarke Bentleys—and later chairman of the firm—Lay had taken charge of some of the more, shall we say, delicate finance and business matters for Vizard over many years. It was Lay who filed all the tax returns, and it was his firm that audited the Vizard accounts when—or rather, *if*—Vizard got around to signing them. It was Lay who filed notices to the stock exchange about the boss's share trading. And it was Lay whom Vizard summoned when he had 'special' financial matters that needed attention. Hilliard hadn't been left out of the loop, though. Sometimes over lunch and a bottle or two of wine, he and Lay would talk about what Vizard had been up to, and he could remember discussing some 'special' financial matters that had worried them both.

All those years with Vizard were well behind Hilliard as he sailed gently into semi-retirement. In the last week of October 2000, he and

Margaret McCready were in sun-drenched Athens with barely a care in the world. They would have strolled through ancient streets paved with white marble, gazed up at the glaringly white edifice of the Parthenon, and prepared for yet another first-class cruise. They knew the routine of ocean-liners: ahead lay the sights of Egypt and the near-East, the promise of excellent food each night and the chance to sample some of the world's best wines. Hilliard would kick back each evening, gaze at the orange and crimson glow of sunsets over the Indian Ocean, and generally ponder a life well away from Steve Vizard and his money.

And he would be utterly oblivious to the rising concerns of his successor, Barrie Stevens.

8
Double zeroes

Barrie Stevens can spy a dodgy entry in anyone's accounts just by looking at how the zeroes line up. Old-school bankers are like that. They see rounded numbers and they see trickery, and twenty-five years at the ANZ Bank had taught Stevens a thing or two about customers' finer deceits. One day he'll be sifting through snowy white piles of paper, tracing line after line of financial transactions, matching cheque butts to deposit slips, and there in front of him is a double-zero, an even amount. Sirens go off in his head. That can't be right, he says. Rarely do businesses have double-zero entries depicting deposits and withdrawals in the even thousands. Better check it out. The same thing happens when Stevens checks an inventory. Right, he'll say, double-check it. Track it down, have we got the item or not? Oh, for the patience of a green-shade accountant.

So when Stevens started working for Steve Vizard in October 2000, it seemed a fairly mundane and entirely reasonable request from his new boss that he should verify the assets of every company in Vizard's business group and personal portfolio. The start of the new regime is a sensible time to do a stocktake in anyone's business, and because Stevens would need to compile a comprehensive report on Vizard's finances each month, listing the assets of his companies and cash movements in the previous four weeks, plus profit and loss figures, it was only sensible to clarify a baseline for the accounts, a starting point. Greg Lay and his colleagues at Clarke Bentleys might be able to help by formatting all the monthly accounts on a computer, but it was up to Stevens to pull the figures together.

Day one and Stevens would fish out the accounts and financial statements for all the Performing Arts Services units, including the Vizard Foundation and Roxby Park farm, plus all the family's personal bank accounts and a few other bits and pieces. Checking the assets shouldn't be too hard: just a matter of asking the managers at Roxby Park how many sheep are roaming the fields, or the curators at the Ian Potter Museum of Art which Vizard Foundation paintings are on the walls.

Vizard especially wanted all the family assets and those of the Foundation checked to make sure they were safe and secure and all in their right places. After all, the Vizards had been like nomads in the previous year, and some of the artworks might have gone astray. Only twelve months earlier, they'd sold a $3.2 million home in Toorak (picking up a cool $450 000 tax-free profit within a year), and before Christmas 1999 they packed up all five children and pets and escaped Melbourne for a much-publicised sojourn at Roxby Park near Geelong. But instead of staying at the farm for a year and a half as planned, the family quietly returned to Melbourne within a few months and rented a house in Armadale. Then in September 2000, just before Stevens came aboard, the Vizards exchanged contracts to buy the stunning property designed by Desbrowe-Annear in Orrong Road, Toorak. Settlement wasn't due until the following year, but as the family prepared to shift house yet again, Steve Vizard was wondering whether perhaps some of the Foundation's paintings might have been left at Roxby Park or perhaps somewhere else.

Verifying the Foundation's assets shouldn't have been too hard, but as Stevens looked around his office at Vizard House in East Melbourne, he noticed a surprising lack of documents. Indeed, it was all a bit empty. This fellow Roy Hilliard must have been an unusually tidy person, Stevens thought. Very tidy. Storage contained very little, there were few financial papers left lying around, and the filing cabinets were almost empty. Other than the formal company accounts, there was not a great deal that Stevens could readily put his hands on. Not to worry; all he needed were the Foundation's asset registers and accounts at this stage, and Greg Lay had stored an electronic copy of those. He downloaded it and sent it over. From the back of the Foundation's accounts, Stevens pulled out a depreciation schedule which listed the hundreds of artworks in the collection, the date each item was bought and how much it cost. It was a handy reference, a schedule that would have been updated each time the Foundation purchased or sold an item. Now he had to make sure each artwork was in its rightful place, safe and secure.

Stevens buckled down to locating the art assets and tried to get his head around Vizard's other business affairs. But when Stevens pored over the lists and telephoned the Ian Potter Museum of Art, he discovered some uncomfortable discrepancies. A few things did not make sense.

Armed with his tally sheets, the Foundation's depreciation schedule and some handwritten notes, Stevens called a meeting with Vizard and Greg Lay and, methodically the trio worked its way through the documents. Most of the paintings in the Vizard Foundation were recognised, checked, ticked off and their cost values examined. But as the men turned the pages, jotting notes and marvelling over some of the collection's better prizes, Stevens stopped and, with his finger tapping the register, he indicated six paintings that he later said appeared hopelessly 'out of context with the rest of the work'. Among them was one by Brett Whiteley, the iconic Sydney artist whose vivid canvases had appreciated sharply since his death in 1992. Another was by John Glover, the British-born artist whose innovative interpretations of the Australian landscape in the early nineteenth century were keenly sought by art collectors. And a third was *Man in a Landscape*, a large oil-on-canvas painted by Sir Russell Drysdale in 1963, depicting an Aboriginal stockman bracing himself intensely before a desert landscape.

Six paintings. Six very well-known paintings valued in total at $657 000. Whoever was bidding for the Vizard Foundation back in November 1995 must have had a rush of blood to the head, because it seemed all six paintings had been snapped up at the same time. But what was odd about the paintings was that they were somewhat older than most of the other paintings in the Foundation's collection—they were certainly not painted in the 1990s. The Foundation was a vigorous sponsor of young artists, and while Vizard may have liked some of the pioneer Australian artists, these paintings did not fit the Foundation's preferred art genre. Most of the Foundation's paintings, certainly those retained at the Ian Potter Museum, were by young modern artists, and most had been created *after* 1990.

It wasn't just the age of the paintings that perplexed Stevens though. Worse, much worse, these six canvases were nowhere to be found. They were not at the Ian Potter Museum, certainly not at the farm, and they were not on the walls of the latest *chez Vizard*. Perhaps they'd been sold and someone had forgotten to record it? After all, Vizard had sold plenty of paintings through the art auction houses a year earlier; some had been assets of the Foundation and some had been owned by Steve and Sarah, though none—not one—of those sold in 1999 had been publicly displayed. Maybe these six ended up with the auction houses? Perhaps they'd been left at yet another property?

'Steve,' the bookkeeper asked, 'what do you know about these?'

Stevens peered across at his boss, who was still staring at the register. After a decade investing in top-of-the-market art, and as head of the National Gallery of Victoria's board of trustees, Vizard knew many of the great works of Australia's finest artists. He knew what was keenly sought by collectors and, heck, these looked like fantastic acquisitions but they couldn't be part of the Foundation's assets. Vizard was adamant: 'I've never owned them,' he said, 'though I wish I had.'

Stevens sat back in his chair. Lay looked from the register to Vizard to Stevens. Vizard was reading the titles again. He had recognised the paintings immediately and, he said later, he was 'astounded' by what Stevens had discovered in the Foundation's accounts. These paintings, he said later, were 'exceptional works of art by extremely well-known artists. And they have an extremely high value. A Brett Whiteley, a John Glover and a Russell Drysdale—extremely well-known artists. And I think they stand out amongst any works of art.'

The paintings wouldn't be found in the collection or the house or the farm or anywhere else, Vizard said, because the Foundation had never, *ever* acquired them. And these paintings didn't belong to the family either. This wasn't a case of mixing up his personal assets with those of the Foundation; these were paintings that Vizard would have loved to own, but he'd never had the chance to buy them.

Stevens and Greg Lay must have picked up the register and thumbed through it again. Was Vizard kidding? For five years, six paintings had been part of the Foundation's register and no one had detected them? Vizard certainly wasn't examining the Foundation's register for the first time; he seemed to understand the format, the way it was laid out on the page, the entries and their valuations. And if anyone had checked the asset register monthly, as Stevens was now required to do—even if they had checked it just once a year during a thorough audit, as Lay's firm Clarke Bentleys was meant to do—then surely these bogus entries would have been detected. Vizard asked Lay for an explanation but the accountant was still not convinced that what they were looking at was anything more than an error. It needed further examination, sure, but don't jump to conclusions yet.

Barrie Stevens must have felt slightly relieved. At least the paintings weren't lost, he thought—the Australian art world couldn't take its whippy-sticks to Steve Vizard for losing track of the odd Drysdale, Whiteley or Glover. He hadn't mislaid the paintings, or left them behind one sunny afternoon down at the farm. They simply were not in the collection.

But Stevens saw another problem looming. Although the paintings made up only a fraction of the Foundation's assets, the fact that they were in the books at all might have implications for Vizard's tax situation. If the Foundation had *not* bought the paintings, as Vizard was saying, then the Performing Arts Services trust, which regularly transferred funds to the Vizard Foundation, may have declared a falsely lower income in 1995–96, and that might have tax implications for the trust. With these paintings on the register, the Foundation's accounts showed a bulging set of assets that apparently didn't exist.

Stevens was just the kind of accountant to get to the bottom of it. Diligent, thorough, and with a nose for anything a bit iffy, he set to work. If these paintings had been in the market in the past few years, then Sotheby's, Christie's or Deutscher-Menzies might have records to confirm whether the Foundation had bought or sold them without Vizard being aware of it. They might have dockets of sale or copies of invoices, perhaps.

One of the managers at Christie's discovered that one of the paintings last changed hands in the auction market some thirty years earlier. Nothing else turned up in the auction house records, although Stevens did locate three other artworks belonging to the Foundation that had been on hold at Deutscher-Menzies for eighteen months—apparently Vizard was holding out for a higher price. Stevens dug deeper. Maybe a bank account transaction statement from November

1995 would show why the assets were marked into the register. Maybe there was a cheque butt or invoice in the Foundation's records that matched a similar amount.

Stevens started rifling through old files and cabinets, drawers and cupboards—anywhere he thought Roy Hilliard might have stored the companies' chequebooks, its bank statements or invoices. By law all companies must keep all evidence supporting their tax claims for seven years, so there should have been boxes of receipts, pay-in books, invoices, statements—something—lying around gathering dust. Stevens hunted everywhere. He checked the small office that Hilliard had used at Vizard House in East Melbourne, Vizard's Port Melbourne offices and the farm at Roxby Park, and he checked with the accountants at Clarke Bentleys, but there was nothing. Other than a few Roxby Park accounts which had been left lying in a cabinet at the Port Melbourne offices, there were no invoices, no cheque-books, no deposit books dating before 1 July 2000—masses of daily financial records for every unit of the Performing Arts Services group, with the exception of Roxby Park, had gone missing. This was indeed alarming. If the Tax Office sprung a surprise audit on Vizard, as it could at any time, the businessman and his advisers would be hung out to dry.

So Stevens turned to Vizard's bank manager at Westpac, Stephen New, and asked for copies of bank statements dating back to October and November 1995, around the time the six paintings appeared to have been purchased. Line by line, he trawled through the bank statements, stacking the piles of monthly print-outs around him; this one for the Vizard Foundation, this one for Performing Arts Services, this one for Performing Arts Investments, and these were the personal accounts of Steve and Sarah Vizard. But nothing matched $657 000, and nothing correlated with art purchases in November 1995.

Something else jumped off the page though. Several big cheques had exited Performing Arts Investments' accounts in late 1995, and what caught Stevens' eye was that the cheques were for even-number sums ranging from $18 000 to more than $20 000. There were double zeroes everywhere. Stevens' trusty old sirens began blaring. As an old banker, Stevens knew banks had to keep customers' original cheque vouchers for up to seven years; clients can demand them at any time. So he asked Westpac to delve into its old files and retrieve just five of the cheque vouchers matching those transactions, and after some rummaging around in the bank's storage boxes, out came several vouchers. Three had been paid to 'IAT'.

IAT? Stevens had no idea what IAT was. He turned over one of the vouchers, a cheque paid to 'IAT' in October 1995, and scrawled in pen on the reverse side was a brief note: 'This amount exceeds Roy's authority. We should get Steve to confirm this when he comes back from holidays.'

IAT? Roy's authority? Stevens now realised something was seriously wrong.

'Embezzlement' was David Warner's immediate reaction. A handful of cheques was set on the table in front of him, and to one side was the art register for the Vizard Foundation. Money had gone out of the accounts on one side of the Performing Arts Services group and to neutralise it an asset had been created out of thin air in another area of the group. Simple fraud. Someone had been fiddling the accounts, diverting money away from Vizard, secretly.

David Warner, a highly experienced financial investigator at the accounting firm Carson & McLellan (now part of the national firm PPB) had seen similar frauds before. His forte was insolvency, examining the trail of transactions in a failed company. Forensic accountants are a little like the old-style, gumshoe detectives, except their territory is a balance sheet; they like nothing more than to trawl through accounts, locate a crime scene, isolate it, and then haul in the perpetrators. Or, as Warner dryly described it, the work 'very often involves tracking down assets of entities which have become insolvent as directors have in the past taken assets from those entities and put them in their own pocket, so to speak'.

So to speak.

In this case, though, it was the director who had called Warner in early, it was the director who was asking him to investigate the money trail. It was Steve Vizard who had sounded the alarm about money exiting his accounts and if, for some bizarre reason, it was Vizard who was ripping off his own accounts—if it was Vizard who was secretly pocketing his own money—then surely the businessman would not have called Warner to pull the scheme to pieces? Vizard would have known, indeed he would have expected, that any examination of his private financial affairs by Warner would be thorough. And if he had some dubious financial matters buried in the accounts, some transactions that he would rather have kept hidden perhaps, he now ran a very high risk of those secrets spilling into the open.

Already the finger of blame was pointing directly at Vizard's previous personal bookkeeper Roy Hilliard. He drew up and signed the cheques that were paid to 'IAT', and IAT of course was the acronym for Hilliard's jointly owned travel agency, International Age Travel. Vizard made it clear that he wanted whoever was responsible for the embezzlement prosecuted. But he wanted the investigation kept tight, quiet and low-key because exposing his financial affairs to the police at this stage raised numerous risks for Vizard, some immediately more obvious than others.

For one thing, Vizard didn't want Hilliard tipped off. Money had already vanished from the accounts and if Roy Hilliard was half as smart as he purported to be then the many thousands of dollars that seemed to be missing at this stage could be anywhere. The money might be in Hong Kong bank accounts or housed in shelf companies in Jersey. It may have been routed through the Netherlands Antilles or stashed in a gambling venture in Vanuatu. Or it might be buried in a steel tin, hidden under bushes in a remote area of the country. Vizard wanted his investigating team to be sure about what the fraud entailed and then he would make his move; he would snap-freeze Hilliard's available assets.

He wanted a thorough investigation from Warner's team, but it had to be a probe he could control, one that kept him in the loop daily. He insisted on it. If he put the investigation of his financial affairs into the hands of the police, who knew where it would lead? The drip-feed of leaks to the media would begin and his private financial affairs would land on the front pages of tabloids and broadsheets alike: 'Vizard's Millions Go Missing'; 'Vizard Duped'; 'Funny Man Not Laughing'.

Clearly Vizard was hugely embarrassed by the fraud. These were his own bank accounts, and they were ostensibly in his full control. That money was leaching from his accounts, and that he never noticed, made him look foolish and more than a little clumsy. And to think he was a business leader. Why, it was only that month—indeed, that week—that he had formally stepped down from the Telstra board, and he was still in demand as a corporate leader. Now it looked like he didn't know how to take care of his own money, or that he was rolling in so much dough that he never noticed some missing.

So why didn't his auditors pick it up? Vizard turned on his external accountant, Greg Lay, and made it abundantly clear that someone had not paid attention to detail. The Vizard Foundation's accounts were audited, as were the accounts of the Vizards' private superannuation funds, and when the accounts are audited then the assets and liabilities should be thoroughly checked. Someone, somewhere along the line, had failed to check these entries. How could his auditors have missed the bogus entries in the art register?

Lay appeared utterly stunned. 'He refused to believe that a fraud had been committed,' Vizard later told a court. For his part Lay pointed out that it had been not just difficult but in some years impossible to get Vizard to sign his financial accounts—there were plenty of gaps in the auditing records for these companies because Greg Lay's colleagues could not entice Vizard to sign the books. Indeed, it took a long time for Lay to become convinced that anything untoward had happened to the accounts. He simply didn't believe it. Lay eventually offered what Vizard described as 'a sort of an explanation' about how the fraud could have slipped past him, an 'explanation' that the courts never heard.

But for one crazy-mad moment, Vizard briefly—ever so briefly—considered suing his accountants at Clarke Bentleys. Crazy-mad because wise lawyers or cynics will say there are two sets of people you should never sue: your accountants and your lawyers. If Vizard really wanted to sue his accountants, he would need to be absolutely certain that he had nothing to hide, because if the case ever came before a judge he could expect to see the courtroom walls lined with trolleys of lever-arch files, all filled with details of his personal financial transactions and every page subjected to intense scrutiny. Wisely, Vizard backed off.

For now, Vizard's energies were focused on the key suspect, Roy Hilliard. He was not going to be swayed from pursuing the cunning bookkeeper. A diabolical fraud had been wrought on the Vizard family, one that violated its security. He would get Hilliard just as carefully as Hilliard had got him, and he would never let the man rest easy again.

David Warner called for the cashbooks and audited accounts of the Performing Arts Services group so that he could use the verified accounts from earlier years as reference points. Barrie Stevens fetched for him the few records that remained, and within two weeks, by doing exactly what Stevens had done earlier—isolating unusual transactions on the Performing Arts Services bank statements and matching them with the original cheque vouchers—Warner knew that he was looking at a persistent and clear-cut fraud, one that had been engineered and executed meticulously right under Vizard's nose. By early December, Warner had identified a series of suspicious cheque vouchers valued at some $600 000 and he knew hundreds more cheques were yet to be examined.

Vizard now wanted his own bank called to account. He demanded Westpac explain what had happened. He wanted to know why the bank had allowed Hilliard to draw all the money from the accounts without anyone ever properly challenging him. In his view, judging by what Warner's team had turned up in a relatively short period, Westpac potentially faced a huge liability. The bank had apparently honoured almost every cheque Hilliard drew against the Vizard accounts, regardless of its monetary value and irrespective of the payee. Almost every cheque but not all.

On 5 December, David Warner's team from Carson & McLellan showed one of Westpac's senior fraud investigators what they had uncovered. At the time, Trevor McMahon was Westpac's senior manager in charge of fraud control for Victoria, Tasmania, South Australia, Western Australia and the Northern Territory. He was an old hand at these sorts of investigations and could cite dozens of frauds commonly wrought on banks: everything from petty forgeries of loan documents and credit cards, to much more complex frauds that could send companies broke. He had been at the bank for more than three decades, since 1969, and for twelve of those years he specialised in the fraud division. He had seen clever, artful fraudsters, and some outstandingly stupid and clumsy ones. This case did not look especially difficult, but it would require patience.

At all times, though, McMahon was acting for the bank, not for Vizard. He would assist Warner's team from Westpac's end, but for its own purposes the bank also needed to trace where the money had gone. McMahon retrieved all the bank's files for companies in the Performing Arts Services group and all Vizard's personal files at Westpac's Private Bank. Copies of old bank statements for each of the Vizard companies were called up and as Warner's team contacted McMahon with a suspect cheque transaction that needed further examination, McMahon would rummage around to match the transaction to the original cheque voucher.

Very quickly Warner's team widened its scan of Performing Arts Investments' account to encompass transactions over several more months in 1995 and early 1996 and, sure enough, more double-zero cheques turned up—one for $43 600 in September 1995 and a cheque for $38 500 in January 1996, one for $25 000 in May, $15 000 in June, $40 000 a month later, $45 000 a week after that, and one day later $40 000. All were paid to 'IAT'. On a note attached to a $38 000 cheque dated 21 December 1995, which was also written in favour of IAT, Westpac's Stephen New had scrawled a warning—the second in as many months: 'This appears to be outside authority—have advised Roy and he will get an updated authority from Steve V when he returns from farm.'

Week in, week out, the recipient of so much money from the bank account of Vizard's Performing Arts Investments was IAT. Cheque after cheque was searched and while initially the withdrawals seemed random, a clear pattern eventually emerged. Most of the money had gone straight to a bank account at an ANZ Bank branch in St Kilda Road. From there, nothing was too difficult because when Westpac asked the ANZ Bank to verify the identity of the accountholder, 'IAT' turned out to be Roy Hilliard's jointly owned travel agency, Information Age Travel. The trail was as obvious as footprints in snow: Vizard's bookkeeper, Roy Hilliard, had done nothing to cover his tracks.

Nobody could be certain where the trail of cheques would end, but within just a few days Trevor McMahon was as convinced as David

Warner that they were dealing with embezzlement on a large scale. He immediately phoned a detective in the fraud squad at Victoria Police headquarters and warned that Westpac was just starting to examine what looked like a longstanding and possibly complex scam. McMahon wanted assurances that police and other authorities were not already monitoring the IAT account, and that whatever Westpac was doing with its investigation was not going to compromise or cross paths with any other police inquiries.

No, the police replied. This was the first time they had heard of Information Age Travel or Roy Hilliard. As far as they knew, the ANZ bank account was not being monitored for any special reason and Hilliard had never come to their attention before. If Hilliard had perpetrated this fraud, then he was a first-time offender—not someone who had gravitated from petty theft and larceny, but an opportunist who spied the main chance and exploited it over and over again.

McMahon warned police that what had been found so far was possibly only a sliver of a much larger fraud, and many more cheques would need to be scrutinised. Westpac wanted to 'wait until we got to the end of it and just knew what we were really looking at, rather than giving the police a little bit today, and then a bit more tomorrow', McMahon said later.

The detective offered McMahon and Westpac assistance, but when that was politely declined he suggested that as soon as McMahon was ready to lodge a formal complaint on behalf of the bank, police were more than ready to listen. That's the way Westpac usually handled its fraud investigations. McMahon believed it was enormously important to collect as much evidence as possible initially—not to go off 'half-cocked', as police say—so that everything could be handed to the authorities 'in the one package'. But this private investigation by Westpac would later come in for some sharp criticism from a magistrate.

As McMahon flipped through Westpac's files of Vizard's bank accounts, one document caught his eye. Among the various papers and statements was a photocopy of what appeared to be a fax. It was dated 2 February 1996 and it was addressed to Stephen New at Westpac Private Bank. At the bottom, it was signed with a distinctive flourish: 'S. Vizard':

> I would like to change the level at which Roy Hilliard is authorised to sign cheques and arrange payments on behalf of the Performing Arts Services Group.
>
> Until further notice, the new level is to be $50,000, maintaining the exceptions of inter-group transactions and payments to stockbrokers.

McMahon studied the photocopy carefully. Most of Hilliard's cheque-writing authorities had been in place since 1991. In total, Westpac, Hilliard and Vizard had drawn up sixteen authorities covering numerous Vizard bank accounts: twelve authorities in 1991 for the various Performing Arts Services companies, the Vizard Foundation and Steve and Sarah Vizard's personal bank accounts; three more in relation to superannuation funds in 1992 and 1994; and the final one was drawn up in May 1996 when Performing Arts Holdings became the peak Vizard company. All these authorities stipulated that Westpac was required to honour cheques signed by Hilliard to a limit of $10 000. One of the authorities stipulated exceptions to that limit: Hilliard could sign cheques of more than $10 000 either to transfer money from one Vizard company to another or to pay for Vizard's personal share transactions with two nominated stockbroking houses, JB Were & Son and Ord Minnett. These were the only written exceptions.

Now McMahon was looking at a different authorisation. In February 1996, two months after Westpac's Stephen New had raised a red flag about Hilliard's spending limits, Westpac had received, filed and apparently acted on a brand new—and much higher—limit for Hilliard. From that date, according to the fax, the bank would have been fully entitled to believe it had a new mandate, one that required it to honour all cheques written by Hilliard to a maximum value of $50 000 as 'authorised' by Vizard.

McMahon took this photocopy of the 1996 fax to a meeting with Vizard in December 2000 when Westpac's lawyers from Mallesons Stephen Jaques and Vizard's lawyers from Arnold Bloch Leibler were crammed into a room debating who had liability for the cheque transactions. If Vizard was saying that Hilliard was not permitted to write cheques for more than $10 000, McMahon asked, what did he make of this $50 000 authority? Here was permission in black and white for Westpac to honour cheques of up to $50 000.

Vizard examined the photocopy. He looked at the date, February 1996, and he looked at the signature. That certainly looked like his signature, Vizard said. The big 'S' flourish was there, but there was a squiggle under it that didn't look right. And then, handing it back, he was clear and adamant. No pause, no hesitation.

'It's a forgery,' he said.

9
Fishing for clues

Imagine the stunned silences inside the Vizard house in those weeks before Christmas 2000 as Steve and Sarah Vizard struggled to comprehend that they had been conned. Imagine their jaws dropping and their heads shaking in disbelief as they thumbed through a preliminary report detailing the scale of the scam.

'How much?' they might have asked, or 'He did what?', and then hear the howls of anguish, a few bursts of fury and frustration, culminating in some long, deep silences.

Of all people, Roy Hilliard! Big Roy, who had sat at the kitchen table with Sarah and sipped coffee as they paid the bills and checked the bank statements. Roy, who helped sort through the house insurance premiums and builders' invoices. Roy, with his shock of grey hair and clipped, cultivated accent. Roy—who knew everything about them. Nobody would ever have said the Vizards were close to Roy, but he had been part of the Vizard staff since Stephanie was a toddler. It was utterly chilling—to think that all their personal financial affairs could have been so vulnerable, so compromised, and for so many years. Remember how Roy sometimes did family errands or picked up paintings from the auction houses?

Sarah was gutted. Roy had been an insider on every aspect of their finances. That he would violate that trust was beyond belief. That he would rip them off, bit by bit, right from under their noses, and then have the cheek to sit there and accept their praise and thanks at that retirement party. And, heavens, to then go on holidays—on Steve's money, no doubt—and come back to Melbourne as though nothing had happened. Roy would not get away with it, she vowed.

Steve too was furious and distressed, but he urged patience. This would be done properly. He had the best lawyers his money could buy, the best forensic accountants were onto it, and Westpac was right there alongside him on this one. No way would Hilliard escape. But it was not yet time to get the police involved.

Still, it might be wise to get Hilliard followed for a while, to find out where the money went, and Carson & McLellan's David Warner had just the man for the job—Wayne Gladman, a former Victorian fraud squad officer and now a private sleuth. If Hilliard was living the high life on Vizard's money, Gladman might be able to discover where the bookkeeper had stashed it all.

Perhaps Hilliard had used the money to buy penthouses, farms or investment properties. Perhaps it was sunk in the share-market, or maybe he had stowed it in a superannuation fund or a fixed-interest account. Or funnelled the cash overseas. Now that was a distinct possibility; Hilliard seemed to make so many phone calls to Hong Kong—what was that all about? Or did he have a clutch of associates hovering on the fringes somewhere, just waiting for their cut? If Hilliard really had taken this money, Vizard wanted to know everything about him. He wanted every bit of ammunition he could get his hands on.

And it didn't take long before Gladman uncovered one or two discrepancies about Hilliard. Right from the start, Vizard could have detected something was amiss if only someone had dug deeper and done proper due diligence on the man. Hilliard had never graduated from the University of Auckland, as he claimed on his curriculum vitae, and he certainly did not have Bachelor of Commerce and Bachelor of Arts degrees. Indeed, he had no qualifications. He was a fraud.

Late afternoon on Thursday 14 December 2000, Vizard made his first and, as it happened, only legal move. There is no record of the case on the Federal Court's files, however: no statement of claim or notice of motion, no affidavits and no exhibits, not even a case number. But there is a transcript of an intriguing and increasingly heated tussle between the tenacious and the pugnacious.

It was long after 4.15 pm, well past the Federal Court's usual closing time, when Charles Scerri QC, barrister Philip Crutchfield, and Arnold Bloch Leibler lawyer Leon Zwier bustled down the polished corridors and into the court, their files in hand and a little out of breath. It was not the kind of hour to keep a judge waiting, especially not Justice Peter Gray.

'I began to wonder whether you were coming,' the judge said, peering down from the bench.

Not a promising start, thought Scerri. Apologise, and do it quick—don't keep him waiting. He drew breath, straightened his papers for this once-only airing of *Performing Arts Investments v. R.C. Hilliard*, and moved swiftly to change the subject.

'In a nutshell,' Scerri began, 'about $600 000 of the company's money has purportedly been spent on buying paintings. The paintings are listed in the asset register for the company, but were not in fact purchased and aren't there.'

It was probably not what Justice Gray needed that day—a mystery. Late lawyers, late in the week, and a mystery about missing paintings.

'Were not in fact purchased, or aren't there, or both?' Justice Gray asked.

'Both,' said Scerri. 'Do not exist. Do not belong to. They are real paintings by real artists, but the company didn't buy them and they are not there.'

So, the judge asked, did this Roy Hilliard person buy them?

No, replied Scerri. 'We don't believe they were ever bought. We believe that the entries in the register were just there to camouflage what really happened to the money.' Investigating accountants had trawled through the books, and as far as they could determine, the entries appeared to be part of an artful accounting manoeuvre: hundreds of thousands of dollars of Performing Arts Services' money had disappeared via unauthorised cheques, and on the other side of the ledger someone had made it look like the missing money had been spent on paintings for the Vizard Foundation.

'There's strong evidence that he has misappropriated the money,' Scerri said. And, he added, the deceit had been perpetrated by using a forged bank document, namely a cheque-signing authority carrying what Vizard would say was his forged signature. 'Experience shows,' Scerri said, looking up eagerly at Justice Gray, 'that in these matters usually the more you look the more you find.'

Perhaps on another day, Justice Gray would have relished this case. At its heart was an influential businessman—a *celebrity* businessman, no less—and all around were allegations about loads of missing money, fraud and forgery. It was a world away from the usual dry run of arguments about competition law and intellectual property. Perhaps some other judges might have welcomed the case, saying, 'Bring it on!'. But it was not going to get around Justice Gray quite so easily. He was far from convinced that Vizard's lawyers should try to initiate this particular action in his court.

Performing Arts Services wanted the Federal Court to issue an Anton Piller order, a court order that allows a private party—not the police—to raid someone else's home or office so that documents or other potential evidence can be seized. It is not the kind of order that is readily doled out by the courts and not one that Justice Gray, at least until December 2000, had granted.

A raid, by definition, is a surprise, so anyone asking for an Anton Piller order has to put to the court absolutely compelling reasons why they need to barge into private premises without advance warning, and they must identify pretty carefully what sort of material they expect to find. Because if there's another thing that judges don't like besides pesky Anton Piller orders, it's 'fishing expeditions'. Golf, they like; fishing, they don't. They don't like lawyers who want to poke through another party's documents, hunting around in the hope that something useful might turn up.

Vizard's lawyers wanted to raid Hilliard's home as well as the offices of International Age Travel, Scerri said, to try to recover any records of the misappropriated assets.

'It's a bit optimistic, isn't it?' Justice Gray asked.

Scerri didn't think so. It was, he suggested, 'a fairly constrained application . . . Your Honour, we want to raid the premises of the person who apparently stole the money and the company to whom he paid the money.'

Justice Gray, though, was not going to let Vizard's representatives into anyone else's home or offices quite so quickly. And there was another thing that bothered him: why on earth were Vizard's lawyers trying to use the Trade Practices Act—the laws regarding business competition—to wangle an Anton Piller search order? The Trade Practices Act was a federal law, and there was nothing special about these allegations against Hilliard that suggested the lawyers needed to invoke federal laws to get a search warrant. It could all be handled appropriately under state laws, couldn't it?

Scerri batted back. Performing Arts Services had a right to use the Trade Practices Act, he suggested, because that was the law that covered 'misleading conduct' and as his client saw it, Hilliard and his little travel agency had misled Westpac into believing that it should pay money from Vizard's accounts. So, under federal competition laws, Vizard's companies were entitled to seek an injunction or court orders to stymie any further loss or damage.

Nope, that one didn't get past Justice Gray either. 'You don't need the Trade Practices Act to get to that,' he said. In his view, Vizard's lawyers, for whatever reason, were just trying to use the back door to sneak into the Federal Court. He suggested the lawyers pack their briefcases and head across the road to the Supreme Court. He was not having a bar of it. If the case ever got up it was properly a matter of state law that belonged in the state court.

It had not gone well so far for Charles Scerri; he appeared to be going down fast. In the Federal Court, they would get a speedy trial of the whole matter once they got past this particular request, but it might be months before the Supreme Court could allocate time to hear the case in full. At his side, his junior Philip Crutchfield furiously scribbled notes on little yellow post-it tabs and jabbed them in front of the highly experienced Queen's Counsel.

Scerri, thinking quickly—why had this matter been brought to this court?—warmed to a new angle: 'Well, we like this court, Your Honour'.

We *like* this court?

'Well, that's not a good enough reason,' the judge shot back, one eyebrow raised.

Scerri tried the direct tack. All we want is an Anton Piller order, he said.

'As if that's a light thing,' Justice Gray retorted, his frustration becoming apparent. 'I mean, we haven't even got into that question yet and I am far from satisfied by what I've seen of the material that there's occasion for one. Far from satisfied.'

But, said Scerri, there was evidence that documents belonging to Performing Arts Services had already been shredded, important documents had vanished—financial documents that should have been kept for years were missing—and the company now wanted to search Roy Hilliard's premises 'to try and stop more money disappearing'.

Well, said Justice Gray, it all sounds 'wildly overblown'.

Scerri plugged away. Maybe, he suggested, in a little while Westpac might become a party and lend its weight to the case, but right now Performing Arts Services wanted to get its hands on documents that detailed Hilliard's assets because quite possibly those assets had been bought with money stolen from Vizard. According to what the forensic accountants had found to that date, some $900 000 had vanished from Vizard's bank accounts in one year alone. Nine hundred thousand dollars, Scerri said, and so far they'd only examined the 1995/96 bank statements. Much more analysis lay ahead.

Justice Gray peered from the bench. 'You've not been anywhere near the police about any of this?'

'I asked that on our way up to court and apparently not,' Scerri said, glancing at his instructing solicitor Leon Zwier, who was vigorously shaking his head.

So, said the judge. Hilliard in the future might face criminal charges, and you want me to consider sanctioning a private raid that might have a profound effect on Hilliard's rights? Much damage could be done during Anton Piller raids, he warned. 'I mean, you know what it's like,' the judge said. 'People march in and start shouting about searching for documents and waving orders of the court around, and it's a very destructive thing to do. And I'm very reluctant to lend the authority of the court to people who wish to do it.' Performing Arts Services had asked for this order on what he considered 'the skimpiest material'.

Skimpy material? No, said Scerri adamantly. Performing Arts Services had plenty of evidence to support its claims. Look, here are three invoices for $99 from a document shredding company. 'We know he's done some shredding.' And, he said, Hilliard had used

Vizard's cheques to buy shares in his own name, there'd been phone calls by Hilliard to foreign places such as Hong Kong, he'd recently sold his apartment and, when you put it all together, when you considered what might flow from that, Performing Arts Services feared that Hilliard would quietly shift his assets beyond reach of the authorities. What Performing Arts Services had uncovered so far was, in Scerri's experience, the strongest possible evidence that could support a request for an Anton Piller order. And, 'Your Honour, to say that the evidence is flimsy is, with respect, really not an accurate assessment of it.'

Justice Gray would not be budged. Hilliard's rights still had to be protected, he said. It was a very serious matter for Performing Arts Services to come to the court and accuse Hilliard of criminal offences, in his absence, and to try to initiate a private search of his belongings. 'You propose all manner of orders that would have grave effects on the rights of a person if he were charged with theft,' he said. 'You would have outflanked any safeguards that a proper police investigation might be required to put in place, and you airily say you do that on the basis that, well, you know, he might go or he might destroy things. I'm really surprised that you come rushing to court before you go to the police, frankly. And I think you're trying to get a head start. I'm not sure that's proper.'

Scerri reeled. He didn't like the taint of that remark, and now the air between bench and bar veritably crackled.

'I'm not quite sure what that means, Your Honour. With respect.' He wasn't sure why the matter hadn't been reported to police, but he was not going to accept there was anything untoward about it.

But why won't Performing Arts Services just take the matter to the police? Justice Gray suggested. Get the police to head down the road and get them to ask a magistrate for a regular search warrant, and that way Hilliard's rights might be assured.

Because, said Scerri, if it were left in the hands of the police 'who knows what happens?' and by the time the police interviewed Hilliard that might be 'the end of the story'. What Performing Arts Services had turned up so far was not 'flimsy', he said, and the company should be allowed to search for documents that it believed were there even if it did not know precisely what it was looking for.

Justice Gray caught that last line and he pounced. 'You want to go and fish . . . Really what you're after is a licence to sort of look for anything that you, on the spot, while you're looking, think might be relevant.'

No, with respect, said Scerri. This is certainly *not* fishing.

And so the afternoon sun dipped lower, and the arguments wound on, and Justice Gray tugged and pulled hard at every line Scerri threw out, and just about drowned the dogged fisherman until finally Scerri made his apologies and started to back off, saying the judge had been 'very indulgent' and given his client 'more than a fair hearing'. Scerri emphasised though, with as much respect and as many 'Your Honours' as he could muster, that he had 'said it and said it and said it'.

'Yes, well, I'm not persuaded that I should grant such an order in these proceedings.'

'If Your Honour pleases.'

It was humiliating and infuriating, but Charles Scerri QC and Vizard's other lawyers would not be deterred. Six days later, on 20 December, Scerri and barrister Philip Crutchfield hustled into the ornate, pale-blue and wood-panelled surrounds of Court 10 at the Victorian Supreme Court where Justice Barry Beach had charge of the Practice Court for handling urgently convened hearings.

In the lead-up to Christmas the courts usually cruise into idle mode as lawyers and judges alike curb their schedules; the corridors are mostly empty and the nearby bars are usually full. But it seems there is always something that cannot be put off until the New Year, and if an idle passer-by had chanced upon Justice Beach's courtroom on that scorching hot Wednesday, he or she would have been among the first to hear the amazing tale of the stoush between Steve Vizard and his bookkeeper. But, as luck would have it, the court was almost empty.

Scerri handed the judge a sheaf of documents, including an eight-page writ naming Roy Hilliard and Information Age Travel, and then he launched into a very brief outline of how Hilliard appeared to have withdrawn money from Vizard's accounts for amounts well beyond the bookkeeper's authorised limit. Scerri passed up four affidavits, including one sworn the day before by Vizard which detailed the early stages of the investigation, and the link between the six paintings in the Foundation's register and the missing money. Affidavits by David Warner and Trevor McMahon indicated that so far $280 725 in cheques had been identified as passing from Vizard's accounts directly to bank accounts controlled by Hilliard. But hundreds of thousands of dollars more appeared to be missing.

So, said Scerri, what was required was a Mareva injunction, a court order that would immediately freeze all Hilliard's assets as well as the bank accounts of Information Age Travel. Everything had to be put under lock and key until the fraud investigation and any subsequent trial was completed, and Hilliard and IAT should be barred from selling or mortgaging any assets. The freeze would have to include the eighth-floor apartment in St Kilda Road which Hilliard and Margaret McCready had arranged to sell, and the titles office would be asked not to register the imminent transfer of the property without the court's permission. As well, by Friday 29 December, Hilliard would have to identify to the court all his assets and those of IAT, how much all those assets were worth and their exact location. And he would have to identify every bank account that either he or Information Age Travel controlled or claimed an interest in. Documents were in order, Your Honour, affidavits had been sworn. And, said Scerri, his eyes bright with expectation, that's about it.

Justice Beach had just one query. Why, he asked, had the Federal Court knocked it back? And with little further hesitation, he reached for his pen and duly signed the orders. The job was over in less than fifteen minutes. Scerri had his injunction; Hilliard's assets would be frozen.

But in the six days since Vizard's lawyers first went to the Federal Court, there had been a crucial shift in the lawyers' roles—a deal had been struck and a settlement had been signed, so that when Scerri and Crutchfield came to the Supreme Court they were no longer representing Steve Vizard and Performing Arts Services. Now they were acting for Westpac. Vizard's bank had taken charge of the investigation, and now it would lead the pursuit of Roy Hilliard.

The board game Monopoly has some cheerful ways of giving the most down-at-heel players a little boost. Flip one of the 'Chance' or 'Community Chest' cards and you too could be the lucky recipient of second prize in a beauty contest; collect $10. Or 'Advance to GO; collect $200'. On 19 December 2000 Steve Vizard turned up one of the rarest cards in the game: 'Bank Error in Your Favour'. It's a lucky, lucky card, one that few people get to see. And Vizard—one of those lucky people, it seems—had plopped just such a demand in front of his bank managers and told them to pay up.

It wasn't hard to get the bank to agree. Westpac admitted liability very quickly—not because Vizard was a wealthy and influential businessman, but because under the terms of the bank's mandate it was obvious that, at least until early 1996 and possibly later, Westpac's staff were not permitted to honour cheques beyond Roy Hilliard's authorised limit of $10 000 without Vizard's personal approval. Perhaps the bank's staff had become used to dealing with Hilliard—

they trusted him. But several times the bank had turned a blind eye when Hilliard breached the authority to write cheques for Vizard's business expenses and now it appeared that the bank unwittingly had waved through countless cheques that siphoned money from Vizard's accounts directly to Hilliard.

As for the February 1996 authority, Vizard said it was a fake. In any case, Westpac had unquestioningly accepted the faxed document as proof that Steve Vizard would let his bookkeeper write cheques on his behalf for up to $50 000. Its officers never verified the signature on the faxed authority with Vizard directly, they apparently did not telephone him personally to confirm it, nor did they see or obtain the original document that formed the basis of the fax. So for almost five years, the bank had stamped and paid cheques on the basis of what it had on file—a photocopy of a thermal fax—and when Vizard later claimed that his signature on that authorisation had been forged, Westpac had to concede that it was vulnerable to censure.

Westpac had made a mistake in honouring the cheques, but Hilliard had been 'unjustly enriched', as the bank's lawyers would call it, and that is what paved the way for the bank to take its own legal action against Hilliard. Westpac acted in good faith over those years, but it had made a big mistake and now it was apologising to its customer as profusely as it could. It agreed to reimburse Vizard his missing money.

Vizard could have demanded Westpac repay every cent of every $10 000-plus cheque that Roy Hilliard drew against the accounts, but if he did the bank might have refused to reimburse Vizard for any cheques of *less* than $10 000—and, as the investigation was starting to reveal, there were plenty of small cheques that had left his accounts and gone straight to IAT. It was a toss of the coin which party stood to lose more, so in the end Vizard and Westpac struck a compromise. Vizard would not be fully reimbursed. For each cheque of less than $9999, Vizard would get back just 15 per cent of the face value plus interest. For each cheque of $10 000 or more, Westpac would repay 75 per cent of the face value plus interest. Payments to Vizard would begin 31 January 2001 and the businessman would receive a sum of money on the last day of each month as more fraudulent cheques were identified.

The twenty-five-page deed of settlement outlining the terms of the repayment was signed on 19 December 2000. It's a fairly straightforward document, formalised on each page with Vizard's loopy 'SWV' initials and his wife's more rigid 'SJV'. It states quite bluntly that Roy Hilliard, without proper authority, withdrew money from the Performing Arts Services accounts that were maintained by Westpac and that he 'applied those funds for the benefit of persons other than the Performing Arts Group'. As part of the settlement, both Westpac and Vizard had to keep the deal private and highly confidential, and the document noted that 'a fundamental principle' underlying the settlement was Vizard's firm desire to 'minimise' publicity.

There was a catch of course. Vizard had to agree that if Westpac pursued its rights to sue Hilliard for the money, the businessman had to 'cooperate fully'. No ducking for privacy, no hiding behind commercial confidentiality. Vizard had to help Westpac in any way he possibly could, and that might entail giving evidence in court against his former bookkeeper. Back in December 2000, that sort of demand did not seem in the least bit onerous; it was not until five or six years later that it loomed as a formidable hurdle.

The 19 December settlement marked a turning point in the investigation. From now on, Westpac assumed all responsibility for chasing Hilliard. It would claw back the money however it could, and Vizard need not initiate any court cases or police action—all that would be Westpac's business. As well, the bank would pick up all Vizard's legal costs to date, including all expenses related to Vizard's failed Federal Court bid and the bills of private eye Wayne Gladman. Westpac would also pay for David Warner and the forensic accountants at Carson & McLellan to finish their analysis. The timing of any formal complaint to police would be entirely in the hands of Westpac's fraud investigator, Trevor McMahon. The bank now had a vested interest in freezing all Hilliard's money and other assets, and it wanted to move quickly.

Studying the reverse side of cheques might not be the most thrilling means of investigating fraud, but that is where some of the easiest clues lie. There are codes all over cheques: there are watermarks that verify the cheque is for a genuine bank account; on the front side, block-like letters identify the accountholder; and on the reverse, once the cheque has been processed, a unique code identifies which bank—and which individual account at that bank—received the funds before the cheque was couriered back to the customer's bank for safekeeping. What David Warner's team at Carson & McLellan and Westpac's Trevor McMahon found repeatedly was that the unique codes imprinted on the reverse side of Vizard group cheques led directly to an ANZ account operated by Roy Hilliard.

At first, most of the suspect cheques—those drawn in 1995 and 1996—were paid against the bank accounts of Performing Arts Investments Pty Ltd. But as Warner and McMahon extended the search and drilled down into old bank statements, it became apparent that money was also missing from Performing Arts Holdings Pty Ltd, Performing Arts Services Pty Ltd, from the Vizard Foundation's accounts, Roxby Park farm, and from Steve and Sarah Vizard's personal bank accounts.

But the most astonishing pattern was found in the accounts of United Film Completion Pty Ltd (UFC), the unit that used to own the rights to *Fast Forward*, *Full Frontal* and *Tonight Live*. Now, because banks only keep cheque vouchers for seven years and routinely destroy any older documents, the earliest possible date for verifying movements out of the accounts was 1993—and in the UFC accounts, from at least July 1993, there was a stream of cheques heading out of the Vizard company and straight into Information Age Travel. Each cheque was for precisely $7500. This nightmarish repetition of $7500 in United Film Completion's accounts haunted the investigators. In 1994 alone, UFC lost $240 000 through thirty-two suspect cheques, each valued at $7500. And every one of those cheques ended up in Information Age Travel's account at the ANZ Bank. From just one of United Film Completion's chequebooks, nineteen consecutively numbered cheques went to IAT over a period of six weeks.

Why were all these cheques drawn in lots of just $7500—no more, no less—and always from the same company? Often two cheques, each for $7500, would be drawn and banked over a forty-eight-hour period, followed by a third cheque a week later, and another a few days after that. Then all would go quiet for a few weeks before it started over again: two cheques in two days, another a week later, then more and more. Sometimes there would be a flurry of activity in United Film Completion's accounts, then a prolonged lull. It was manic.

Often two cheques were drawn against different Vizard companies on the same day, and a few days later both would be deposited in IAT's account. In September and October 1993, about $88 000 was drained from the accounts of Performing Arts Services Pty Ltd in a series of ten cheques—all in favour of IAT. Over two weeks in December 1993, more than $73 700 was drawn from the accounts of United Film Completion and Performing Arts Services Pty Ltd, and again all the money was paid to IAT's account at the ANZ.

It did not take long for the tally of money missing from all the Vizard accounts to swell beyond $1 million. All the suspect cheques written before mid-1995, with a single exception, fell within Roy Hilliard's authorised limit of $10 000. But from August 1995, the cheque-writing veritably exploded. Suddenly, cheques valued at tens of thousands of dollars were flowing from the accounts. Between August and December 1995—that is, *before* Westpac received the faxed authority ostensibly lifting Hilliard's cheque-signing limit to $50 000—the bank honoured six cheques drawn against Performing Arts Investments Pty Ltd for a total value of more than $225 000. Each of those six cheques was clearly outside Hilliard's authorised spending limits and, again, all the money went to IAT.

In 1996, soon after Stephen New received the faxed authorisation lifting the limit to $50 000, a flurry of high-value cheques was drawn against Performing Arts Investments Pty Ltd's bank account. In the following ten months, some $482 900 went from Performing Arts Investments and straight into the bank account of IAT, including $125 000 worth of cheques in a single week in August. If there was a method to the madness, it was almost impossible to detect. It seemed that over the seven years between 1993 and 2000, any and every bank account operated by the Vizard group had been violated. For a while, the target had been Performing Arts Investments, then it might be Performing Arts Holdings or Performing Arts Services. Apparently random attacks would be made on the accounts of Roxby Park farm, and now and again the Vizard Foundation's accounts would be docked tens of thousands of dollars. Only occasionally between 1993 and 1999 were cheques drawn against the personal bank account of Steve and Sarah Vizard, but on 16 and 17 December 1999, some $144 700 was siphoned from their personal account using just three cheques—and again, all that money went straight to Information Age Travel's account at the ANZ Bank.

What was needed now was to trace where the money went once it landed in Information Age Travel's bank account. That job fell to Dennis Turner, a partner in the Melbourne office of the accountancy firm PKF and his colleague Des Ryan, and their investigation could proceed only with the assistance of someone from IAT or the police. It took several months before they got cooperation from Hilliard's business partner at IAT, Christopher Wood, but in time the pair unearthed some four hundred pages of IAT's bank statements stretching back six years.

When Ryan compared IAT's bank balances with its annual financial statements, there was a glaring discrepancy. The travel agency had banked huge sums of cash—far more than could possibly be justified by its modest business—and yet its bank accounts were not swollen. Instead, it appeared that the money deposited into IAT using Performing Arts Services cheques had mingled with the business's regular funds and flowed out the other side in various amounts. The money went in, and then it went out. There was no hidden stash of funds at IAT; it had all gone. Cheques had been paid to credit-card companies, antiques dealers and stockbroking firms using IAT's funds, yet many of the recipients had no direct link with IAT's travel agency business.

Most disconcerting was that much of the money had simply disappeared over the counter in wads of cash. The investigators later told a court that an ANZ bank manager revealed that sometimes when Hilliard banked cheques or organised IAT's foreign currency transfers, he would simply ask the teller to bundle up a few thousand dollars for him in cash. Sometimes it was as little as \$3000, and sometimes it was \$7000. Only rarely did Hilliard bag more than \$10 000 in cash.

It was becoming increasingly clear that whatever had corrupted Performing Arts Services accounts had also infected Information Age Travel.

10
'Scapegoat'

Margaret McCready must have jumped slightly when she heard the security buzzer ring out in her finely appointed, eighth-floor apartment in the early afternoon of 20 December 2000. Her partner Roy Hilliard was out for a while and she wasn't expecting anyone at this hour. But when McCready opened the front door, there was the private investigator Wayne Gladman, now acting as a process server for Westpac, thrusting three copies of the Supreme Court's orders into her hands. One set was for her, and two were marked for Hilliard.

Stunned and confused, McCready stood at the door, demanding to know what was going on. Hilliard was not home, she said. Perhaps there had been a mistake, an error of some sort. But the writ was clearly addressed. There was no mistake about it, said Gladman, and she could take some time if she wanted to read Justice Barry Beach's orders freezing her assets and those of Hilliard. See, he said, there is the judge's signature alongside the court stamp. Gladman started to explain the process of what would happen next, but McCready stood back, almost bracing herself.

It didn't make sense. Only two weeks earlier, she and Hilliard had been down to the bank to chat with an adviser at Westpac Financial Services to sort out their investments while they waited for contracts to settle on the sale of their apartment. Settlement was due in just a few weeks, in January. But now the bank was accusing Hilliard of stealing, and it seemed everything they owned would be locked up, sealed, and in the hands of the court. There had to be a mistake, McCready thought. Her head reeling with confusion, she walked slowly to the dining-room and sat down, fumbling through the court documents, trying to understand the allegations.

Gladman stood quietly to one side, shifting his weight from left foot to right foot, waiting for his prime target to arrive home. And when Hilliard finally opened the apartment door, Gladman pointed him towards the papers lying on the dining-room table, flicked through the documents and explained the process again, and then indicated that he wanted to leave.

Hilliard reached for the documents and started reading quietly. McCready glared at him, but as she watched Hilliard began to shake.

'What's this about?' he said quietly. 'Margaret, what does it mean, what is it? What's going on?'

'Roy appeared shocked,' McCready said later. 'He repeatedly asked what it was all about.'

They went over it several times, and again and again Hilliard told McCready he had done nothing wrong in his dealings with Vizard—nothing. Well, nothing wrong in relation to *Vizard* but, he told McCready, he had 'wrongly used Information Age Travel's bank accounts to pass money from the Performing Arts Services group accounts, through IAT and back to Vizard in cash'.

McCready must have heard buzzing in her ears. You did what? she would have gasped. Say that again? You used the travel agency accounts to take money from Vizard *and give it back to him in cash*? Don't kid me, Roy.

Hilliard said he could not understand the court's papers or the allegations, and several times he turned to McCready and asked, 'Why would Steve do this to me?' Furious and confused, McCready asked him repeatedly what he had done, but Hilliard apparently could not understand the allegations.

There could hardly have been a worse time for all this to be happening, just as the couple were on the verge of settling the sale of their apartment, just days before Christmas, just as they were about to start a new life of retirement, and now all their assets and bank accounts were inoperable. What would they live on? How would they sell the apartment? *Could* they sell the apartment? They would need a solicitor—but how would they pay for a solicitor if their accounts were frozen? This was crazy. McCready dug up the phone number for Zelma Rudstein, a partner at Rudstein Kron Lawyers which in the past had done some conveyancing work for the couple. The firm was about to close for the Christmas holiday break, but Rudstein told McCready to bring everything down to the firm's Elsternwick offices for a late afternoon meeting.

Rudstein left them in no doubt: these were especially serious orders. Steve Vizard was accusing Hilliard of stealing money, and now Westpac was trying to get the money back. The Mareva injunction, which the judge had signed, effectively froze all the couple's bank accounts, all their assets, it shut down the sale of their apartment, it restricted their dealing with other investment properties or cars, and it also froze all the assets and bank accounts of International Age Travel. From now, all Hilliard and McCready's financial assets would come under the control of the court. And, she said, the couple were expressly forbidden from discussing the injunction with anyone except their lawyers. That was made clear in clause 7: under the terms of the court order no one else could be told about the injunction.

But, said Hilliard, Information Age Travel would be seriously affected if this order also applied to its bank accounts because the travel agency still had to pay its tour operators, and send money orders overseas and pay foreign currency bills. It had tours scheduled to run in January and if these court orders remained in place for weeks then IAT might not be able to pay its creditors. The travel agency had to be allowed to use its bank accounts. Hilliard said he would slip down to IAT's offices that evening to see if he could locate documents showing how much the agency might need to cover its likely expenses in January. But, he said to Rudstein, you have to find a way to get the travel agency accounts off the hook. It would need a release of some sort just to keep functioning.

Margaret McCready watched helplessly as Roy Hilliard spiralled into depression over the next few days. He was acutely distressed, lost his appetite and barely slept as he struggled with severe anxiety. Dinner engagements were cancelled and the couple politely made their excuses as they backed out of Christmas gatherings. Hilliard became withdrawn and confused, and over the weekend he deteriorated further. 'He often muttered to himself the words, "Why is he doing this to me?",' McCready later told a court. At times he would slump, saying everything was lost, that his case was hopeless, and that he had 'been caught in some sort of trap by Vizard'.

On Monday 25 December, Christmas Day, Hilliard returned to the deserted first-floor offices of International Age Travel, overlooking the fashionable boutiques and cafés of High Street, Armadale, and settled himself behind one of the computers that he used on the rare occasions that he worked in the office. He carried with him a bottle of pills and some fine cognac. Alone in the quiet of the office, Hilliard began typing. Page after page he wrote, oblivious to the passing of time, and now and again he would reach for the pills, then chase them down with some of the excellent, aromatic cognac.

Hours passed, and Hilliard became increasingly absorbed—

absorbed in his woes and absorbed in revenge. As he typed, he poured out his sadness and his anger, his love for Margaret McCready and his double doses of retribution for Steve Vizard. He filled his Christmas missive with recrimination and loathing, with accusations that, in his fog of depression, Hilliard thought would be more than enough to destroy his former boss. Hilliard wanted these pages to be Steve Vizard's nightmare. He filled them with a barrage of accusations against Vizard and his precious millions, and packed the paragraphs with details that only a trusted bookkeeper would have known. Now all Vizard's clever financial machinations, all his shenanigans, would be exposed. Or so Hilliard thought.

He wanted the world to believe that whatever he had done, it was only at his master's bidding. How dare Vizard accuse him of stealing! That grumpy prick, he wrote. To accuse diligent, decent, loyal Roy of theft was simply outrageous, especially when it was all done for Steve. That's what he would tell the world.

'I think we are kidding ourselves to think there is light at the end of the tunnel for me', he wrote. 'Steve needs a scapegoat . . . '

He wrote some instructions on how McCready might advise lawyers, and finally he hit the print button. As multiple copies of crisp, white sheets whirled off the printer, Hilliard separated the pages, stacked and then slipped them into two envelopes. He sealed one and addressed it simply: 'Margaret'. The second stack of twenty-nine pages Hilliard folded, sealed, and marked it 'POLICE'.

Then, alone and in silence, Hilliard waited quietly for the pills to take effect.

Christopher Wood, Hilliard's business partner in Information Age Travel, found Margaret McCready distraught and frantic at the front door of Information Age Travel's offices that Christmas Day, pleading with him to hurry. Roy had promised to call her on the hour, every hour—and he did, but only for the first two hours. He hadn't picked up the phone since, and she'd been standing in the street trying to get him to respond for some time.

But what on earth was Hilliard doing here anyway? Wood wondered. This was a four-day holiday weekend, and IAT's offices would be closed until the New Year. Ahead lay a busy year of new tour routes, and the travel agency would be straight into several more tours from early January. Wood could recall Hilliard telephoning him on Thursday; he seemed a bit upset, but Hilliard had said only that he was feeling ill, and possibly had picked up a virus of some sort. He apologised that he wouldn't be well enough to join everyone at the staff Christmas party that night, and he backed out of a dinner they had planned with Wood's parents over Christmas. Hilliard suggested he only needed rest for a few days, to see how it panned out. Wood wished him well, and thought little more of it. So what was Hilliard doing here in the office?

Wood inserted the keys into the lock and the pair burst through the doors. From room to room they charged until they found Hilliard lying crumpled on the floor of a small office. His briefcase was open nearby, and on the top of a small pile of documents were bank statements. More accounts and more bank statements were spread on the desk near Hilliard's computer. At first glance, it looked to McCready as though Hilliard had overdosed and that somehow he had tried to strangle himself.

Hilliard was rushed to the Alfred Hospital by ambulance. He was later discharged into McCready's care.

Hilliard's failed bid to take his own life deeply disturbed Christopher Wood. They had been friends for years, and as business partners their financial futures were intimately linked. If there was any way he could assist Hilliard, he certainly would. He dropped by the apartment, anxious to see his friend and keen to give McCready a hand, if she needed, looking after Hilliard for a day or two. Perhaps he could stay a few nights at the apartment and help her, Wood suggested. McCready appreciated the kind offer, but firmly refused.

Hilliard was still sedated although he seemed reasonably lucid to Wood. He began to explain to Wood that the most horrible allegations had been made against him, but McCready warned her partner not to say anything else. Roy had been accused of something they could not talk about, she said. He was entangled in legal action, and while it involved Hilliard it did not have anything to do with the travel agency. McCready was clearly angry and frustrated; this crazy legal action had been going on for nearly a week now, and Hilliard had suffered to the point of breakdown. Whatever it was that Hilliard had done, McCready thought it was 'criminally stupid', as she told Wood. But it was only temporary, and the whole mess would be sorted out soon.

Wood felt he was not getting a straight answer about anything. McCready insisted that Hilliard's problems were all connected with his former boss, Steve Vizard, and had nothing to do with IAT. Yet Wood felt McCready and Hilliard were being evasive and purposely vague.

On Tuesday 26 December, Hilliard was admitted to the Melbourne Clinic, a private psychiatric hospital in inner-city Richmond. According to what his lawyers later told a court, the following day, while at the clinic, Hilliard again tried to kill himself. Once more he survived.

Information Age Travel's offices reopened in the first week of January, but it was not going to be business as usual for some time. Staff had fielded telephone calls from suppliers concerned that some of the company's cheques had bounced. Hilliard was ill—seriously ill—but exactly why his problems would interrupt the travel agency's business remained a mystery. Neither Christopher Wood nor Kristen Hellstrom could draw a link between the travel agency and Hilliard's dispute with Westpac or Steve Vizard. IAT had nothing to do with Vizard; as far as they knew, he'd never bought travel or an air ticket from them. It was not until 5 January, after Wood repeatedly asked ANZ to explain why his otherwise perfectly solvent business was getting its cheques rejected, that Wood was finally given the name and telephone number of Westpac's fraud investigator, Trevor McMahon.

Wood had no idea who McMahon was or why he would be interested in an ANZ bank account, so it must have been seriously disturbing for him to traipse across town to a small café and meet someone who apparently retained control over his business's bank accounts. McMahon slid his business card across the table and told the historian that his trusted partner, Roy Hilliard, was suspected of laundering Steve Vizard's money through the travel agency's accounts. Wood was utterly stunned. Within hours, he had commissioned a solicitor, who secured copies of the Supreme Court documents, and from that moment Wood resolved to sever Hilliard's connections with the travel agency. It would not, however, be easy.

Roy Hilliard remained heavily sedated for most of January, remaining in the Melbourne Clinic for some weeks, and it was left to Christopher Wood and Kristen Hellstrom to fossick through Information Age Travel's financial records, to unpick the accounts and determine what money could possibly have come from Vizard's coffers. For their own part, they needed to determine how much money they were holding on trust for their customers—as deposits for future travel—and how much was genuinely IAT's money.

Neither Wood nor Hellstrom usually managed IAT's bank records; almost all that kind of work was left to Hilliard. Wood didn't know anything about IAT's accounts or the banking side of the business and had never seen a copy of its financial records. But he knew that a scandal like this could seriously jeopardise, even ruin, the company. Surely a check of the bank accounts and statements would show where the Vizard money was, and surely someone could make sense of it and see the error.

Hellstrom, however, had been wary of Hilliard for years. She had never forgotten the mess the company got into in 1990 when it was just starting out, a mess she attributed to Hilliard's 'incompetence'. She recounted how in those early days Information Age Travel had prepared for a select group of clients to travel to Greece to examine rare and precious ancient manuscripts. Hilliard, she claimed in court documents, 'failed to advise IAT's client travellers that the tour group on which they were travelling would not be accompanied by a tour leader'. According to Hellstrom, 'this event caused considerable damage to IAT's reputation'.

And then there was the matter of the Indonesian payments, or non-payments. Hellstrom recalled that around Christmas 1990, she and Wood returned from guiding some tours overseas and learnt that one of their most important contacts in Indonesia had not been paid his fee for assisting an IAT tour. Hilliard initially told his colleagues that he had indeed paid the tour operator, but then changed his story and revealed that Information Age Travel did not have enough money to pay the tour supplier—in fact, Hilliard told his business partners, IAT was some $100 000 in debt.

Wood and Hellstrom were staggered to learn that their tiny travel agency, in business for just one year, had run up debts totalling $100 000. It seemed hard to believe and it was, Hellstrom told a court later, the first time Hilliard had given his business partners any idea about the severity of IAT's financial position. They immediately set about restructuring IAT's business and cutting costs. Wood agreed to work for no salary for more than a year, and for three months Hellstrom took an external job and managed IAT's tour business in the evenings.

The most expendable element of the business was, they all agreed, Hilliard. He was not a tour manager, he was never going to lead tours, and because the company did not really need a full-time accountant, he would move on. He could retain his directorship and his shareholding, however, and he agreed to maintain the financial records in his spare time. Before he found a new job, Hilliard injected $60 000 to keep the business viable—money that Hellstrom later told a court Hilliard had described as his winnings from gambling.

It was not until 1993 that Information Age Travel cleared its $100 000 debt, but Hellstrom remained alert to Hilliard. From that point, she kept a gross tally of how much each tour cost and how much IAT earned from it, so she could gauge fairly accurately how much income the business was producing. Keeping track of IAT's business administration expenses would still be Hilliard's responsibility.

Under the new arrangement, Hilliard's part-time bookkeeping for IAT was expected to consume no more than a few hours or so a week, leaving him plenty of time for his new employer. He would maintain the travel agency's financial records, do all its banking and coordinate the payment of staff wages and superannuation, ensure tax was paid, pay the insurance premiums and travel licence arrangements when required, and draw bank drafts for paying overseas accounts. About once a week, mostly at lunchtime, Hilliard would swing by the office, check his pigeonhole for mail and pick up any documents and banking materials that needed to be finalised. When customers paid for their tours by cheque, IAT staff would set the cheque aside for Hilliard to take to the bank. If a new chequebook was needed, staff would telephone Hilliard and ask him to drop off a fresh one next time he was in the office. And when staff needed to transfer thousands of dollars from IAT's accounts to pay hotels or transport companies overseas, it was always Hilliard who did the withdrawals and telegraphic transfers for them.

It was a hassle though, having a bookkeeper who worked outside the office. Although Hilliard had his own dedicated computer at IAT's premises, Hellstrom later told a court that Wood was 'constantly inconvenienced' because Hilliard did not retain any of IAT's financial records at the office. Hellstrom also claimed that whenever she or Wood asked Hilliard for updates on the company's financial position, he 'consistently resisted' their requests. Hilliard, in turn, denied this.

In early 2001, after Wood's enlightenment by Trevor McMahon, he and Hellstrom searched the travel agency's offices, but they had no idea where Hilliard might have stored the company's old chequebooks, deposit books or financial ledgers. While Wood had little to do with the travel agency's finances, Hellstrom was meticulous in her record-keeping. All her records were secure in a computerised spreadsheet, but Hilliard had never shown her the company's bank statements and none had ever been mailed to the travel agency. She was very much in the dark about the company's full financial position.

Hellstrom rifled through some filing cabinets and found some of the company's insurance records and some of the superannuation records for IAT staff. She found IAT's licence showing it was fully registered with the Australian Federation of Travel Agents, but as for financial records that might have defined what money belonged to IAT's clients and what funds were clearly available for the business, there was nothing.

Hellstrom logged into the computer that Hilliard occasionally used when he was in the office and hunted around for a pro forma business accounts software program, but again she was defeated; if computerised records of IAT's financial transactions had existed at some stage, they had been deleted. Any accounting records that remained were, according to Hellstrom, hopelessly inadequate. 'So basically what I did was I went through every single withdrawal and transaction over the entire previous twelve months, using all sorts of different methods,' she later said in court. '[By] using receipts that my staff had [issued], using our databases where they could be recorded . . . literally go through every client that had paid us and make a detailed record of their money. I went through all the cheque-books to try and reconstruct all the withdrawals so that I could obtain some sense of a financial position.' But Hellstrom never found enough documents to help her totally reconstruct the travel agency's finances.

Information Age Travel's staff usually cleared the small storeroom at the rear of the offices about twice a year, but nobody could ever recall seeing financial documents there; the only papers retained in the storeroom were old tour itineraries, customer receipts and booking records. Yet it was here, on 12 January, behind all the travel agency's archived documents, that Christopher Wood discovered two cardboard boxes, one labelled 'Performing Arts Services' and the other '*Tonight Live* Booking Forms'. IAT staff had never seen the boxes before, and as far as Wood knew they had not been there before Christmas Day.

Wood carefully removed the box lids and shuffled through some of the paperwork. There were a few old documents, bank statements and cash reconciliation reports in one box, and the other was stuffed with used cheque butts corresponding to the Information Age Travel chequebooks that Hilliard used. Most of the cheque butts were either blank or missing crucial details. Whoever had filled out the cheques did not want to leave any record of who received the money.

Wood then sat down and analysed the bank statements and the cheque butt records, trying to match exits from the accounts to the serial numbers on the blank cheque butts, and again he was startled. For month after month of entries, he found exactly what Barrie Stevens had found in the Performing Arts Services' accounts—a preponderance of double zeroes. Now dollar-only transactions ending in '00' might seem odd to a wizened banker, but they are especially odd to an experienced travel agent who is used to dealing in foreign currencies. Rarely does a foreign exchange transaction convert into precisely $500 or $1000 or $7500. Usually there are a few dollars and cents left hanging around. But here in Information Age Travel’s accounts were many entries for double-zero deposits and withdrawals.

Wood then began matching some of the blank cheque butts to line items in the bank statements that showed cheques drawn for ‘cash’ (ANZ’s cheque-recording system only started identifying cheques as specifically for ‘cash’ after mid-1997). From what he could see, big sums had disappeared from IAT’s accounts in cash and often more than $3000 at a time. Wood knew this was crazy stuff; Information Age Travel never needed lump sums of cash at home, only relatively small sums of foreign cash to tip tour assistants overseas or pay the occasional entry fee to a museum. And when he examined the bank statements he wondered why the travel agency was apparently writing cheques to pay stockbrokers thousands of dollars and paying thousands more to dealers of rare stamps. Why was it paying for Roy Hilliard’s Diners Club account or his Visa credit card account each month? These expenses could not possibly be business expenses for Hilliard. It was becoming increasingly clear that Hilliard had tapped into the travel agency’s accounts, using its funds as his own, and that he had done it undetected for nearly as long as they had been in business together.

For close to four months, Roy Hilliard resisted his colleagues’ pleas to quit Information Age Travel. Even when Christopher Wood agreed to let Westpac examine all his and IAT’s accounts, Hilliard refused to leave, until finally Wood sued to dump him from the board.

When the case was aired in the Victorian Supreme Court on 4 May 2001, Justice Philip Mandie strongly criticised the bookkeeper’s conduct. According to McCready's statement, Hilliard had admitted he 'wrongly used IAT's bank accounts' to pass cash to Vizard and, as far as the judge was concerned, Hilliard had breached his duties as a director of the travel agency. His conduct had been 'improper'. So, Justice Mandie said, it seemed 'quite extraordinary' that Hilliard had not resigned, and he warned Hilliard's lawyers that if their client did not quit—and quit *now*—then the court could use its powers to force him off the board.

Hilliard stepped down before the court reconvened.

Around the same time that Hilliard was cut out of Information Age Travel, Christopher Wood and Kristen Hellstrom struck a deal with Westpac—a deal that permanently cut IAT out of Westpac's litigation against Hilliard. In return, the pair agreed to give the bank their full cooperation as Westpac investigated how Hilliard had funnelled Vizard's money through the travel agency's bank accounts.

Their evidence later would prove crucial.

11
The money trail

Back at Malvern police station on Christmas Day 2000, Senior Constable Grimsal would have carefully unfolded the pages of Roy Hilliard's letter, smoothed them out and, with the bustle of other officers nearby, shuffled and turned the pages that Margaret McCready had handed her hours earlier, trying to absorb as quickly as she could what Hilliard had chosen as his last words.

In places, the note clearly depicted Hilliard's despair and why he believed he had to kill himself. There was no hope in his life, no way out. He had been accused of monstrous wrongdoing, and he feared he would never be able to offer an adequate explanation. He had done only what Vizard had asked, Hilliard wrote, and now he would be the 'scapegoat' to suffer. 'His tack seems to take the heat off him, and his claims of forgery and the revealing of the cash payments give him a great opportunity. I wonder if that wasn't the objection [*sic*] right from the beginning,' Hilliard had written.

Grimsal didn't get a chance to read Hilliard's note thoroughly, but a few days later Margaret McCready telephoned Malvern police station and told her Hilliard had changed his mind and now he wanted his letter back.

The police officer refused. The letter had been addressed to the police, and it had some pretty odd accusations in it. It may end up constituting evidence of some sort: Hilliard was, after all, still very ill and in psychiatric care. If he were to die, this letter might be required by the coroner's office. Grimsal told McCready that because the letter was written by Mr Hilliard, she felt she should return it directly to him.

McCready insisted, but Grimsal pointedly refused again. McCready rang back several times in the next few days, each time demanding the letter be returned, and each time Senior Constable Grimsal refused.

When Hilliard was discharged from the Melbourne Clinic in early February, he made a personal visit to the Malvern police station to retrieve his letter. Senior Constable Grimsal located the case file and handed over the letter without discussing it further; in particular she did not tell Hilliard that she had a photocopy of those twenty-nine pages at the back of her locker.

Roy Hilliard is a highly literate man. He is also clever, measured and calculating. In his mind, he was a victim—not a perpetrator. He would say he was a diligent employee, duped by his boss into helping out with some dodgy financial dealings, and who was left to rot when the whole mess became public. At least that is what he would tell the world. A more comprehensive version of Hilliard's defence emerged over the next five years, but the first glimpse of it was in his Christmas Day suicide note. For nine months, Grimsal kept a copy of that letter in her locker at Malvern police station and she did not reopen it until September 2001 when her colleague from across town, Detective Senior Constable Judyann Stevens, dropped by on a Saturday afternoon. Stevens had some queries about a fraud investigation that police had begun only a month earlier and which involved Hilliard.

'I wondered if one day that would ever come out,' Grimsal told Stevens as she headed into the police change-rooms, flipped open her locker and pulled out her photocopied pages. Stevens read the letter with all Hilliard's amazing allegations against his boss. What was clear in that letter was that Hilliard claimed everything he did was with the knowledge and consent of Steve Vizard.

On 9 April 2001 Hilliard filed documents in the Victorian Supreme Court outlining the basis of his defence against Westpac's claim that he should repay money he stole from Vizard. In the five-page document, Hilliard denied using the money for his own purposes, and he argued that Westpac should not have admitted liability nor capitulated to Vizard's request that the bank reimburse him. He denied he had been 'unjustly enriched' by Vizard's money, and denied that he had caused Westpac any loss or damage.

No one was surprised to read each numbered paragraph contradicting Westpac's allegations. But there was a twist to the denials, a veritable vortex that would suck Steve Vizard into a hellish storm. No, Hilliard said, he did not *steal* money—he took it. And, he says, he took it because he was instructed to do so by none other than Steve Vizard himself. Hilliard said all the cheques drawn from Performing Arts Services accounts were paid to Information Age Travel 'to repay it sums paid to Vizard'. In other words, the money simply looped from Performing Arts Services' bank accounts to Information Age Travel and back to Vizard, the original owner, in cash. There was no explanation given for this in Hilliard's formal defence, no reason—not even a vague suggestion—why his travel agency would bother performing this complicated round-robin of cash transfers. Nor was there any evidence to support it—no documents and certainly no third-party witnesses. Hilliard simply said that was what had happened. And it was all done, he claimed, 'with Vizard's authority and for his benefit'.

In Hilliard's version of events, Westpac had been comprehensively deceived by its customer, Vizard—not by Hilliard—and, he said, the bank gave in to Vizard's demands for repayment far too quickly. Westpac failed to fully explore where the money went, and if it simply followed his story it would realise that all the money ended up with Vizard. In effect, if what Hilliard said was true, Vizard got paid *twice*—once with his own cash and a second time through the bank's compensation deal.

Roy Hilliard is not stupid. He planned to wreak vengeance on Vizard, to destroy him. And so he quietly signalled through his lawyers that he had secrets to expose, big secrets that would hugely embarrass Vizard, and if Vizard and his bank didn't back off, then it would all spill into the open and Vizard would have no one to blame but himself.

Once Hilliard's defence was set, he barely budged from it. Even when all the evidence pointed against him, Hilliard continued to insist that he did not steal money from Steve Vizard. Not a cent, ever. Always, he said, the money was drawn from the Performing Arts Services accounts with Vizard's full knowledge, full authority and full consent. By Hilliard's version he was merely a diligent, ever-obedient servant who carried out his master's wishes, nothing more. And if Westpac was going to put its faith in a single witness, Steve Vizard, then the bank would want to be absolutely certain he was telling the truth.

So what did Steve Vizard know about his loyal servant, Hilliard? Did he know that over the nine years that Hilliard had worked on a relatively modest salary he had become a connoisseur of some of the finest and most expensive things in life? That he preferred to sail first-class on his overseas journeys, or that he flew first-class internationally? Or that he often dined at some of the city's most expensive restaurants? And if he did know, did Vizard ever marvel at how Hilliard managed to afford all this when his gross salary by the time he left in 2000 was little more than $60 000 a year?

Possibly not, but the investigators working for Vizard and Westpac began to wonder, especially when they discovered some oddities in the trail of cheques. David Warner and Trevor McMahon found that numerous cheques of more than $10 000—all signed by Hilliard—had ended up variously in the accounts of British Airways, the Cunard group of luxury ocean-liners, the stockbroking houses Credit Suisse First Boston and Potter Warburg, as well as the charge-card company Diners Club International.

There was a cheque drawn from Performing Arts Services in October 1994 for $24 850 for shares purchased through Credit Suisse First Boston, and two weeks later another cheque for $8511 went to the same broker. In August 1995, a cheque for $25 500 was drawn from the accounts of Roxby Park farm to buy shares through Potter Warburg, yet there was no obvious reason why the farm would want to buy shares in publicly listed companies. And less than three weeks later, another cheque went to Potter Warburg; this time Performing Arts Investments stumped up $19 570. In each case, it was easily confirmed that the shares purchased using those cheques were for the personal share-trading accounts of Roy Hilliard.

Other cheques showed how in October 1996 Hilliard drew $22 585 from Performing Arts Investments' accounts to pay British Airways for some flights, and about three months later he paid Cunard $13 950. He bought coins and stamps from renowned London-based company Stanley Gibbons, using Performing Arts Services bank accounts, by signing cheques for $27 100 in July 1997. He remitted a further $28 000 to Stanley Gibbons over the next two years.

Yet all this spending was small change when lined up next to Hilliard's Diners Club account. Between September 1993 and May 2000, some $255 590 was drawn from various Performing Arts Services group accounts just to pay Hilliard's charge-card expenses. Each of the monthly Diners Club payments from 1993 to 1996 averaged $7000, and most of these cheques were for less than $10 000.

It was fabulously extravagant spending, the kind that Gatsby would have appreciated. Cheques written to Diners Club, British Airways, Cunard, Potter Warburg, Credit Suisse First Boston, Stanley Gibbons as well as a small Visa credit card bill—and all of them traced directly to Hilliard's personal benefit—totalled more than $438 000, a staggering tally of perks. A further $2.58 million went directly to Information Age Travel's account, where it mingled with other funds and mostly disappeared. When the investigators finally ended their search, they estimated that more than $3 million had disappeared from Vizard's accounts over seven years.

By Hilliard's own reckoning, he and McCready owned about $2.3 million of assets between them and had almost no debt. Both had worked for many years on relatively modest salaries, but their investment property generated a handy income. They had also been active investors in property and owned shares that generated dividends and profits that they used to reinvest and further grow their assets. Hilliard liked to collect rare items. He had a collection of antique guns valued at $5750, and a financial plan that the couple prepared for their bank in early 2000—before Hilliard quit Vizard's employ—estimated his stamp collection was worth $20 000 and his antique coins $15 000. That same financial plan showed Hilliard and McCready owned a two-thirds shareholding in an industrial property valued at close to $260 000, some $930 000 of short-term investments including superannuation funds, about $350 000 of furniture and other household fittings, jewellery valued at $75 000, plus assorted investments, including about $124 000 invested with Westpac.

It was not until early August 2001 that Westpac's Trevor McMahon believed the bank had more than enough material to interest the police. The painstaking examination of the cheque trail was mostly coming to an end, and he was ready to hand the brief over to the police and let them launch their own investigations. By that stage, he and David Warner had identified 104 cheques drawn against Steve Vizard's accounts without his authority, but the bank had not yet finished sorting through the accounts.

McMahon telephoned Detective Senior Constable Judyann Stevens, who was then at the Carlton Criminal Investigation Unit close to McMahon's offices, and explained how Vizard was absolutely adamant that he did not authorise Hilliard to write these cheques. As for the little travel agency, Information Age Travel, where many cheques were deposited, Westpac was now convinced that neither Christopher Wood nor Kristen Hellstrom had any knowledge that IAT's bank account was being used as a conduit for someone else's money. But Westpac wanted the police to act with discretion and tact in dealing with the bank's well-known customer. Vizard had insisted on no publicity from the start, and he wanted it kept that way, so McMahon was hoping Stevens would plug holes in the usual police gossip network and not leak the investigation to the media.

McMahon sent Stevens and her colleagues a two-page letter and several documents, including a copy of bank authorities that showed Hilliard was authorised to write certain cheques against Vizard's accounts. He included a copy of the February 1996 fax that Vizard claimed was forged and a spreadsheet of 104 suspicious cheques. He also drew up a chronology with an interpretation of events through Westpac's eyes and, he said, if police wanted to get on top of the brief quickly they needed to understand some of the difficulties Westpac had already encountered. Police might need to brace themselves for an especially boisterous defence. So far, Roy Hilliard and his advisers had proved 'extremely obstructive and aggressive', McMahon said. 'A defence was filed that made serious and scandalous accusations against "VIZARD" claiming that he was a party to the thefts using the process known as a "tax avoidance scheme". This claim has not been withdrawn by Hilliard.'

McMahon also noted that since January the bank had paid Vizard more than $1.52 million, which he described as a 'saving' for the bank amounting to 36 per cent of the face value of the pilfered cheques. But Vizard had been a little unhappy with the arrangement. 'The "other side" have made some "noise" lately stating that they had not predicted at the time of the negotiated settlement that the saving to the bank—cost to them—would be so large,' McMahon wrote. 'They have confirmed however that the agreement is binding.'

Then he signed off with a somewhat unusual request, highlighted by his own underscored italics, which he hoped would ensure Westpac's special customers received the best possible treatment: 'We would assume that part of your enquiries will require you to interview Steve and Sarah Vizard. Because of their high profile, standing in the community and *ongoing connection with Westpac*, could we ask if you would contact us prior to this interview taking place to allow us to arrange their introduction to you.' For these customers, it had to be the red-carpet treatment. It had to be coordinated, carefully managed, and media strategies had to be set in place. So on Tuesday 11 September 2001 there was a brief meeting to discuss how police would handle the expected avalanche of media inquiries. In the room were: Steve and Sarah Vizard, and their public relations minder, David Wilson of IPR Shandwick; Detective Senior Constable Stevens and Victoria Police's then-media director, Kevin Loomes; as well as Westpac's Trevor McMahon and a media liaison officer from Westpac, Julia Quinn. As it happened, the media didn't hear a peep about Vizard's woes for some time.

Police brandishing search warrants banged on the door of Roy Hilliard's rented apartment in South Yarra on the morning of Friday 14 September 2001, and within hours he was charged with 202 counts of theft. Police roamed the apartment for a few hours, searching cupboards and drawers, seizing documents and share certificates, even Hilliard's stamp collection, and then they asked the former bookkeeper to join them down at the station. But if police were hoping for an informative yarn over a hot cuppa and a plate of bikkies, they were wasting their time. Hilliard gave what police officers considered a classy example of a 'no comment' interview. He conceded absolutely nothing, although as the interview was ending, Hilliard suggested that if police wanted any more information he was certainly willing to assist—perhaps the detectives could put all their queries in writing.

Just one week after he was charged with the theft of millions of dollars, Hilliard tried to kill himself for a third time. Again he survived.

Hilliard now faced the prospect of two cases in two courts: a criminal trial arising from 202 charges of theft (later reduced to 198), and Westpac's civil suit in which the bank demanded some $3 million that it claimed the bookkeeper had stolen from its customer, Steve Vizard. Once police charged Hilliard, however, he and his lawyers, led by Peter Hayes QC, barrister Danny Masel and solicitor Magda Kron of Rudstein Kron, threw much of their energies into preparing for the criminal trial. They subpoenaed masses of documents from Vizard and Westpac. Hilliard demanded copies of all the agreements ever drawn up between Vizard and his bank; hundreds of documents relating to Vizard's family, his business dealings and his investments; and much, much more. He was building a veritable armoury of paper, one that he would dip into and use to support his claim that each and every time he drew a cheque from the Vizard accounts it was with his boss's authority and consent.

Preparations for the criminal trial took about a year, but first Hilliard would face a committal proceeding before a magistrate who would determine if the Director of Public Prosecutions had sufficient evidence to take the case to trial.

On Monday 18 November 2002, the day before the committal proceeding was due to start in the Melbourne Magistrates' Court, Hilliard once again attempted suicide and was admitted to Bendigo Base Hospital. He survived. The following morning, Magistrate John Hardy agreed to adjourn the committal until there was a better understanding of Hilliard's condition. But further complicating the process was a sudden flurry of subpoenas from Hilliard's lawyers as they demanded Steve Vizard hand over confidential documents about his financial affairs. The case preparations stretched into the new year.

12
The shock of a whipcrack

One block south of the towering steel and glass edifice of Melbourne's Federal Court is the city's Magistrates' Court, the sad repository of crooked stories and failed lives, where thieves and gangsters, drug dealers and miscreants first come to answer police charges. Its foyers swell with prosecutors and defence lawyers, police and social workers—all touting in their snappy black folders the tales of good lives gone wretchedly wrong.

It was in this pale-yellow courthouse that Steve Vizard's fabulous world began to unravel, stitch by perfect stitch. On Tuesday 11 March 2003, he too was scanned through the security system, ushered into a crowded lift and, buffered by a cadre of lawyers, delivered into the foyer outside Court 19 where Magistrate John Hardy would preside over a committal hearing for Roy Charles Hilliard. Not that Magistrate Hardy would be the one to determine Hilliard's guilt or innocence—his job was only to rule if the evidence presented by the Director of Public Prosecutions on behalf of the police might be enough to convince a jury in a criminal trial that Hilliard had stolen money.

Outside in the corridor, a stream of junior lawyers seemed to be in perpetual motion, jotting notes, whispering frantically, going into courts and out again, only to return minutes later laden with more bundles of documents. But once through the gentle hiss of the double-door airlock, Magistrate Hardy's courtroom was almost a haven of quiet, despite being very crowded. In this elongated room two long rows of purple-brown padded seats were packed with lawyers and crime reporters, some young schoolgirls had filed into the back of the room, and milling around the bar table were several Queen's Counsel, including one particular bearded gent who triggered a rash of whispers among the reporters. Robert Richter QC, the eminent criminal defence counsel, was here. Now that was indeed a surprise and a curiosity. Richter was not here to represent Hilliard—that would be done by Peter Hayes QC—and Richter was certainly not prosecuting. His presence could mean only one thing—that someone other than Roy Hilliard was in deep trouble.

Two gentle knocks signalled the start of the day's proceedings and Magistrate Hardy entered the room, bowed slightly to the court, and looked at a full book of business. There were still some diary matters to deal with, sentencing to sort out in two other cases, and one of the defence counsel in this *Police v. Roy Hilliard* matter would be delayed with another case across the road. It would be best to adjourn it until later in the morning.

Richter rose to his feet and, by way of a small protest about the proposed delay, told Magistrate Hardy how his client had complied with years of relentless demands for documents—'days and days' he had spent sorting through material—and now he just wanted the whole thing to get underway. Steve Vizard, Richter said, 'is ready to proceed'. Now Vizard was not a party in this case, he was the main prosecution witness. Why *he* would need a criminal defence specialist representing him in this court was a mystery indeed. All morning, the eyes in the court flickered to the end of the bar table, watching Richter's every move.

Just outside, patiently waiting for the case to resume, Vizard sat with his lawyers. Already this messy altercation with Hilliard had taken up far too much time—more than two years and counting. It had enormously disrupted his family, cost him tens of thousands of dollars in legal fees so far—to say nothing of the millions that had gone missing—and still Hilliard would not back off. There had to be an end to it all.

At last, just after 11 am, Magistrate Hardy reopened his Hilliard file and, with a curt nod to prosecutor Claire Quin, signalled for the committal proceeding to pick up where it had left off months before. 'Let's just get on with it,' he said brusquely.

'Your Worship, I call Stephen William Vizard.'

Eyes turned, heads turned. The room went unusually quiet, and in through the door stepped Vizard, stretching out his lanky frame and angling himself carefully into the slender wood-panelled witness box. He placed one hand on the Bible and in a clear voice repeated the oath that is heard in so many courts each day. Steve Vizard swore to tell the truth, the whole truth and nothing but the truth.

'Mr Vizard,' Quin began. 'Is your full name Stephen William Vizard?'

'It is.'

Vizard was handed his witness statement, sworn only a week earlier, attesting that Roy Hilliard, the man he had trusted with every aspect of his finances, was never—*never*, he said—authorised to write cheques of more than $10 000 from Vizard's accounts.

'Are the contents of that statement true and correct?' Quin asked.

'Yes,' Vizard said.

Quin formally handed the court Vizard's witness statement and quietly resumed her seat. From here, the proceedings of the committal hearing would mostly be in the hands of the defence as it teased out the prosecution's evidence. Vizard leaned slightly forward in his seat, glanced around the court and into the public gallery, and waited as Hilliard's counsel, Peter Hayes, the rotund and often theatrical Queen's Counsel who that week celebrated three decades at the bar, rose to his feet.

'Mr Vizard,' Hayes said with a flourish that nudged his huge spectacles up the bridge of his nose. 'What authority did you give Mr Hilliard in respect of paying cheques out of your account?'

Hayes stood side-on to Vizard, not looking at the witness. He glanced down towards the floor, then up, picked up some papers from the table and waited. It was a low-key start, a warm-up question. Vizard was a hugely confident man, and Hayes would expect the former comedian to try to win the empathy of the court by smiling and joking, by making everyone in that room feel like they knew him personally.

It was, Vizard said, flecking his answers with a characteristic stutter, 'in accordance with the authority given to Westpac'.

Hayes pulled out one document, a bank authority that set formal limits on Hilliard's withdrawals, and then he pulled out another and a third, passing each across the bar table and up to the witness. Authority number one had been signed by Vizard, he could confirm that. Authority number two had been signed by Vizard, yes. But with authority number three in his hand, Vizard balked.

'Is that also an authority you signed?' Hayes asked.

'No, it is not.'

'It's not your signature?'

Vizard's voice was quite clear, but his language was not: 'It appears to be my signature.'

'So you signed that document?' Hayes asked.

'No, I did not,' Vizard said. 'It appears to be my signature, yes.'

Hayes had a careful witness here, one who was not readily going to open up, one whose legal training had taught him the importance of using words with precision.

'Have you previously asserted that it's not your signature but that it was a forgery?' Hayes asked.

'I've asserted that it appears to be my signature.'

'*Appears* to be' is what Vizard, the trained lawyer, said. Now there are a lot of 'appears to be's in this story and some might wonder why Steve Vizard didn't just say, 'Yes, Mr Hayes. I have previously asserted that it is a forgery.' That sounds clear enough, fairly simple. But he didn't. Vizard appeared to be implying something else had happened to his signature.

Hayes detected a slight cockiness and decided to go on the attack. 'Was Mr Hilliard ever authorised by you to sign cheques on your or your company's behalf for more than $10 000?' he asked.

'No, he wasn't.'

Hayes gave Vizard a chance to clarify this—after all, there were plenty of cheques that had been signed by Hilliard for more than $10 000 which appeared to be for legitimate business expenses.

'He paid income tax on your behalf, didn't he?' Hayes said.

'That's so,' Vizard said.

'He did so with your authority, I take it?' Hayes asked.

'He did so.'

He did so? Lawyers at the bar table squinted at each other in confusion and turned to look at Vizard. Is he admitting now that all along Hilliard was allowed to write big cheques?

'No, no, no,' Vizard said sharply. 'He *did* so, but he did not have *my authority* to do so.'

So, Hayes retaliated, when did Vizard first learn that Hilliard was writing cheques of more than $10 000?

Ah, that would have been after Hilliard's departure, Vizard said, and only when the investigators started sifting through the cheque transactions of the Performing Arts Services group.

No, Hayes thought, that's rubbish. And with a slight tug to straighten his jacket, he spun around to face Vizard. 'You just told a blatant lie to the court, haven't you?' Hayes said. 'I put it to you directly that you are deliberately lying.'

The accusation whip-cracked across the courtroom. It was short, loud, and it stung. Eyebrows rose around the room. Journalists caught each other's glances, and grinned inwardly. This should be a lively morning. Here, just minutes into the case, was the easiest first paragraph for tonight's story: *Television celebrity and well-known Melbourne businessman, Steve Vizard, yesterday was accused of lying in court when . . .*

'Do you deny that?' Hayes asked. He was pumped, getting into his swing now, but to his left he was carefully watching Richter, who was making mental notes and storing up his ammunition.

'You just told a deliberate untruth to the magistrate,' Hayes said as he turned towards Vizard again, confident his attack had rattled the businessman. He reached for three bulky folders containing copies of the cheque vouchers. He passed one folder to Magistrate Hardy, another to the prosecutor, and out of courtesy he set one aside for Richter. Then Hayes pointed to just one cheque transaction—a cheque for $12 694, signed by Hilliard.

Vizard claimed he had never seen cheques of more than $10 000 that had been signed by Hilliard. 'No,' he said firmly. 'I rely on my legal advisers and they never thought to show them to me.'

This time the lawyers grinned. There was nothing new about blaming lawyers.

'Let's put this squarely, Mr Vizard, you've accused Mr Hilliard of a very serious crime which you know will cause him to probably go to jail and ruin his life, haven't you?'

'No.'

No? Again, eyebrows flicked up in disbelief and some lawyers squinted in confusion.

Hayes wheeled around, facing him squarely: 'You haven't accused him of a serious crime?'

'He is accused of a serious crime.'

'Have you accused him of a serious crime, Mr Vizard?' Hayes was losing patience now. Vizard was stumbling on simple questions, and Hayes hadn't even started on the tricky ones yet.

'My . . . ' Vizard hesitated. 'My statement is crystal clear in respect of the accusation.'

'Would you like to answer the question?' Hayes said tersely. 'Is it a hard one? Do you have difficulty understanding it?'

'I've accused him of stealing millions of dollars from our family.'

Months, indeed years, before Steve Vizard settled into the witness box at the Magistrates' Court that autumn morning, he would have known what lay ahead. He knew the kind of assault Hilliard's counsel was preparing. He knew that Hilliard's defence would amount to a full-blown attack on his own credibility, that his former employee would come loaded with devastating accusations, leaving him with no prospect of retreat. He knew all that because for months his lawyers had heard warning shots from the other side.

Vizard knew what to expect at this committal hearing. He had commissioned senior counsel from all over town to help him personally, to advise him on how to negotiate the maze that Hilliard's counsel would set up. He would have revised, over and over, every potentially vulnerable aspect of his financial dealings, and he would have been asked several times by his fabulously well-paid lawyers, 'Steve, is there anything else we should know?' And every one of them would have known exactly what was coming that morning. Whether they knew the truth of it all is a different matter.

So as Vizard sat there in the Magistrates' Court, with all the eyes and ears of the court fixed on him, and as he fielded this initial barrage of questions from Hilliard's counsel, he must have wondered when the missiles would hit. Certainly Peter Hayes kept up a rapid-fire pace that morning. He was ploughing through his cross-examination so fast that the regular criminal court reporters, trained to possess almost flawless shorthand skills, were struggling to keep up.

If there were glaring discrepancies in the Performing Arts Services accounts, Hayes asked, if millions of dollars had gone missing as police alleged, why hadn't Steve Vizard taken it up with his auditors? Why hadn't his accountants at Clarke Bentleys spotted the inaccuracies? Why didn't he sue the auditors? Why didn't he demand compensation from Clarke Bentleys? Had Vizard even bothered to ask his accountants for their explanation of how they missed seeing all this money leaving his accounts over so many years?

'I have,' Vizard said firmly, and Clarke Bentleys' explanation was that Hilliard had 'systematically engaged in a complex series of thefts, uh, over a long period of time, uh, over a ten-year period of time, that defrauded our family.'

There was feistiness now in Vizard's tone, but Hayes cut him down before he got too far.

'You know that you have just again accused Mr Hilliard of something that you know he didn't commit, haven't you? . . . Each of these payments, I put to you squarely, was made to you by Mr Hilliard, on your direct instruction, and for the purpose of providing a secret sum away from everybody, isn't that so?'

A secret sum? Whoa-ho! The gallery reeled. These payments were made to Vizard? The journalists speedily finished off the last few words of shorthand and drew up some new lead paragraphs: *Television celebrity and well-known Melbourne businessman Steve Vizard denied asking his bookkeeper to set up a secret stash of cash . . .*

'It's absolutely not the case,' Vizard said.

The courtroom was agog, and the students at the rear started to whisper to each other loudly, a little restless perhaps after a morning spent touring the court precinct. Vizard too was getting distracted, and seemed to be chuckling as he answered Hayes. He seemed to be treating certain questions as though they were complete rubbish—airily dismissing them as nonsensical ideas that could only have come from the playground of Roy Hilliard's mind and, therefore, could not possibly be grounded in reality.

Hayes tried a new angle. He wanted to peel away Vizard's veneer of respectability.

'You had a very keen policy over that ten-year period of paying as little income tax as possible, haven't you?' he said, swivelling to check that every person in the room was still listening.

'I have not.'

'You claim to be publicly a great philanthropist, don't you?' Hayes asked. 'A giver to charity, a person who does great works? . . . I suggest to you, Mr Vizard, that you have always had a more-than-keen eye on paying as little income tax, capital gains tax or other tax as you possibly can. Isn't that right?'

'That's not the case,' Vizard said quietly.

'Any suggestion by you of philanthropy is nothing but sheer humbug, isn't that the case?'

'No.'

'We'll see about that, Mr Vizard,' Hayes said.

Peter Hayes tugged at his tie and jabbed his spectacles a little higher. All eyes watched him, focusing on the pages he was drawing from his folder as he took a deep breath. He flourished two cheques. One for \$500 000, signed by Roy Hilliard on 17 December 1999, and a second for \$100 000, again signed by Hilliard, this time just days before he retired in October 2000.

'Those sums were payable in respect of Creative Technology Investments, weren't they?' Hayes asked.

Creative Technology Investments: the name hung in the air with no further explanation. It didn't seem linked to anything, and it wasn't clear yet if this was a description or just another company name.

There wasn't time to wonder; Hayes was into the next question. How, he asked, could Roy Hilliard just take it upon himself to write cheques for those sorts of sums without your approval, Mr Vizard? Surely half a million dollars was a pretty big sum? Didn't Vizard bother to check his bank statements or his company's accounting records to ensure that sums of this order were entered correctly?

'Uh, very, *very* rarely,' Vizard said. He said it slowly and deliberately. As far as he was concerned, checking the detail of his finances was the responsibility of his accountants.

See that page in the folder, Mr Vizard? Hayes said. There are more cheques there—cheques for more than $10 000, payments to lawyers, remittances to the Tax Office, stamp duty payments, accounts paid to American Express, and a cheque for $10 674 for rather a lot of wines purchased at auction from Langton's Wines. 'You knew that these kinds of payments were being made by cheques drawn and signed by Mr Hilliard, didn't you?'

'No,' said Vizard.

'That's serious, is it?'

'Yes.'

And once again Hayes accused him of lying. Who, he asked, did Vizard possibly think might be writing cheques to pay all these debts? After all, no one except Vizard and his wife was authorised to write cheques of more than $10 000.

'Well, had I turned my mind to it, it may have occurred [to me] that, uh, they needed to be paid, and they were being paid,' Vizard said. But no, for at least five years he never bothered to find out how his big bills were being paid.

'And you weren't writing the cheques, were you?' Hayes asked.

'That's the case.'

Now this may have been the tipping point, the answer that just started to turn the minds, as Vizard might say, of some people in the court that day. And that is because the answer simply did not ring true among ordinary people. How could someone *not* know that their tax or lawyers' bills or credit-card accounts were being paid? Was this an answer of supreme arrogance, or perhaps symptomatic of a man with too much money who just doesn't keep track of it?

Backed into a corner, Vizard aimed another salvo at his trusted advisers, the well-paid numbers-men commissioned to look after his back: 'I had in place Hilliard who I trusted to deal with these matters, an accounting firm who I trusted to supervise these matters, auditors who were overviewing the accounting, and Westpac Private to whom I'd given an authority,' he said. In Vizard's view, all these advisers had let him down.

But Peter Hayes wasn't going to allow him to sheet blame to everyone else. He singled out some more cheques, and then he noted one that had been paid to the law firm of Minter Ellison—and this time, the legal advice was related to something very special indeed.

'Have you ever engaged in what is known as insider trading, Mr Vizard?'

Insider trading? The reporters gasped. So that was it. That was why Robert Richter was here. Illegal share trading. Now it all started to make sense. Vizard was in serious strife, and he needed someone like Richter to protect his back. There was a crackling of paper as journalists wrote furiously in their notepads.

'No,' Vizard said quickly.

Hayes spun around to check the court was listening, to make sure everyone could hear what was being said.

'I'm going to put to you squarely in a minute that you have systematically engaged in using private information for the purposes of your own personal gain,' Hayes said. 'What do you say to that?'

'No,' Vizard said, again without any pause.

No was what the courtroom heard. A categorical *no*. No hedging the answer, no trying to fashion it into something else. Vizard said *no*, and almost immediately the courtroom split into believers and non-believers. Some thought the accusation simply could not be true, that it was overblown. Perhaps Vizard might have a secret cash stash and perhaps he did play a bit fast and loose with the tax man, and perhaps he was a bit stingy when it came to charitable organisations, they thought. But he would not stoop to insider trading. And then there were others who believed that, yes, that fits perfectly. Vizard had been accused, so he must have done it—case over.

Hayes' astonishing allegation, however, did not seem to affect Vizard in the slightest. If anything, he seemed to perk up a bit. He was a bit chattier, a bit more willing with his answers. Yes, he told Peter Hayes, clearing his throat, he had used lawyers at Minter Ellison during 2000 in relation to his share investments in technology companies, Sausage Software and MultiEmedia.

'Let me just briefly ask you about Sausage,' Hayes said. 'Do you remember a time when you were involved with Telstra?'

'Er, I do.'

'Remember hearing that Telstra was going to enter into a major transaction with Sausage?'

Vizard could remember being on the board in March 2000 when directors discussed a multi-billion dollar deal, a three-way merger between Telstra, Sausage Software and another IT company, Solution 6 Holdings.

'Do you remember getting someone to buy shares on your behalf—but not in your name—in Sausage, to take advantage of what you knew about Telstra's plans?'

'Absolutely not.' Again, it was a categorical denial. Unwavering. Adamant.

'You deny that, do you?' Hayes asked.

'I do.'

Hayes liked to build drama in his cases.

'I'll be taking you to those documents and, I suggest to you, you have told a deliberate lie on your oath there, Mr Vizard. What do you say?'

'Uh, I say "no".'

To make absolutely certain that the witness knew what he was doing, Hayes bluntly reminded him of the concept of perjury, and of the serious potential penalties for giving false sworn evidence.

And with a slight hesitation, Vizard replied, 'Uh, I'm aware of them'.

Peter Hayes QC was in his element, tackling the high and mighty, cutting Vizard down to size. His voice was raised, his questions were flying quickly and easily and the witness, in his view, was in diabolical trouble. Hayes was convinced Vizard was lying. Insider trading—it was a very serious allegation, and not the sort that a senior counsel would idly toss around without having done thorough research. Hayes knew what was in the documents, and he figured he had Vizard cornered.

13
Creative investments

The picture of Steve Vizard that Peter Hayes QC was gently coaxing to life was seriously at odds with the one the public might normally recognise. In his other ventures, for example, as head of Melbourne's Major Events Company or chairman of the board of trustees of the National Gallery of Victoria, the popular image of Vizard was one of a savvy, careful businessman. He might have been a bit of a larrikin perhaps, but he was a harmless one—someone that most people felt they could trust, someone just like themselves. That was the abiding impression promoted by federal and state governments too. Steve Vizard, so the politicians said, was eminently suited to run big organisations, and to take responsibility for ensuring that those same organisations were honest and accountable to the public. But under cross-examination in the Melbourne Magistrates' Court on 11 March 2003, Vizard was being fashioned as a ruthless, sneaky and self-interested businessman.

Vizard had denied Hayes' allegation that he traded shares with inside information, just as he had denied all the other damaging allegations that morning. But it was not the denials that many people heard, it was the accusations. They buzzed low around the courtroom before burying themselves deep in the inner ears where it would be almost impossible to flush them out. The tiniest seeds of doubt about Vizard's credibility had been planted.

Peter Hayes once again tried to get Vizard to open up about how substantial expenses—his bills, say, for lawyers and accountants—were paid. It was obvious that Hilliard paid the bills and that he did so by writing cheques, but Vizard kept insisting that his former bookkeeper did not have proper authority to write any cheques of more than $10 000. Then Vizard went a step further and claimed that he really had no idea that, on occasions, some bills ran to more than $10 000 and that they had, indeed, been paid on his behalf.

'Is that a serious answer?' Hayes asked.

'Yes, I did not turn my mind to it.'

So, Hayes asked, who did Vizard think was paying the bills—'some sort of mystical figure in the background'?

Vizard did not like being teased, and with this question his face reddened, his voice tightened and he hit each word with a tense little hammer as he replied: 'I didn't know what the accounts were. They went to Hilliard and I assume he was paying them in accordance with the authorities given to him.'

Vizard didn't like the ridicule. *He* hadn't stolen any money, *he* hadn't been charged with anything, and he had never been subjected to anything quite as invasive as a public examination of this kind into his personal finances. This must have felt like a show trial to him, or a gratuitous pillorying.

Peter Hayes then turned to Vizard's personal loan account—the book entries in his companies' accounts that were meant to be an accurate record of how much he had borrowed from the Performing Arts Services trust for his own purposes. This was not a distribution from the trust; it was a loan, so eventually Vizard would have to repay it. There is nothing unusual about shareholders borrowing money from their own companies; private owners often draw personal expenses from their business accounts, and their outstanding debt to the company would then be registered in a so-called loan account. But what Hayes pointed out to the court was that Vizard's loan account with the Performing Arts Services trust had ballooned from zero to $5.3 million in the five years to 1995; it returned to zero in about 1996—after he sold half his portion of Artist Services to Fairfax—and by 2000 the trust was in debt to Vizard by about $4 million. The court did not hear any explanation why the loan swung from a negative to a positive sum.

'Is this news to you as you sit here?' Hayes asked Vizard. 'For the first time, this is a revelation as to the movements in your loan account?'

'Yes,' Vizard replied. Nobody, he said, had ever pointed out to him how his loan balance had increased. It was 'not a matter that I turned my mind to' and nobody, he said, had shown him what Hayes termed 'a sudden and out of character, quantum-leap increase' in his loan account.

Hilliard would claim that the millions of dollars he had been accused of stealing—but which he said he gave back to Vizard in bundles of cash—had been carefully accounted for as funds that Vizard borrowed from the trust. In Hilliard's version of events, regardless of what Vizard says happened to the money, it was all correctly marked up in the books as funds spent by Vizard. There was, however, an alternative explanation for Vizard's ever-increasing loan account, one that was never raised in court: the loan account might have ballooned because Roy Hilliard, dishonestly yet meticulously, entered sums against Vizard's personal loan account to make it *look* as though Vizard was spending the company's money when in fact the bookkeeper pocketed it himself. Alternatively, this ambiguity about the loan account balance might have been nothing more than a red herring, a distracting ruse designed to complicate the case unnecessarily.

It was Roy Hilliard who had been responsible for preparing the accounts, although he did so 'on a sporadic basis', Vizard said. And it was Greg Lay at Clarke Bentleys who had charge of auditing the accounts and filing tax returns. Proper audits of the Vizard companies would have exposed the escalation in the loan account, but Vizard's auditors at Clarke Bentleys never asked him to verify his loan balance or to justify it, he said. Nor did Lay ever complain to Vizard about the way Hilliard prepared the accounts, so Vizard always presumed the accounts were accurate. It was only after Hilliard left, when David Warner and his team from Carson & McLellan examined the accounts, that the books of the Performing Arts Services group were found to be 'in disarray', Vizard said, and they were in disarray '. . . because there were false entries'.

'There was not a single query over virtually a ten-year period that you remember being raised by your auditors as to the state of the accounts?' Hayes asked.

'That is so,' Vizard replied.

Vizard's responses suggested that when it came to his personal finances he was a veritable klutz, someone who failed to notice money dribbling out of his bank accounts over many years, someone who barely paid attention to his own bills, even the big ones, because he regularly delegated all responsibility for those mundane matters to his underlings, to his paid, trusted advisers. He expected that other people, his accountants and his bookkeeper, would take charge of his invoices, write cheques and get him to sign those cheques if the amounts exceeded $10 000. But, amazingly, none of them ever did ask him to sign cheques. By Vizard's account, he simply did not pay detailed attention to his personal finances because he expected his bookkeeper and other advisers would take care of all his bills, all his banking transactions and all his accounts, with little or no input from him.

Hayes turned to the riddle of the companies' missing documents. Boxes of documents had been taken to Roxby Park farm and were shredded, he suggested, on Vizard's authority.

Vizard vehemently denied shredding any accounts. 'No accounts, to my knowledge, were taken to the farm,' he said. Certainly documents had been taken to Roxby Park where they were dumped into a tip, but these were not documents controlled by Hilliard and they were not financial accounts, he said. Nor did his companies regularly shred documents as part of an internal policy or program. As to what happened with old or obsolete documents, Vizard had no idea.

Hayes then began to pick holes in the tax-exempt Vizard Foundation, the Vizard family's charitable institution which received distributions from the Performing Arts Services trust.

'Did you get taxation benefits out of the operation of the tax-exempt charitable foundation?' Hayes asked.

'No,' Vizard said.

'None at all?'

'Not to my knowledge.'

'I suggest to you that the charitable trust, so called, is nothing but a tax rort by you. Is that not so?' Hayes asked.

'No.'

'We'll come to establish that,' Hayes said ominously. He snapped open a lever-arch folder and carefully withdrew another document, this time a brief memo from Roy Hilliard to Vizard, marked 'Strictly Confidential' and dated 20 January 1998. Many such documents had emerged from Vizard's files during the pre-court process of unearthing material from the other side, and there were several others—highly confidential and sensitive documents—that Hilliard took from Vizard without authority when he quit in 2000.

In this memo of 1998, Hilliard outlined what he considered the most vulnerable aspects of Vizard's tax affairs. After selling half of his share in Artist Services in 1995, Vizard's rising fortune had bumped him onto a list of Australia's richest individuals compiled by *BRW* magazine—and that brought him into the sights of a newly formed unit inside the Tax Office which scrutinised the affairs of wealthy individuals. To comply with the unit's reporting requirements, Vizard's accountants routinely submitted a few extra pages of detail to the Tax Office each year, and the process of course focused their minds on the possibility of a surprise tax audit. The memo represented Hilliard's opinion only, and in places it was scrawled with deletions and handwritten notes by Vizard. Hayes read chunks of it to the court.

' "The original group of trusts was set up to receive income from UFC [United Film Completion]—*Fast Forward*, *Tonight Live*—and to distribute it to loss-making areas, Roxby Park and the Foundation"—was that correct?' Hayes asked.

'No, I disagree with that,' Vizard said.

'You didn't delete it, or say it was wrong on this document, did you?'

'Well,' said Vizard, tiring of the questioning, 'I hadn't imagined it was going to be the subject of an examination like this.'

Hayes continued: ' "The tax man may decide that the group of trusts was set up to avoid paying tax and has no commercial purpose"—do you remember getting that advice?'

'Well,' said Vizard, 'this is Hilliard's document.' And his voice was loaded with disbelief and a slight chuckle, as though he thought Hilliard's reading of his family's financial position was naive.

Hayes, though, picked up on the chuckle and berated him: 'It's very funny, isn't it?'

'No,' Vizard replied, his mouth contracting to a tight purse and his eyes fixed on Hayes. 'It's not funny.'

Hayes raised his voice, loudly and sharply. 'But we'll prove positively, Mr Vizard, that you are a man obsessed with reducing your tax, aren't you?'

'No.'

'That the Foundation was nothing more than a cheap tax scheme designed to pretend to be something philanthropic, but really just a greedy attempt to reduce your tax. Isn't that right?'

'That's not the case.'

'Do you say that no part of the purpose for the setting up of the trust was tax minimisation?' Hayes' accusation hung in the air.

'I say that was no part,' Vizard replied acidly.

'No part? Not even the slightest thought in any of your dark moments that you might be able to save tax by this means, is that right?'

'Correct.'

Hayes ploughed on. 'I suggest you've used the Foundation in a manner of absolute humbug to pretend to the public that you're a philanthropist using the Foundation for public good. Isn't that so?'

'No,' Vizard replied firmly.

Hayes read from Hilliard's 1998 memo again: ' "All of the Foundation expenditure is absolutely kosher, however a sensitive area is that a lot of the art works and silver owned by the Foundation has never been anywhere other than Irving Road [Vizard's home in Toorak]".' The Foundation retained its registered charitable status because its funds were spent acquiring assets that were used to further the public's cultural and educational goals. But Hilliard's memo was pointing out that paintings acquired years earlier by the Foundation took pride of place in the Vizard family home and had never been publicly displayed. Hilliard was highlighting that Vizard ran the risk that the Tax Office might penalise him for using the tax-exempt funds of the Vizard Foundation to acquire paintings and silverware which he retained for his own personal enjoyment. But where Hilliard had written 'has never been anywhere other than Irving Road', Vizard had deleted it and substituted a slightly less pointed description: the Foundation paintings, he said, 'have never had appropriate public exhibition'.

Under questioning from Hayes, Vizard confirmed this with ease. Yes, he said, some of the Foundation's artworks had ended up in his family home. But those artworks, he said, had *always* belonged to his family. They were, he said, his personal items and had never belonged to the Foundation. About a dozen paintings, valued at close to $100 000, had been wrongly registered as assets of the Foundation when in fact they belonged to the Vizard family, he said, but those errors were not detected until after Hilliard left. So not only did the Foundation's register contain bogus entries of paintings that had never been purchased, but some paintings genuinely owned by the Vizards had been wrongly allocated to the Foundation.

Hayes didn't see it that way. 'What you'd been doing was claiming substantial tax benefits by the donation of paintings into the Foundation, which in fact had only ever existed in the lounge-room of your home,' he said.

And Vizard replied, a little oddly, 'Not substantial donations.'

Hilliard's 1998 memo raised several other areas that the bookkeeper suggested might cause difficulties for Vizard if his tax affairs were ever audited. Firstly, the estimated $1 million a year personal retainer the celebrity received from the Seven Network in the early 1990s was paid to a company. Hilliard suggested the Tax Office might view the retainer as personal income and argue that it should have been taxed at marginal personal income tax rates instead of business rates. He also suggested Vizard's companies had claimed excessive deductions for business expenses that he contended could have been picked up by the Seven Network instead of Vizard claiming them from the Tax Office. He also noted that tax deductions were claimed for expenses related to films that never eventuated.

Hayes finally reached the end of the memo and accused Vizard of 'blatant tax minimisation'. 'The whole purpose of setting up this so-called charitable Foundation was to divert income from you or one of your companies in a tax-effective way into a so-called Foundation, isn't that so?'

'No,' replied Vizard.

When Magistrate John Hardy returned from the luncheon adjournment that first day, he had a few things on his mind. His massive full grey beard brushed the papers on his desk as he leaned slightly to his left to speak directly to Steve Vizard, who was back in the witness box.

'Over lunch,' he said, 'I have considered various matters that have been put to you, and more out of an abundance of caution than anything else I advise you that you are not obligated to answer any question that you believe may incriminate you.'

Vizard, too, was a trained lawyer. He knew precisely what he was saying. Every answer he gave that day was addressed to the precise words of the question, and nothing more. But if Vizard lied to the court, and if he were later found to have lied, then he risked being charged with perjury and possibly ending up in jail. Magistrate Hardy suggested that if Vizard needed advice from his lawyers he only needed to signal it to the court.

'Thank you,' Vizard said.

Peter Hayes rolled straight into a new series of allegations. Did Vizard in 1992 ask Guy Jalland, his former colleague at Herbert Geer & Rundle (and currently the chief legal counsel and company secretary at the Packer family-controlled Publishing & Broadcasting Ltd), for advice about overseas tax havens?

'No,' Vizard replied.

'He'll say you did,' Hayes shot back. 'You deny that on oath, do you?'

'I do.' Vizard claimed he had discussed tax matters with Jalland, but not overseas tax havens. Then Vizard claimed the cover of legal professional privilege, barring Hayes from asking any further questions of him about his discussions with the lawyer.

Hayes was not to be deterred. He moved back to the topic of Creative Technology Investments and Vizard, momentarily, stumbled. He seemed unsure in his answers, as though he knew he was about to step into a minefield and was trying to cut each step short.

'It's a—it's a company I have association with,' he said. 'I lent it a substantial amount of money for the purpose of investing.' Asked if it invested in Sausage Software shares, Vizard again hesitated: 'I can't recall, but it—one—I believe it did.'

'It did on your behalf?'

'For my ultimate benefit,' Vizard said.

'Yes, and with your authority?' Hayes asked.

'With my knowledge.'

'It did so after meetings that you were involved in with Telstra, discussing Sausage [and] Solution 6 matters?' Hayes asked.

'I couldn't say.'

Hayes was in a terrible hurry that afternoon. He didn't have time to question Vizard on all the details of Creative Technology Investments' share trades, so he brusquely picked up a manila folder containing several documents and began to proffer it across the bar table, indicating that it should be handed directly to Magistrate Hardy. It was, he said, 'a folder relating to what we say is the insider trading in relation to Creative Technology. It will prove ultimately that Mr Vizard, through Creative Technology, acquired a substantial interest in Sausage after he learned about Telstra's plans.'

It was a stunning and surprising accusation. Vizard was considered one of Melbourne's most influential, trusted, respected and highly commended businessmen—someone who had served the Commonwealth as the government's own appointee to the board of Telstra—and here he was accused of abusing that trust, of indulging in a furtive and possibly illegal transaction that could attract criminal charges.

Hayes didn't hand Vizard a copy of the folder. Instead he wanted to get the whole folder onto the court file without showing Vizard all the documents inside it, and he kept his hand stretched out towards the magistrate, until prosecutor Claire Quin jumped to her feet in protest. Each document should be proved, Your Worship, she said. Hayes grumbled sourly under his breath, but he selected a few documents and handed them to Vizard.

'The documents here, Your Worship, are either all company records or will be proved from various sources,' he said.

Magistrate Hardy looked towards the witness, who had propped the documents on the small deck guarding the witness box and was flipping pages.

'Take your time, Mr Vizard,' he said. 'There's no—'

'Yes, well,' Vizard replied, a little prickly. 'I haven't seen most of these documents before.'

Hayes asked Vizard if he wanted to discuss the matter with his lawyers, perhaps.

Vizard seemed calm as he turned the many pages. 'There's literally, you know, a number of documents here,' Vizard said. 'But on the face of them, if you want to work through them, I'm happy to do that.'

Hayes pulled out the official company records of Creative Technology Investments (CTI) as well as a December 1999 loan agreement between CTI and a Vizard company called Brigham Pty Ltd. And then Hayes showed the court details of how Creative Technology Investments bought 86 000 shares in Sausage Software on the morning of Tuesday 7 March 2000, and how that trade was settled three days later; how on 20 March Telstra issued a press release about a three-way merger between Telstra, Sausage Software and an IT company Solution 6 Holdings, and how Creative Technology Investments sold its entire Sausage Software holding between 28 March and 27 June. Six pages of stockbroking contracts detailed the share trades.

It seemed that before the rest of the world learned about Telstra's proposed participation in a complex, multi-billion dollar share merger with Sausage Software and Solution 6, this tiny company associated with Vizard, Creative Technology Investments, was buying shares in Sausage Software. It appeared to be getting itself set before everyone else could rush into the stock market and drive the share price higher. And then, after the merger was announced, Creative

Technology Investments began selling its shares. Vizard told the court that he knew about the share trading, but he claimed he did not *authorise* it.

And at that point, abruptly, Peter Hayes excused himself, citing other court appointments. He picked up his briefcase, a clutch of papers, exchanged a few quick words with his junior Danny Masel, bowed to Magistrate Hardy, and departed with the wheeze and bang of the courtroom door trailing after him.

It was an oddly unsatisfactory ending to Vizard's cross-examination. The theft accusations against Roy Hilliard had all but vanished into the background, and the focus was squarely on Vizard and Vizard alone. He sat there, a little downcast, his hands clasped, his eyes watching first the magistrate, then his lawyers and, finally, Masel, who told the court that at this point the defence had no more questions for Vizard.

Claire Quin for the Director of Public Prosecutions rose to her feet. What would she do? The police had not focused on these insider trading allegations against Vizard—first made in Hilliard's suicide letter more than two years earlier—because it was not Vizard who was under investigation for theft, and in any event nobody believed Hilliard's series of wild allegations against his boss back then. These detailed allegations had been a surprise for her team; she had not had the opportunity to study the material tendered to the court—these documents had emerged when Hilliard issued subpoenas to Vizard, the witness, so they were not prosecution documents. Would she prod Vizard about these share-trading allegations, or try to claw back some credibility for the prosecution's main witness? Of course every person sitting in that courtroom, with the glaring exception of Steve Vizard, was aching to hear more about this share trading.

You knew about the loan agreement between Brigham and CTI, Mr Vizard, Quin said, but you have not signed it yourself. So, she asked, what do you mean you 'knew' about it?

'I knew that such an arrangement had been entered into for the purpose of investing in technology stocks, media stocks, communication stocks and other high-growth stocks,' Vizard said. But he did not 'authorise' Greg Lay to sign any document on behalf of Creative Technology Investments: 'An agreement was entered into with him.'

Asked if he had known about Creative Technology Investments buying the shares, Vizard replied obtusely: 'Yes, no, I've never seen those, well, I've never seen the sale notes—or the notes relating to the disposal of the shares—before.'

And then Quin asked a crucial question, one that hit on into Vizard's involvement in the share trading. She phrased it first one way, but mispronounced a word and stopped to correct herself: 'In terms of that share transaction, were you given—' she said, then paused and continued, 'were you giv*ing* instructions about buying and selling them [the shares]?'

Very clearly, Vizard said: 'No, I wasn't.'

Quin ended her questioning about the insider trading at that point, and instead gave Vizard plenty of time to clarify the aims of the Vizard Foundation, to expand on its altruistic motives. He ambled on, describing how his father had been approached to help locate accommodation for sick people's relatives, how he received fees and consultancy payments from Artist Services, and how he had become very busy by the mid-1990s. And as for those documents that ended up in the tip, well, said Vizard, they were just old scripts from *Tonight Live* shows, nothing important.

It had been an exacting few hours. So many questions had been raised, and so much had gone unanswered. But Vizard wasn't paying Robert Richter to sit there and stew while Hayes led the onslaught of questions. Richter now stood and defended his client.

'It may be unorthodox,' Richter said, 'but I have not in my time at the bar witnessed a situation where six discrete, scandalous suggestions were put to the witness, with an undertaking to prove them, and he was not shown a single document that related to any such allegation, to be given the opportunity to clear the air. Mr Vizard comes here with his reputation intact,' he said. 'It is one thing to wound in public and then to resile or apologise in a public toilet. When public allegations are made like that, there's a duty to put forward the material on which it is based, and to afford the witness the opportunity to answer them. This has not happened.'

Vizard might have gulped hard at that point. He, for one, was probably eternally grateful that Peter Hayes had been in a headlong rush and had missed the opportunity to air any more material in court. Still, having Richter on his feet was worth the money. Richter was trying to direct the journalists to report Vizard's denials as opposed to the scandalous allegations that had been levelled against him.

'The man comes here,' Richter continued, 'he occupies high public office, and he cannot be traduced in this way without [being] given the opportunity to at least deny it, or have put before him, that upon which the allegations are based—none of that has been done. And perhaps I would simply invite Your Worship to remind those to whom this was played—which is the assembled media—that it is the "answer" that is the evidence, not the "question".'

Well, to be fair, said Magistrate Hardy, Hilliard's counsel had not said he was going to prove all the allegations just yet but he nevertheless agreed 'without reservation' that the witness's evidence comprised his responses, and not the questions that were put to him.

Vizard was excused. He collected his documents, gathered his lawyers, bowed slightly to the magistrate and exited the building quickly. He may have come to the court with his reputation intact, as Richter claimed, but when he left Steve Vizard's reputation was a sullied thing indeed.

Into a blazing afternoon sun, and into the glare of cameras, stepped Steve Vizard. Strongly, calmly and confidently he led his lawyers down the half-dozen steps of the Melbourne Magistrates'

Court. He looked directly into the lenses of those waiting cameras and, like a true performer, full of bravado, switched on the charm. Outside the court, he was no longer a witness under intense pressure. In the street, he was once again Steve Vizard, consummately in control of his environment.

Now, after all those hours of trying cross-examination, he was smiling, laughing, as a posse of photographers jostled around him. The cameramen were stumbling in unison, trying to keep their lenses steady, but Vizard was not moving hurriedly. He grinned broadly at them—he had nothing to fear.

Vizard straightened his tie, turned the corner and strolled down the Lonsdale Street hill. Then with a quick glance either way, he crossed the road and headed directly into chambers with his barristers.

14
Lay it straight

Steve Vizard's long-time accountant, Greg Lay, settled into the witness box at the Magistrates' Court on the morning of Wednesday 14 May 2003, some two months after his famous client had endured a gruelling cross-examination by Roy Hilliard's legal team. Since then, a few minor witnesses involved in the fraud investigation had given evidence before Magistrate John Sharp, Hilliard's lawyers had requisitioned more documents to defend the bookkeeper, and the court hearing had been delayed by scheduling difficulties. But public interest in Hilliard's committal proceedings had not abated.

Lay was a tall, slightly nervous and conservative figure, dressed that morning in a dark business suit and tie, his receding hair cut short. He was very much the epitome of a discreet, though curiously stiff, accountant, a deeply religious man who led his local Bible classes at the Melbourne chapter of Breakthrough Ministries, and someone who in the absence of a court directive would prefer to remain absolutely silent about his client's business affairs. Yet when Greg Lay swore an oath that morning, it was in a disarmingly straightforward, almost nonchalant, manner that he slowly peeled away the layers of secrecy enshrouding Steve Vizard's financial dealings. Lay's answers under cross-examination were remarkably crisp and compelling, and mostly were offered without any hesitation or revision. That was surprising because in many crucial respects what Lay told the court starkly contradicted Vizard's testimony.

Lay's turn in the box was not quite as hostile as Vizard's. Roy Hilliard's senior defence counsel, Peter Hayes QC, had been laid low by a debilitating bout of influenza, one that developed swiftly into pneumonia and left him incapable of completing the committal proceedings. So the cross-examination of this final prosecution witness would be left to Hayes' junior, barrister Danny Masel, a comparatively sedate courtroom performer who plugs away politely, patiently and doggedly, and prefers to accumulate a slate of points in his favour instead of belting a witness with a killer blow.

Lay told the court he did not consider himself 'a confidant' to his client Steve Vizard, yet he knew much about the businessman's financial affairs. For more than a decade, he had been Vizard's key contact at Clarke Bentleys, and a few times each year the pair would meet to trawl through Vizard's financial papers to confirm draft versions of his companies' annual accounts. Lay would finalise tax returns for the Vizard businesses, organise for someone at his firm to do the audits, and liaise with Vizard on 'special' transactions, but he did not believe he was privy to his client's strategic business decisions.

But Masel wanted to know why the accountant's firm had apparently overlooked both the flood of funds that police claimed had exited Vizard's accounts over seven years and the six bogus art entries that lay in the Vizard Foundation's art register for five years. Lay firmly but politely replied several times that he was not an auditor—other Clarke Bentleys colleagues audited the Vizard accounts—but he was versed on tax matters, corporate transactions and company accounts generally. By law, the Vizard Foundation and the Vizards' various superannuation funds had to be audited, but all the other

Vizard companies were private and so there was no requirement to audit them unless shareholders specifically asked. Lay suggested that at some stage—he didn't say when—Clarke Bentleys also audited the trustee company of the Performing Arts Services trust, as well as United Film Completion and the jointly owned Artist Services group.

To get an audit started Vizard's bookkeeper, Roy Hilliard, would normally give Lay the relevant company's preliminary accounts, its bank statements and reconciliations, and Clarke Bentleys would generate tax returns. The accounts would then go back to Hilliard, who signed them and returned them to Clarke Bentleys. But to complete the audit, Lay's colleagues at Clarke Bentleys needed Vizard's signed verification that the accounts were true and correct—and often Vizard simply failed to sign the accounts: 'We did not complete the audits where we did not have signed accounts,' Lay told the court. '. . . The audit would be started when the accounts came back in a signed form, so if the accounts had not been returned—signed—the audit has not been started.'

For some time, Masel questioned Lay about the audits and where the reports for those audits might be, and then very discreetly he signalled a shift in tack. Masel gathered up some documents from the bar table and, lightly—almost airily—he asked Lay why the company Creative Technology Investments was set up in December 1999.

'Well,' Lay said, 'Mr Vizard had a desire to invest in the stock market but in a form which would not be readily apparent to the public that he was the investor in those shares.'

Around the court a few people shifted in their seats. The cross-examination seemed to have taken a very sudden turn. Here was Lay spelling out Steve Vizard's certain involvement in Creative Technology Investments' share trading, yet two months earlier Vizard, under cross-examination, had disowned responsibility for CTI's investment activities. Vizard would say only that he had 'knowledge' about what was going on; Lay, on oath, confirmed that in fact the arrangement was all about Vizard being the investor. And Vizard's link to Creative Technology Investments was not quite as remote as Vizard made out; it was not an association merely by virtue of a loan structure, as he had described it. Vizard in fact was the secret investor behind it all.

'Did Mr Vizard tell you that's what he wanted to do?' Masel asked.

'Yes . . . He didn't want it to be readily apparent, yes.'

'Were the words he used, the substance of the words . . . "Greg, I don't want it to be readily apparent that it's my investment"?'

'That's correct,' Lay said. The accountant confirmed that he and Vizard purposely established CTI to buy and sell shares, yet they registered it in Lay's name as the sole owner and director.

'And there would be no public record that the shares were in fact being bought and sold on behalf of another?' asked Masel.

'That's correct.'

'But in fact the shares were bought and sold on behalf of another, and that was Mr Vizard?'

'That's correct,' Lay said. He apologised that he hadn't polished up his memory of the matter for some time but, he said, he no longer had access to his files on Creative Technology Investments—they had been swept into the care of Vizard's lawyers at Arnold Bloch Leibler just six months earlier, in November 2002. And, Lay told the court, 'we have not received them back'. But Lay did confirm that a Vizard-owned trust named Brigham Pty Ltd lent money to Creative Technology Investments so that it could buy shares, and that CTI used the money to buy and sell shares on Vizard's behalf.

But, Masel said, this loan structure which appeared to distance Vizard from the company didn't truly reflect the arrangement between Vizard and CTI because, in fact, any profits from the share trading went to Vizard and any losses were carried by Vizard; he tolerated all the risk.

'That's correct,' Lay said again.

And all the decision-making was done by Vizard—he 'was the person who told you which shares he wanted bought and which ones he wanted sold?' Masel asked.

'Yes,' said Lay. 'He would normally give me a list of shares or a number of shares. He would ask me to go through a process determining any information on those companies, which I normally did over the internet or by getting stockbrokers' reports. I would take that back to him, and then from that he would make a decision on what he wanted to invest and what he wanted to invest in.'

What Lay was describing went far beyond Vizard merely having 'knowledge' about Creative Technology Investments' share trading; it indicated he was the instigator, the beneficiary and the director of the scheme. His responses about Vizard's share trading were stunningly clear, and yet so obviously contradictory to those of his client. Here was Vizard's trusted adviser revealing details about a series of highly delicate and, until then, secret financial transactions that certainly implicated Vizard in questionable share dealings.

Prosecutor Tim Doherty objected. Doherty, who assumed carriage of the Crown's case when prosecutor Claire Quin took maternity leave in late March, wanted to know why Magistrate Hardy allowed this line of questioning from the defence when it appeared to have nothing to do with the theft allegations against Roy Hilliard and seemed engineered only to discredit Vizard.

Magistrate Hardy demurred. There seemed to be more to this line of questioning than simply an attack on Vizard's integrity, he said, and to the great relief of many in the court he let Danny Masel run a little longer with his questions.

Lay recalled that in December 1999, days after Steve Vizard returned from a Telstra business trip to the United States, the businessman proposed an unusual arrangement to keep his share trading out of the public eye. He fashioned a loan arrangement so that funds from Vizard's Brigham would be lent to Creative Technology Investments and Lay, as CTI director, would do the share trading. One of the first companies Vizard asked him to invest in was a telecommunications company listed on US stock exchanges, possibly—though he could not be sure—a company by the name of Exodus Communications Inc. Roy Hilliard was told to transfer funds to Creative Technology Investments and he did so by writing some sizable cheques. The first, which was drawn in December 1999 was for \$500 000—well outside Hilliard's authorised limit of \$10 000; another in March 2000 was for \$200 000 and a third in April 2000 was for \$100 000.

Prosecutor Doherty still could not see the point in the questioning, but he did not object. This time, he turned to his instructing solicitors and whispered loudly that the share trading had nothing to do with the theft of money by Hilliard. Magistrate Hardy, though, was becoming more intrigued by what Lay was saying. He wanted to know where those original cheque vouchers might be, and he indicated Masel should keep going.

Masel asked Lay to clarify again that each time Creative Technology Investments bought or sold shares 'it did so on the instructions of Mr Vizard'.

'That's correct,' Lay said.

And then, a little bit at a time, Masel began to untangle the timing of at least some of the share transactions. He showed Lay a spreadsheet of CTI's investments which was apparently downloaded from Clarke Bentleys' files and printed on 2 May 2001, coincidentally the same day that Vizard told his lawyers to dump plans to sue Lay and his colleagues at Clarke Bentleys. The table listed each of the shares bought and sold by CTI between December 1999 and June 2000, how much CTI spent in each transaction, and what was retained at the end of the 1999/2000 financial year. It was the sort of portfolio that wide-eyed, inexperienced share traders might have constructed at the peak of the telecommunications boom, one that featured none of the blue-chip stocks favoured by the blue-rinse set but plenty of the hip, happening, flip stocks of the day-trading crowd—shares such as Sausage Software, Computershare and Keycorp. What was most intriguing about the list of shares acquired by Creative Technology Investments was that a few of the companies it targeted in 1999 and 2000 ultimately struck some potentially lucrative deals with Telstra.

Masel had several documents that highlighted an interesting pattern in the timing of CTI's share trades. For example, on 9 March 2000, Creative Technology Investments bought 86 000 shares in Sausage Software at an average price of $5.76. Less than three weeks later, on 29 March, it sold 645 shares at $7 apiece. Two days later, it sold 30 000 shares, and on 3 April it got rid of a further 12 355 shares. By 30 June, it had quit its entire Sausage Software holding. What made these share transactions so controversial was that on 20 March, only days after Vizard acquired his initial batch of shares, the speculative dot.com company unveiled its multi-billion dollar proposed merger with Solution 6 Holdings, which at the time was 25 per cent owned by Telstra. The timing of Vizard's share purchase and sale was exquisite.

On 21 March, the day after the Solution 6/Sausage Software merger proposal was announced, the business pages of Australia's leading newspapers were plastered with news, extensive analysis and commentary about how it might affect Telstra. Anyone reading the papers in those last two weeks of March—indeed, anyone with even a remote interest in Australia's share-market—could not have missed references to it. It was one of the country's biggest merger proposals to date, and certainly the biggest in Australia's dot.com scene. But for all this, Lay claimed he paid little attention to daily developments in the business world, so he didn't really notice which companies were striking deals. He only read the business pages of the newspapers, he said, 'for about 30 seconds each day' and 'quite frankly, I don't understand the stock market'.

Asked if he had an interest in financial matters, Lay replied: 'Could you define financial matters?'

'Do you keep an eye out for the interests of your clients when you're reading the financial pages for 30 seconds a day?' Masel asked.

'Not particularly.'

'Did it become of concern to you that your client, Mr Vizard, had apparently been using you as a shield to buy and sell shares in Sausage when, at around the same time, Telstra—a company of which he was a director—appeared to be making a major public announcement in relation to Sausage?'

'I'm not sure that that was happening, or that I was aware of it,' Lay replied.

Whether any of Lay's share trading on behalf of Steve Vizard amounted to 'insider trading' on the part of Vizard was yet to be seen. It was not yet clear, for example, *if* or *when* Vizard, as a Telstra director, became privy to price-sensitive and confidential information about Sausage Software. On the other hand, if Lay was, as he contended, mostly ignorant about the price sensitivities around the time of the share trades, why did he bother raising his concerns about it with Roy Hilliard? Lay recalled that in April or May of 2000, over lunch with Hilliard, the pair had discussed how Vizard used Creative Technology Investments as an anonymous vehicle to trade shares.

But at this point in the questioning, Lay's memory failed. He could not remember saying anything to Hilliard about Vizard 'misusing' Creative Technology Investments, and he did not recall telling Hilliard about any concerns he had in relation to Vizard's share trading. Lay especially did not remember saying to Hilliard, as Masel suggested he did, 'Shit, what are we going to do?'. A little indignantly he told the court, 'That's not the manner in which I speak.'

Nor could Lay recall, as Masel suggested, saying to Hilliard several weeks later, 'He's done it again.' And he could not remember being directed by Vizard in July 2000 to buy shares in a particular company which, Masel suggested, just days later released a statement to the stock exchange about a deal it was doing. Lay did not say these things did not happen; he simply said he could not remember them: 'Look,' he said, 'I have no recollection of that.'

Pity about the memory of some witnesses in this case but, as lawyers and judges say again and again, if you don't remember the specifics, don't guess. Say that you don't recall. Roy Hilliard, though, appeared to have no problem remembering what happened while he was employed by Steve Vizard. He could recall snatches of conversation and meetings that occurred way back in the early 1990s. Details that others forgot, he remembered. He dredged up tiny pieces of information, possibly irrelevant to most people, which, when pulled together, comfortably enhanced his version of Vizard as a secretive and greedy businessman—and he wanted the world to know all about it.

15
'If I'm paid to do it'

On Thursday 15 May 2003, Roy Hilliard took the highly unusual step of putting himself in the witness box at his own committal proceedings. He offered himself for cross-examination by the prosecution—a move so rare that it stunned seasoned practitioners. Over the next two days, Hilliard would risk his own position to undermine the man who, in all likelihood, would become the key witness at his trial: Steve Vizard. Of course, if the bookkeeper had done nothing wrong—if he was innocent of all 198 charges of theft—he would have nothing to hide, nothing to fear. But it was a gamble, and Hilliard would need to be extra careful that he did not incriminate himself ahead of his trial.

Hilliard settled his hefty frame into the witness box that morning, flicked his chin a little higher and appeared to fix his gaze a metre or so in front of the bench. He was genial and polite, and occasionally he would swing his head around to the left to acknowledge questions from his counsel, Danny Masel, and to respond with an upbeat, singsong, 'Yes, that's right.'

He wasn't perfect, as he told the court. He was capable of lying, capable of deception, but the deception he admitted initially—falsifying his curriculum vitae—was relatively innocuous. Candidly and with no apparent regret, Hilliard admitted he bodgied his resume in 1991 to indicate, falsely, that he had two degrees from the University of Auckland. Yes, he said, he did get the job with Steve Vizard on false pretences, but in Hilliard's view falsifying a resume was nothing more than 'window-dressing': 'I did it to make myself more employable,' he said. 'It seemed to me that since I wasn't applying for a job as a qualified accountant—it wasn't a professional qualification that I claimed—that there was no great harm in it.'

A harmless lie, he said, one that didn't go overboard. A contained lie, one that achieved its ends and wasn't going to disrupt anyone's world if by chance it unravelled, and perhaps if it was Hilliard's only lie it might have flown past reasonable peers in a jury. Anyone asked to judge Hilliard might, just *might*, dismiss a fake resume with a wry smile. After all, everyone embellishes a little, everyone likes to sound like a big-shot.

But was Hilliard a big-shot? Not really. Hilliard was a highly trusted personal bookkeeper on a relatively low salary, but his boss relied on other, external, paid advisers for high-level advice about weighty matters such as how to keep tax bills to a minimum. Vizard turned to confidants such as lawyers Ross Millen of Deacons and Guy Jalland, a former colleague at Herbert Geer & Rundle, when he needed special advice, not Hilliard. That's what Vizard also said to police in September 2000 when the Carlton Criminal Investigation Unit took charge of the fraud investigation into Hilliard. At the time, Vizard told the investigating police officer, Detective Senior Constable Judyann Stevens, that any suggestion that he would ask Hilliard for advice on either tax or other serious financial matters was 'quite ridiculous'. And when Stevens had been called to the witness box in March, she had told the Magistrates' Court that Vizard claimed to be 'very close' to Millen, that he had 'a great deal of confidence in him, and that if he'd been seeking that sort of information, about where to hide money or something along those lines, that he [Millen] would have been the person . . . It wouldn't have been Mr Hilliard that he would have spoken to about those sorts of issues . . . '

Hilliard was like a trusted shadow behind the glamorous and famous money-maker, one step out of the limelight. His job, which placed him teasingly close to the money-pot, amounted to relatively mundane tasks: drawing up the monthly statements and verifying them with his boss, drawing up cheques and signing them, making sure the bills were paid and liaising with Vizard's other financial advisers. Occasionally Hilliard was Vizard's 'gofer', the go-fetch-this-at-the-auction-house person, the ring-this-man-and-sort-it-out person, the point-man for the bank, the celebrity's personal financial assistant. He was an adviser inside the Vizard sanctum, but he was far from a financial expert.

Hilliard, however, didn't see it this way. In his view, he was a very important figure in Vizard's life—far more than merely a paid underling. He was a crucial cog. Indeed, he told the court he was Vizard's 'confidant in financial and accounting matters, yes, and business matters', someone at the epicentre of a dynamic business empire who was privy to his boss's most crucial and sensitive financial dealings. And he knew things about the Vizards that the rest of the world did not—especially how they structured their finances to minimise tax bills.

In the witness box, Hilliard allowed tiny, enigmatic slices of information about the Vizards' financial affairs to drop randomly into his evidence—details about how in 1991 Steve and Sarah Vizard extensively renovated their huge home in Irving Road, Toorak, added to and improved the building, filling in the swimming pool. But because the home was owned by Vizard's company, Performing Arts Services, and not by the couple, all $1.5 million of home renovations was treated as a business expense and claimed as a tax deduction. This was tantalising stuff, a rare glimpse into the private lives of the rich and famous, the kind of titbit that in the absence of any further explanation or clarification made Vizard's financial dealings appear sly and underhand. Ever present though was the spectre of massive deceit, the prospect that Hilliard would unveil truly damaging information about Vizard.

For more than three years until 1994, Hilliard's offices were very close to Vizard's, just down the corridor, and that proximity allowed him to 'sort of pop in' when he needed Vizard's imprimatur. About once a week, the pair would meet to resolve bank balances, check the status of Vizard's numerous investments, and Hilliard would present the businessman with invoices that needed approval for payment. This ease of access changed dramatically, however, when Artist Services shifted from spacious offices in St Kilda Road to a dedicated building in Port Melbourne. After a few months, there was simply no room at Port Melbourne for Hilliard, so he was shifted and asked to work alone in a small office across town at Vizard House in East Melbourne. Hilliard must have felt snubbed. Instead of being close to Vizard and rubbing shoulders with the hip and creative talents wandering the corridors of Artist Services, he was left very much to his own devices, hopelessly isolated on the other side of town.

Needless to say, the distance between the bookkeeper and his boss generated some unexpected logistical hurdles for Hilliard. Some mail ended up on Vizard's desk at Port Melbourne when it should have gone to Hilliard in East Melbourne, and trying to get Vizard to sign cheques was just that little bit harder: 'He was difficult to get hold of,' Hilliard told the court. 'He was always in and out, and it was a problem . . . Mr Vizard was not available to sign cheques when, and as, they were required to be signed and that contributed to my needing to sign cheques for over $10 000.' So, as Hilliard readily admitted, he took it on himself to sign cheques for more than $10 000.

Now back in 1991, when Hilliard first joined Vizard, he was made a signatory to some of the Performing Arts Services accounts, a move that allowed him to sign cheques for up to $10 000. Formal bank authorities were drawn up—but only, Hilliard said, on his urging; indeed, for several months there had been no limits at all on how much Hilliard could pay out. 'It occurred to me it would be a good idea to give Mr Vizard some comfort that I wasn't writing out cheques, you know, for unconscionable amounts of money,' he said.

Any cheque for more than $10 000 had to be signed by Vizard, except cheques for recurring payments and except for those where Hilliard, using his judgement, considered the payments legitimate and reasonable. In sum, the arrangement had no hard and fast rules; the bank authority formally and absolutely limited Hilliard to cheques of less than $10 000, but Vizard apparently gave Hilliard the nod to use his own discretion and not to bother him with obvious bills.

This 'don't bother the boss' approach permeated Vizard's business affairs. Close associates say Vizard was mostly uninterested in reading bank statements or checking details of regular transactions. He delegated everything, they say. It was only when bills were jammed under his nose that he might query them, if at all, and even then he would survey bills only briefly. Vizard didn't want to be bothered with details. He hired veritable squadrons of accountants and lawyers to do that kind of work—he paid them to pay attention—and having Hilliard available full-time to manage the home finances and pay the bills made everything that much easier for Vizard.

Hilliard would have detected Vizard's sliver-thin attention. He would have observed carefully how his boss might miss things, how tiny transactions could simply slip past, one by one, unnoticed in the flood of transactions that ran through Vizard's multi-million-dollar business. A diligent bookkeeper would have been on the alert for any such leakages; a dishonest one might have exploited the lack of oversight. So Hilliard used his judgement and signed cheques for more than $10 000, including legitimate payments to the Tax Office, payments to builders for the Vizards' home renovations and several bills for Vizard's accountants and lawyers.

When Hilliard first wrote cheques against his boss's accounts for sums exceeding $10 000, managers at Westpac Bank occasionally spied the breach of authority and to ensure the cheques were legitimate they would notify Steve Vizard in writing and ask him to verify personally if the payment was genuine. But over the years, one Westpac bank manager was replaced by another who was replaced by another, and in time the rigour of cross-checking simply fell away. When Stephen New, a manager appointed to Westpac's private banking division in late 1995, finally queried Hilliard's authority to write cheques of more than $10 000 and asked the bookkeeper to get an updated cheque-writing authority, Hilliard suspected that 'either Mr New was more on the ball' than previous Westpac managers, or his colleagues at the bank suddenly were drawing the big cheques to his attention.

When New detected a cheque signed by Hilliard for $38 000 in December 1995, he queried it, attached a note warning that it represented a sum outside Hilliard's contracted authority and suggested that Steve Vizard should be notified. It was all very amicable, however. This was, after all, Westpac's *private* banking division, the unit that worked on developing trust and relationships with its customers. New simply needed a fresh authority from Vizard to cover Hilliard, and he suggested that either Hilliard should get his cheque-signing limit raised or Vizard should sign everything himself. Hilliard said Vizard 'was quite happy' with the proposal, there were no disputes about it and the pair agreed to cap his cheques at $50 000. But, for whatever reason, Vizard did not act on this immediately—indeed, in Vizard's version he did not act on it at all.

Several times over the next few months, Stephen New asked Hilliard for some kind of formal verification regarding his cheque-writing limits. The bank wanted written confirmation of a changed authority, something with Vizard's signature on it, but that summer—like most summers—Vizard spent a few weeks, on and off, down the coast with his family at their Portsea holiday home. Hilliard claimed he simply could not get Vizard to deal with Westpac's request until around late January: 'I said to Mr Vizard that it really had to be done—the bank was getting insistent,' he told the court.

And then in early February 1996, Vizard faxed Hilliard a letter, a signed authorisation, directing Westpac to honour all cheques the bookkeeper signed to a maximum value of $50 000—at least that is what Hilliard told the court. He denied suggestions that he forged that letter by cutting and pasting Vizard's signature onto the page, and he denied writing the new cheque authorisation himself. In his version, once he received the faxed letter from Vizard, he slid it back into the fax machine and retransmitted the thermal fax down the line to New's office at Westpac. The bank then photocopied the fax-of-the-fax and put its photocopy into its account files. But Hilliard never mailed or delivered to Westpac the original letter of authorisation that would have had Vizard's signature in ink—and the bank apparently never asked for it.

Hilliard told the court that, just as he had done for years, he continued to write and sign cheques for Vizard—cheques for more than $10 000 and cheques for less than $50 000, cheques to pay bills, cheques to buy silverware and other artworks at auction for the Vizard Foundation. And, he said, if the invoice was for more than $50 000 he would drive across town to Port Melbourne, present the account to Vizard and get him to sign the cheque. One big exception to all this, however, occurred in 1999 and 2000, when Vizard became a late-entry speculator in the share-market; that was when he asked Hilliard to draw and sign cheques to buy shares, and several of these cheques were for well over $50 000. Each of the cheques was drawn in favour of Creative Technology Investments.

There was that name again. It was like the bogeyman in the courtroom; it seemed each time Creative Technology Investments was mentioned there was the distinct odour of something unsavoury lurking just out of sight.

Magistrate Hardy now turned to Roy Hilliard and warned him that, having taken the oath, the bookkeeper should understand that if he lied he might one day be prosecuted for perjury.

'Yes, Your Worship,' Hilliard replied.

However, instead of pursuing the murky matter of Creative Technology Investments just yet, Danny Masel drew Hilliard's memory back to 1992, less than a year after he started with Vizard, when lawyer Guy Jalland was asked to provide legal advice about corporate structures in overseas tax havens. Vizard didn't have overseas income at that stage; his *Fast Forward* and *Tonight Live with Steve Vizard* shows were strictly in local distribution, and his earlier film productions, such as *The Bit Part* of 1987, which starred a young Nicole Kidman, were hardly raking in the kind of income that warranted a sophisticated, tax-effective, offshore corporate scheme.

'Mr Vizard indicated to me that he wanted to explore—and this was in early 1992 or towards mid-'92, I believe—he wanted to explore the possibility of setting up an offshore company in a tax-haven area,' Hilliard told the court. '. . . He didn't explain what his motives were for having it, but I—no, he didn't explain his motives. He just expressed a desire to explore the possibilities.'

Jalland briefed Vizard, in Hilliard's presence, on what was involved in setting up a company overseas, what the risks and the benefits might be of company structures in various tax havens. But when Vizard realised that he could not own the company and that it would have to be controlled by an external director, he lost interest. 'He just said that he wanted to have control of the funds at all times,' Hilliard said.

Hilliard, however, did not lose interest so quickly. A week or two later, apparently unprompted, he raised the subject with his boss:

'Mr Vizard sort of sat back in his chair and said, "Well, what are the pros and cons of the thing? You know, what's the good bit?".' And, according to Hilliard, Vizard answered his own question, saying the good bit was he might end up with a lot of money stashed overseas in a company that had no tax responsibilities. The flip side, of course, was that if it all went wrong he might end up in jail. So, said Vizard, 'I don't think we'll go over that one.' He dropped it cold.

At this point, Hilliard's story took a dramatic new turn. He claimed that while Vizard abandoned the plan of shipping funds into tax havens, several weeks later he indicated he was 'still interested in doing something about getting some money overseas or having a cash cache that nobody knew about'. Now, if Hilliard's story is to be believed, Vizard did the improbable. According to Hilliard, instead of confiding in Ross Millen of Deacons or Guy Jalland—both lawyers and both loyal friends whom Vizard had trusted for years—and instead of commissioning advice from Clarke & Co (as Clarke Bentleys was then called), the firm that set up Vizard's company structures and did his tax returns, the businessman asked humble Roy Hilliard to suggest ways to stash cash without anyone else knowing about it. At no stage did Hilliard say why Vizard might want money overseas or why he wanted cash squirrelled away secretly. He claimed he never knew what Vizard did with the cash. As a supremely trusted adviser—'a confidant', as he termed himself—as someone left dutifully carrying out his master's dirty work, Hilliard curiously was left entirely in the dark. That is, of course, if what he said was true.

Hilliard told the court that he initially suggested Vizard might draw cheques for cash against Performing Arts Services' bank accounts and deposit the money somewhere else. But patently it was a dumb idea, because all the cheque transactions for cash would be easily identifiable. Hilliard then suggested, so he said, washing the money through his own travel agency, Information Age Travel: '[I] could then provide Mr Vizard with the requisite cash, and he could do with it what he wanted—put it away or bank it or whatever,' he said, adding that he couldn't see the harm in the proposal 'since I was just providing Mr Vizard with his own money, and so I agreed to do it'. And so, he said, away he went. Hilliard claimed that he withdrew cash from IAT's bank accounts and frequently paid the cash to Vizard in bundles of $10 000 to $15 000. To close the loop, he drew a cheque and paid the money back to Information Age Travel.

And then Hilliard gave the court the characteristic answer of a methodical bookkeeper—he described in detail how the funds would be accounted or disguised in the Vizard companies' books. Hilliard figured that 'since the payment was going through to him from his company it would mostly end up in the loan accounts, so what I needed to do was to make it look as though it was payment of personal expenses [to Vizard]'. Hilliard claimed the 'arrangement', as he termed it, began in 1992 and that a year later Vizard decided to tip him for his troubles. Vizard, he said, agreed to pay any expenses on his Diners Club and Visa credit card bills 'from time to time', and 'that's basically what happened'—it was a little like a fee for his service. Hilliard said Vizard personally and verbally approved all these personal expenses.

Asked by Danny Masel what he thought of the alleged scheme, Hilliard said, 'I realised that it wasn't strictly—it was an unusual arrangement, put it that way. But I didn't see that it was illegal.' Now, however, he thought 'it was a very silly thing to get into—stupid'.

Ask tax lawyers and private eyes why anyone would want their money delivered in bundles of cash and they confide some spectacular and lurid tales about how desperate people spend fortunes on hidden girlfriends or on parallel lives in luxurious apartments. They suggest ill-gotten gains can be washed through gambling dens in cash and, without fail, they mention tax avoidance. But if the bundles of cash had been obtained *legitimately*—that is, through properly accounted business ventures—and if tax had already been expensed against those business ventures, then the rationale for dealing in big wads of cash disappears almost to zero. Hilliard conceded that the only way there could have been a tax advantage in the 'arrangement' was if the cheques that he washed through the travel agency had been recorded as business expenses for Vizard. He claimed Vizard asked him to do exactly that—to book the cheques as business expenses—but the bookkeeper said he did so only a few times.

Hilliard's explanation of all this secret money laundering sounded remarkably, if not absurdly, complicated. For one thing, this was always Vizard's own tax-paid money—and Hilliard admitted as much. Vizard was free to withdraw cash any time at all from his own accounts and use it to buy antiques or art, or perhaps expensive dinners. He could store it under his bed or paper the walls with it if he chose. He could stash it in a silver pot, bury it in the garden or gamble it on the racetrack if he wanted. It was his money, and it was *after-tax* money. There was never any reason to disguise it as something else.

At the same time, if Vizard wanted the plan (as described by Hilliard) to remain a secret, it seemed odd that he would ask the bookkeeper to register what were meant to be 'secret' cash withdrawals as transactions against his loan account. Patently, that would destroy the secrecy of the whole thing, because the 'cash cache', as Hilliard termed it, would be there in the loan account in its entirety; it would be properly accredited as money that had gone to Vizard. It would have no vestige of secrecy about it.

Hilliard seemed to hold up reasonably well for several hours of questioning, although occasionally he fluffed one or two answers. But he had one last provocative claim.

Around mid-1996, as Steve Vizard and his financial advisers were preparing for the end of the taxation year, the businessman discussed ways to shrink or eliminate the hefty capital gains tax liability that emerged when he sold half of his portion of Artist Services to John Fairfax Holdings for $6 million. The sale had been completed in August 1995, and the capital gains tax liability had been looming in the background for all those months. Vizard, according to Hilliard, didn't want to distribute the tax payable to the Tax Office to the Vizard Foundation as they usually did. He didn't like the idea, the bookkeeper said, because he thought it was like throwing money away. He wanted to 'knock this tax on the head for a while' and try something different.

Hilliard told the court that he suggested Vizard might cut his tax liability by merely pretending to transfer the taxable amount to the Foundation. Good idea, said Vizard, and he grabbed a Christie's catalogue that happened to be lying nearby. 'He picked it up and we flicked through it,' Hilliard told the court, 'and he identified six paintings that he thought would be useful to use . . . He said, "Create those in the assets of the Foundation".'

The price subsequently registered in the Foundation's books represented the halfway point of indicative prices in the Christie's catalogue plus a percentage to account for the auction house's commission as vendor, Hilliard claimed. In Vizard's financial accounts, transactions would be entered to suggest the businessman drew funds from his loan account, purchased the paintings from Christie's, and donated them all to the Foundation. But at this point, Hilliard, under questioning from his own counsel, stumbled in his evidence. Asked what date the art acquisitions would have been registered in the company accounts, Hilliard replied it would have been the date of the auction—and that, he said, was 6 December 1995. In fact the catalogue that contained the artworks was dated 6 and 7 December 1994—one whole year before the artworks were entered in the Foundation's books. Hilliard's evidence about the sale date was out by twelve months.

Magistrate Hardy warned Hilliard that he was on oath, and asked him to confirm again that he was aware of the consequences. 'You've certainly heard me warn other witnesses as to that issue, haven't you?' Hardy asked. 'Do you understand that issue still continues?'

'Yes, I do,' Hilliard replied. 'It's a question of—'

'No,' the magistrate cut him off. 'That's all I'm asking you, simply those questions. You've answered.'

Clarke Bentleys never examined or queried the art entries in the Foundation's register. Hilliard claimed he took it on himself almost every year to flag the distortion to Vizard, and that he repeatedly suggested to the businessman that it needed to be resolved. 'He took it on board and said that he would get around to thinking about it,' Hilliard said. 'I don't think he was too fussed about the position of the paintings.'

Hilliard's fascinating allegations depicted Steve Vizard as an avaricious and devious businessman, one who was always alert to opportunities to minimise or eliminate his tax, and who felt no compunction about cheating and defrauding authorities such as the Tax Office. That was the underlying theme of Hilliard's attack, but his most alarming—and potentially the most damaging—allegations focused on Vizard's share trading. So immediately after the luncheon break, the spectre of Creative Technology Investments emerged again.

Hilliard claimed the accountant, Greg Lay of Clarke Bentleys, was very worried about Steve Vizard's secret share trading during 2000 and that the accountant first raised the matter with Hilliard in April, just weeks after the Solution 6/Sausage Software proposed merger was unveiled. According to Hilliard, Lay had said Vizard ordered him to buy shares in Sausage Software just before the merger was publicly announced and now Lay was worried about his own position.

Hilliard too was 'surprised and a bit worried' about the share trading: 'I wasn't at that time desperately worried, I was just concerned,' he told the court. He said he raised it with Ross Millen of Deacons, who 'winced' and replied that he would discuss it with

Vizard and possibly Greg Lay. In July 2000, Lay told Hilliard over lunch that Vizard had 'done it again'. 'I said, "What?" and he [Lay] said, "He's asked me to purchase some shares in a stock on a Monday and there was a Telstra announcement about that stock on a Friday".'

According to Hilliard, there were several reasons why he quit working for Vizard. He did have some health problems, but he claimed also that he was especially fearful about the potential ramifications if Vizard's secret and illicit share trading was discovered. He then gave a third reason.

In the previous few years, the Tax Office had made more inquiries than usual about Vizard's financial affairs. He was already on the Tax Office's list of wealthy individuals who each year must submit extra details about their finances. Hilliard believed that if tax officials launched one of their dreaded audits into Vizard's financial affairs—which it had never done—then his employer would be especially vulnerable, and 'I realised that, you know, should there be a full-on audit—keeping in mind both the official, as it were, upfront arrangements for his tax and also the question of the six paintings—that there was a potential, I was potentially in a lot of trouble'. Hilliard wanted to save his own skin, so he decided to bale out while he still had time.

But just before he retired, he said, Steve Vizard directed him to destroy any old and irrelevant documents. Hilliard said he cleaned out his offices, and put old financial papers and accounts into boxes along with cashbooks, bank statements and invoices. Some were shredded and others, including papers discarded from Vizard's office in Port Melbourne, were taken to the farm for storage, Hilliard said.

Now Crown prosecutor Tim Doherty took over the questioning. It was apparent that Hilliard didn't like Doherty's style and over the next two days, as the prosecution drove waves of allegations against Hilliard, the bookkeeper barely bristled with cool contempt and a little impatience. Again and again, he corrected details in Doherty's questions. He denied shredding any financial documents less than seven years old, and said it was 'ludicrous' to suggest he destroyed documents to cover up his own theft. Records were destroyed, he said, 'because Mr Vizard asked me to . . . It was a secret arrangement.'

Hilliard had no proof that the cash-stash arrangement had ever existed; he had no witnesses to it, no documentation, and all the discussions about it with Vizard were held, he said, behind closed doors. 'You see,' he said acidly, 'the point of a secret arrangement is that it has got to be secret.'

'Did you keep a record of the cash you took out of IAT?' Doherty asked.

'Yes,' Hilliard said, but unfortunately that too had been destroyed. Hilliard admitted he falsified entries in the Vizard accounts, that he purposely wrote false names as recipients of some of the cheques, and that he had 'no qualms' about any of this. 'I was instructed to do that sort of thing,' he said airily.

'You thought it was lawful, did you?' Doherty asked.

'Yes.'

Doherty suggested Hilliard had the 'facility to deceive people and that you don't worry about using that facility . . . What do you say about that?'

'That's a complicated question,' Hilliard replied. 'Everybody has a facility to deceive.'

'You're an intelligent man,' Doherty said. 'You don't just do what you're told to do?'

'Of course I do,' Hilliard said, 'if I'm paid to do it.'

So, Doherty said, if somebody asked you to 'go and give that young child a kick in the shins' would you do it?

'No,' Hilliard said, 'because I don't kick children in the shins.'

Hilliard said he didn't tell his business partner Christopher Wood about the so-called laundering of Vizard's money 'because it was a confidential arrangement' and it didn't occur to him that he was deceiving Wood. As far as he was concerned the millions of dollars of Vizard's money that went through IAT's accounts and out the other side didn't harm the travel agency.

'Are you saying on oath you thought there was nothing wrong in doing that?' Doherty asked. 'Is that what you are saying?'

'That's right,' Hilliard said. 'It was just going in and out'. He admitted using travel agency cheques to buy things for himself, including thousands of dollars worth of rare stamps, saying he was 'entitled' to do so 'because I owned half the company'. And he booked these purchases as legitimate business expenses of the travel agency.

'And that was a deception, wasn't it?' Doherty asked.

'Yes.'

Hilliard denied, however, that the insider-trading allegations he aimed at Vizard were nonsense, and he agreed strongly with Doherty that the businessman thoroughly covered every aspect of his business and legal affairs with external advisers.

'Did it ever amaze you how much money he [Vizard] was prepared to spend on lawyers and accountants to make sure things were done properly?' Doherty asked.

Glancing at Doherty, Hilliard replied slowly: 'I'm not sure that it was to make sure things were done properly. I would have put it a different way.'

Hilliard had been calm and assured in his answers for some time, but at this point he faltered. Magistrate Hardy suggested he should stand down from the witness box, but before adjourning the court the magistrate raised his own concerns about Hilliard's health.

'I see a psychologist regularly,' Hilliard said.

'I don't need to go into that detail,' Magistrate Hardy said. 'But what I am saying to you, sir, is that the genuinely felt position of this court is that you don't do anything untoward to yourself. It's a matter of concern to me.'

It had been a long day and Hilliard was coming under increasing pressure as Doherty's questions zeroed in on his culpability. For a while at least, Hilliard maintained a façade of indifference. He put on an air of superiority that conflicted with his obvious emotional vulnerability. Yet his answers to Doherty betrayed two things: firstly, that he had no concern whatsoever for the impact of his actions on his own business partner; and secondly, that he might willingly disregard the difference between right and wrong if there was money to be made.

16
Hey big spender

Lavishly and extravagantly, with more than a modicum of taste and with no apparent caution, Roy Hilliard spent at least $440 000 of Steve Vizard's money on himself. Month after month, every line of his Diners Club charge-card statements betrayed a tale of prodigious spending, of first-class intercontinental airline flights, of regular interludes at luxurious hotel resorts, dinners and lunches at five-star restaurants, impulsive spending on jewellery, on coins, on red wines and tailored shirts, and, curiously, on lottery ticket after lottery ticket.

Not just any quick-pick Tatts ticket, mind you, not Powerball, not the old $1 and $2 scratchies bought over the newsagency counter. No, when Hilliard was in the mood, he took a bit of a dip and happily doled out $3500 this month or $5200 next month for lottery tickets in Hamburg, Germany, or $2000 on the Boys Town Art Union raffle in Queensland, or $4000 on the RSL War Veterans Homes Art Union raffle, then more in Germany and more in Queensland. Month after month, dip after dip, thousands upon thousands of dollars—but, no, Hilliard told the court, he didn't have a gambling problem. 'I wanted to win a prize,' he said matter-of-factly.

He didn't win—ever, apparently—but if he had, it might have shaved a little off the massive debt he accrued as he gave his Diners Club plastic a veritable belting. The little card whizzed through credit machines around the world, racking up mountains of frequent-flyer points for Hilliard. November 1993 and he was at the Sheraton Mirage on the Gold Coast, the following month at the Marriott Hotel in Hong Kong, the next month in London, two months later he was back at the Sheraton Mirage and the next he was in Adelaide at the Hyatt Regency. A few months later and it's the Mirage again. All this was booked on Diners Club, all this was paid for on a bookkeeper's wage that was supplemented, so Hilliard said, by Vizard's kind offer to pick up all his expenses. 'Extravagance means "beyond your means",' Hilliard told the Magistrates' Court. 'And I wasn't living a lifestyle beyond my means at the time.'

Extravagant also means wasteful. Bottles of Penfold's Grange Hermitage wine at $200 and $300 a pop, numerous trips to Hong Kong, four or five days spent at the gorgeous Raffles Hotel in Singapore, $2300 for a lifetime membership of the now-defunct Ansett Airlines Golden Wing club, $2700 for a trip on the Concorde in 1995, and thousands of dollars—often a couple of times a month—for domestic holiday flights on Qantas.

'I spent the money that I obtained as I wished,' Hilliard told the court. 'That's all I can say.'

'But you lived very well, didn't you?' Tim Doherty asked.

'Well,' Hilliard replied, 'if you have money then obviously you spend it, don't you?'

More lottery tickets, followed by more lottery tickets, and yet more lottery tickets—a pattern Doherty suggested might indicate 'some degree of instability, what do you say about that?'

'That's your opinion,' Hilliard replied breezily. 'Not mine.'

Doherty read a list of the expenditure: more Qantas domestic flights at thousands of dollars each, $16 900 for a first-class British

Airways flight for two to London in October 1996, another $18 400 for British Airways flights in March 1999, hotel accommodation in the Caribbean, in Miami and in London.

'Well,' Hilliard told the court, 'there were a couple of years I missed going overseas . . .'

More raffle tickets, $12 300 for rare coins purchased from a London-based dealer over six months, then more raffle tickets. Year after year, Hilliard siphoned off a bit here and a bit there, mostly—though not always—staying just below his authorised cheque-writing limits, beyond the scrutiny of the bank, and apparently way out of sight of his boss. And that's only a tiny sample of the spending over seven years. Mostly it went to what Hilliard, ever the bookkeeper, called 'current expenditure': fast and liquid assets, intangibles and ephemeral goods.

'Bearing in mind, Mr Hilliard, the lifestyle that you were able to enjoy when you worked for the Vizard companies, it's a bit surprising you resigned, isn't it?' Doherty suggested.

As enigmatic as ever, Hilliard said simply, 'Yes.'

All up, Roy Hilliard spent more than $515 000 on his Diners Club charge card in about eight years—an average of more than $5000 a month in personal expenses on that single charge card. But only about half of that sum—$255 592—came from Vizard's accounts. How he paid for the balance owed to Diners Club was not explained to the Magistrates' Court. Hilliard suggested it might have come from other sources such as his salary, or perhaps from the salary of his partner, Margaret McCready. Westpac's calculations showed some $3 million had been funnelled from Vizard's accounts. Of that, $255 000 was paid into Hilliard's Diners Club account, and about $185 000 went to Hilliard's personal bank accounts and a slew of businesses that had nothing to do with Vizard. Some $80 000 went directly from Vizard's accounts to Hilliard's stockbrokers to buy portfolios of shares in Hilliard's name, and more cheques totalling tens of thousands of dollars were written in favour of Cunard and British Airways.

Of course Hilliard did not declare the money he took from Vizard as taxable income because, he said simply, he didn't want to. By his story this 'arrangement' of diverting money in cash to his boss and retaining a bit for himself—under the table, so to speak—was top-secret, and to declare it to the Tax Office would have defeated the purpose entirely. In any event, he didn't consider it tax-assessable income. 'I saw that it was a gift from Mr Vizard personally and outside the ambit of my employment arrangement,' he said. Vizard 'knew about my lifestyle, he knew more or less what I was doing.'

All up, some $438 000 could be traced directly from Vizard's accounts to spending by Hilliard, who insisted that this amounted to his 'fee' for delivering bundles of cash to the businessman. Yet there was an implicit contradiction at the heart of Hilliard's defence. If Hilliard's characterisation of Vizard was true, if he really was a tight-fisted businessman who went to unusual lengths to minimise tax and other payments, then it seemed strange that he would happily dole out $438 000 to finance his bookkeeper's profligacy.

As for the balance of $2.56 million that Hilliard was accused of stealing, the trail went cold. Once the cheques cleared Vizard's accounts and mingled with funds in the bank accounts of International Age Travel, there was almost no way of determining accurately what happened to the money next. Myriad cheques and cash had flowed out of IAT's bank account, but there was no direct correlation between what had gone in and what had gone out. Prosecutor Doherty suggested Hilliard had also cheated and deceived his colleagues at Information Age Travel—that he had used the travel agency's bank account for his own purposes and, just as he had done with Vizard's accounts, he had siphoned more money from IAT whenever he wanted.

'You were a person who was prepared to practise a deception on somebody at any time it suited you,' Doherty said, his voice rising.

'It just didn't seem to worry you that you were deceiving people . . . It just came as second nature to you in relation to these dealings. What do you say?'

Hilliard barely flinched. Calmly, he linked it all to his purported agreement with Vizard. 'All these deceptions followed logically from that arrangement,' he said.

'Mr Vizard was a very busy man, wasn't he . . .?' Doherty asked. 'You knew Mr Vizard didn't have time to sit down and start going through entries like this. I suggest he just didn't have the time in the day, did he?'

That was not true, Hilliard said. Vizard met him regularly and he approved all these payments. But, he said, he couldn't prove any of this because the purported meetings were always held 'behind closed doors' and Vizard wanted the whole deal kept absolutely confidential. No one else knew about it.

Doherty then raised another contradiction in Hilliard's defence. Hilliard claimed that he resigned because he was concerned about Vizard's share trading and the possibility that he would be linked to illicit share trading by the businessman, and yet Hilliard was more than content to participate fully in numerous other deceptions—deceptions on the Tax Office, for example, and on his own travel agency. It seemed more likely that Hilliard, fearing he was going to be found out as a thief, resigned under mounting stress and anxiety in mid-2000, that he felt cornered and figured the only escape was to quit.

'You were becoming ill, weren't you?' the prosecutor said. 'I suggest the stress of these constant thefts, and what I suggest to you is an aberrant lifestyle, . . . were placing a great stress on your health. In fact you did—you cracked up at the end of 2000, didn't you? I'm not criticising you,' Doherty went on, 'it's a sorry thing for anyone to get sick. But you did get very sick and cracked up trying to take your own life.'

Hilliard turned slightly to face Doherty, and as he gazed at the prosecutor he said: 'As a result of the charges that were levelled against me, yes. It was the stress and shock of seeing how my employer, who I trusted to keep those confidential arrangements "confidential", had turned on *me*,' he said.

'But,' Doherty noted, 'this was the same person—Mr Vizard—who you said wanted to keep everything so completely and utterly secret.' If Vizard wanted it kept secret, why would he also expose it? 'It's a bit odd for somebody to do that if they wanted to keep everything secret, isn't it?' he said.

And again, Hilliard said simply, 'Yes.'

Hilliard's defence amounted to a take-it-or-leave-it response. That was what happened, he said, and tangible evidence to support his defence no longer existed. There were no witnesses and there were no documents. In effect, Hilliard was saying to the court: if you don't believe me then you have to believe Vizard, and what if—just what *if*—he turns out to be a liar? Oath on oath is what legal practitioners call it. It's the fundamental struggle for supremacy in the courtroom, the tussle over honesty, the battle to get this fact and that fact told through untrained witnesses. Who will hold up? Which one will gain the trust of the court, of the jury or the judge, and which one will appear to be a liar?

Just as Hilliard's evidence drew to a close, and before final submissions were heard, an intriguing stoush flared. Hilliard's team had finally got its hands on a small pile of highly confidential documents that it believed incriminated Vizard in insider trading in 2000. Telstra had delivered to the court two sets of confidential board papers about its involvement in the Solution 6/Sausage Software merger of early 2000, and it had handed over some documents showing precisely what Vizard disclosed to his fellow directors about his share investments.

Before the court examined these documents however, prosecutor Tim Doherty once again tried to block Hilliard's counsel Danny Masel from raising questions about Vizard's share trading. Such questions were opportunistic and were only going to be used to attack Vizard's credibility, Doherty said, adding that Vizard's share dealings during the share-market boom and his stint on the Telstra board had nothing to do with Hilliard's theft charges.

That's not correct, Masel said. Hilliard had quit working for Vizard because, according to Hilliard, he felt 'guilty' about Vizard's share trading and feared that one day he might become tangled in an insider-trading investigation. Any evidence about Vizard's share trading was crucial to understanding why Hilliard left.

Magistrate John Hardy balked at this argument. He had listened intently as, hour after hour, Hilliard had admitted to numerous breaches of the Corporations Act, including falsifying accounts and avoiding tax. If Hilliard was so blithely unconcerned about all that illegal behaviour, then 'why would he be concerned about allegations or circumstances of insider trading?' Hardy asked.

Because, Masel said, until this point all those other matters relating to Vizard's accounts and avoiding tax were tantamount to Steve Vizard spending Steve Vizard's money, 'but this [insider trading] was other people's money'.

Hardy was far from convinced: 'Mr Hilliard's conduct that he embarked upon—with alacrity, I say bluntly—were potential frauds on the Commonwealth.'

Well, said Masel, one of the reasons that Hilliard quit his job with Vizard was that 'he was finding himself enmeshed in insider trading'.

'So you are going to try and prove insider trading?' Hardy asked, a little incredulous.

'Yes,' Masel said. ' . . . It [the allegation of insider trading] is not just a matter of credit. It goes to the modus operandi of Mr Vizard in his business dealings, his dealings with others, including in the present case Mr Hilliard.'

Magistrate Hardy was in a tough position. This was a committal proceeding, not an insider-trading case, yet he had to be scrupulously fair to the defendant. Hardy pondered Masel's request for some time but eventually knocked it back, ruling that no more witnesses would be questioned about Vizard's share trading. Hardy trod warily though, and specifically directed that his comments should be recorded in the transcript just in case a later court wanted to open the matter up.

Not to be defeated, Masel asked if he could recall to the witness box the man himself, Steve Vizard. Instead of showing these Telstra documents to other witnesses, surely Vizard himself should be quizzed about them, he said. It was a compelling argument, and Magistrate Hardy saw that proposal in a totally different light.

At trial, he said, the case might well balance on what Hilliard said and what Vizard said, and that meant everything would be in the pot—the court would hear matters much bigger than questions about why Hilliard resigned. '[I]t goes to the issue as to who is to be believed,' Magistrate Hardy said, '. . . and matters relating to Mr Vizard's credit obviously are something to be considered by this court or another court.' The committal court had a responsibility to sort 'the wheat from the chaff', Hardy said, to sift through conflicting evidence and yet to ensure that everything relevant to the case was fully available for a subsequent trial.

'We are not a rubber stamp,' he said, 'and we should go through the proper intellectual exercise of deciding if there is sufficient evidence.'

The following day, after disappearing into the bureaucracy of the court building for a short time, the envelope of Telstra documents finally surfaced in Courtroom 19. Magistrate Hardy scooped up his copy, adjourned the court, and retired to what he disparagingly called 'the claustrophobic environs of the ante-room' to examine the material.

When the court resumed fifteen minutes later, though, prosecutor Tim Doherty seemed a little confused by what he had read in the Telstra package. He queried whether any allegations of insider trading could stick, 'bearing in mind', he said, 'that the shares are bought prior to any Telstra announcement'. A distinct shudder of discomfort and embarrassment rippled through the courtroom: Doherty momentarily didn't seem to get it.

'It's because the shares *are* bought prior to the public announcement that the aura of insider trading arises,' Masel said quietly. 'The price went up dramatically shortly after the announcement, but we also know that there has been board discussions of Sausage Software—and board discussions in the context of a very major strategic alliance or acquisition by Telstra from July 1999—and further information provided to directors beyond that which is directly recorded in the [boardroom] minutes . . . Steve Vizard ought to have the opportunity to answer them,' Masel said. '[A] court will be required to weigh the oath of Mr Hilliard against the oath of Mr Vizard.'

But Magistrate Hardy refused Masel's request. Vizard would not come back to give evidence about the Telstra documents because, Hardy said, allegations about insider trading had already been put to him and denied. Choosing his words very carefully, Hardy said the obvious conflict between Hilliard's version of events and Vizard's version were 'exquisitely matters for a jury to determine'. And even if Vizard's credibility had been injured during the committal proceedings, Hardy did not believe that damage by itself would dissuade a jury from possibly convicting Hilliard.

Magistrate Hardy then committed Roy Hilliard to stand trial on 198 charges of theft. It was not his task to set a date for the hearing; Hilliard's case now would come under the management of the County Court system.

Hilliard rose to his feet, faced the magistrate and when asked how he pleaded, he replied in a clear, loud voice so that everyone could hear, 'Not guilty'.

17
'Vizard cop gun outrage'

It was bright and early on a Tuesday morning, a week before Christmas 2003, when little Jimmy Vizard jumped up to answer the doorbell of his family's mansion. School holidays had just begun, and inside the house all the Vizard children were watching television and playing with some schoolmates. Mum had dashed down the street to do some shopping and Dad was at an early meeting as eight-year-old Jimmy raced to unlock the huge front door. And as it creaked open, there, standing along the gravel driveway and scattered under the shade of the great arching plane trees beyond, were uniformed federal police and a posse of men in suits. Already this looked like an adventurous start to the Christmas holidays.

Someone must have let a few of those suits and feds into the house because when Sarah Vizard swept her car into the driveway a few minutes later and indignantly demanded to know what on earth was going on, some of the officials were already in the kitchen. Out came the search warrant, on went the coffee, and for the next five hours the police and investigating officers of the Australian Securities and Investments Commission (ASIC) rifled through desks and shelves, cabinets and boxes, searching Steve Vizard's study, several other rooms and the garage. Across town, police and ASIC investigators executed a second warrant to search his business address.

It had come to this: the indignity of a home raid. And there was no hiding it either, no covering it up. For seven months, since the committal proceedings for Roy Hilliard had ended, Steve Vizard had been under intense investigation by ASIC. The regulator had quietly, yet formally, requested that he hand over documents relating to his share-trading, it had applied to the courts to get access to documents that now formed part of the file for Hilliard's upcoming criminal trial, and it had indicated it wanted to bring Vizard in for a formal interview.

Through all this, Vizard had continued in his government appointments and he had accepted more. He was still chairman of the National Gallery of Victoria's board of trustees; indeed, just two weeks before the ASIC raid, he had hosted senior politicians, some of the country's top business leaders and influential members of the arts fraternity at the grand opening of the NGV's renovated headquarters on St Kilda Road. In August, he had given and joked his way through several jovial media interviews to promote a special exhibition of the Vizard Foundation's collection of art from the 1990s. He was still chairman of the Victorian Major Events Company, and just three weeks earlier he had agreed to lead the organising committee for the FINA World Swimming Championships, which would be held in Melbourne in early 2007.

Hilliard, meanwhile, was on bail, living in his rented brick villa unit in the regional town of Castlemaine, occasionally prospecting for gold in the scrubby bushland of central Victoria, and quietly preparing for his criminal trial which still did not have a firm date.

By December 2003, ASIC's enforcement officers sensed they were not getting Vizard's full cooperation in their share trading investigation and they obtained search warrants. For hour after hour that day, a few Commonwealth-issued cars loitered outside the Vizards' home, no doubt setting off a chattering train of chinwagging around Toorak. In all, they took possession of about a dozen documents from his home and business premises.

Steve Vizard immediately implemented what public relations proponents call 'front-foot defence'. Within forty-eight hours of ASIC's raid, the whispers and strategic leaks had reached the media. The Vizards had been treated to what an anonymous 'family friend' called a 'heavy-handed raid' with tactics akin to a drug bust. There were news stories about cops with guns in holsters frightening the living daylights out of the Vizard youngsters, and it was all summed up in the *Sunday Herald-Sun*'s cracker front-page headline: 'Vizard Cop Gun Outrage—Children in Shock after Armed Raid'.

Steve and Sarah Vizard released a statement heavy with indignation, once again strongly denying Hilliard's allegations that Vizard had used his position as a Telstra director to trade shares for his own benefit:

> The criminal proceedings against our former bookkeeper, during which these allegations were made, did not provide us with the opportunity to refute them because we were not a party to the proceedings and the purpose of that case was only to prosecute fraud charges against him.
>
> We deny absolutely these self-serving and false allegations. They were made with the object of seeking to have us attempt to stop the criminal proceedings against him. We refused to countenance any interference with the criminal process because we had nothing to fear or hide.
>
> We have volunteered documents and have agreed to see the investigators. They have our complete co-operation on access to all relevant information. The more relevant information they have, the better. The more complete the investigation is, the better. And the sooner the investigation is complete, the better.

Then came the heavenly chorus of unabashed tributes and unqualified support from politicians on both sides of parliament. It was a public love-in. Then-Premier Steve Bracks' spokeswoman, Jane Wilson, told reporters the state government stood behind Vizard and that he had done a top job leading both the National Gallery of Victoria and the Victorian Major Events Company. She then suggested it would be 'inappropriate' for the government to say anything else because there was an investigation in train. But that didn't deter Bracks' deputy, John Thwaites, who proclaimed that 'we strongly support Mr Vizard and the important role that he is playing for Victoria'.

The then-state Opposition leader Robert Doyle was lavish in his praise, saying Vizard had been 'a magnificent contributor to the Victorian community. He has offered real leadership and lasting benefit to Victorians. I personally do not believe any of the allegations against Steve Vizard. I've always found him to be a person of the highest integrity . . . he has my full and utter confidence as a person and as a community leader.'

The leader of the National Party in Victoria, Peter Ryan, sized up the ASIC investigation by saying he would be 'absolutely astounded if there was anything in this'.

Finally, Ron Walker, Vizard's predecessor at the Major Events Company and for decades one of the state's leading powerbrokers, sang his praises this way: 'I am very proud to have worked with him over the last decade at the National Gallery, and the way he chaired the Victorian Major Events Company since he took over from me has benefited Victoria by hundreds of millions of dollars . . . I have no comment to make on the allegations suffice to say Mr Vizard spends 70 per cent of his time working in an honorary capacity in this community. We could do with a lot more of Steve Vizard in our community.'

After that initial pre-Christmas blaze of headlines, though, once again it all went remarkably quiet. Vizard continued his work at the NGV, although in April he told the government he would step down. He remained on the Major Events Company, he beavered away preparing for the World Swimming Championships, he travelled overseas and interstate often, and generally went about his business as though nothing was happening. For the next eighteen months, the scandalous allegations of insider trading remained little more than muted rumours at the back of Melbourne's prestigious clubs, surfacing only occasionally at dinner parties and during cocktail functions, but mostly they were assuredly dismissed with a 'No, not Steve—he's not *that* stupid'. Vizard was not the kind of person who would do *that* sort of thing. He was respected, and honoured, and, well—no, he just wouldn't do it.

On April Fools' Day 2004, Vizard accepted yet another award—this time from Deakin University in Victoria which handed him an honorary doctorate in law. A week later, the university's newspaper enthused about Vizard as 'a gentleman of many talents . . . a brilliant performer and speaker, lawyer, champion of the arts, passionate carer about environmental and regional and rural issues, leading businessman, thinker, convenor, community leader, dedicated family man and philanthropist'.

So when the Australian Securities and Investments Commission's statement No 190 of 2005 rolled out of the corporate regulator's broadcast email system on Monday 4 July 2005 with no fanfare and no further comment, there was an audible gasp across Melbourne that reverberated around Australia. ASIC would take Stephen William Vizard to the Federal Court. The corporate regulator had prepared a documented trail showing that between March and July 2000, when Vizard was still on the Telstra board, he had used Creative Technology Investments to trade shares in three stock exchange-listed companies that were closely associated with Telstra. ASIC alleged that Vizard forayed into the share registers of Sausage Software, Computershare and Keycorp during crucial periods when he was in possession of confidential and highly price-sensitive information about those companies. At no stage did Steve Vizard reveal any of those share transactions either to Telstra directors or company officers; he kept them secret.

Buried in the seventh and eighth paragraphs of the ASIC press release, however, was the bombshell revelation: Vizard was not going to challenge these allegations. He *agreed* that he had breached his fiduciary duties. He agreed with the facts as ASIC had set them out, and he agreed with the regulator's proposal that the Federal Court should fine him and banish him from corporate activities. After previously vigorously denying any wrongdoing, after putting his wife's name to one of those denials, after hauling in a PR firm to deny it for him, Vizard agreed he should be banned and fined for breaching the Corporations Act.

It was a deeply shocking revelation in business circles, among Melbourne's social elite and, of course, inside the political hierarchy because, if ASIC's allegations were correct, what Vizard had done during 2000 amounted to a blatant betrayal of so many stakeholders. He had systematically exploited the trust of Telstra's shareholders, its employees and his fellow directors, he had casually sloughed off the confidence vested in him as a government appointee to the telecommunications group's board, and he had apparently lied about it publicly and on oath. But ASIC appeared to have pulled up short. Its allegation was that Steve Vizard had exploited his position as a Telstra director for his own benefit, yet it was not going to prosecute him for insider trading. To the business and political community it didn't make sense. Vizard was in possession of confidential information, he traded shares while armed with that information, the information was not widely known and it had the potential to move share prices. The question they were asking was, how could Vizard's activities *not* amount to insider trading?

Within Australia's boardrooms, the reaction was immediate and vehement. There were equal measures of anger and disbelief. Much of that anger, however, was focused not so much on the fact that Vizard had traded shares using confidential information as the fact that he had done so from the vaulted position of a director. He had breached the sanctity of the boardroom and exploited his role for his own financial benefit. Business leaders privately expressed some rare passion and fury about this, because if there was one message in corporate Australia that rang out above all others, it was that directors and company officers must not use their positions to gain an advantage for themselves personally. And yet Steve Vizard, funny man, philanthropist and millionaire businessman, a commercial lawyer, loved and respected by so many people, evidently ignored that basic edict—repeatedly. One former Telstra director said: 'Even if he got a ban for twenty years, it would not be long enough for me. I will never, ever work with that man again. I am just really horrified, angry, amazed, disappointed [and] sad. I feel as though my trust has been violated. Steve is a bright man, really capable. He has already got more money than God—he didn't need more.

'I'd understand it more if it was a spur of the moment thing, done once, but he set up this structure months before and took a series of opportunities over months, and had the dot.com [share-market boom] not burst, he would have made millions of dollars. I find it deeply offensive, as a planned, cool, calculated scheme . . . [T]here were thirty to forty people who had the information—everybody else knew the rules, kept the rules, except for one.'

Steve Vizard had begun preparing for large-scale investments in the communications technology sector in December 1999, soon after he and fellow Telstra directors returned from two intensive weeks of seminars and private briefings in Silicon Valley. Vizard and his boardroom colleagues were amazed by the vibrancy of this new economy, and Vizard personally wanted a piece of the action. While it was a relatively safe strategy to own shares in market staples that would return comfortable dividends every six months, the big profits would come from adopting a riskier investment profile—one with an exposure to technology stocks whose rising share prices were expected to propel the share-market still higher.

So during his US trip, Vizard enthusiastically collected promotional material from the investment seminars and packed it into his suitcase. He picked up reports published by leading technology analysts at US stockbroking houses, a few prospectuses and brochures for companies that hoped to raise funds, and he retained a list of investor presentations attended by Telstra's directors as well as a copy of the itinerary.

Back in Melbourne, Vizard shared his new-found zeal with his accountant, Greg Lay, and Roy Hilliard. He talked about how the weight of money was shifting behind technology stocks and how he wanted to sink his money into similar stocks in Australia. The vibe was up, Vizard was keen, and the only question was how to go about it.

What he didn't want, however, was for his share-trading activities to be splashed across the media—he wanted them to remain private, well out of the public spotlight. So on 10 December 1999, he and Greg Lay set up an unusually complex structure, one that would give the appearance of distancing Vizard from the trading. The trades would be executed through the newly formed shelf company, Creative Technology Investments, which would be headed by Lay as sole director and sole shareholder. Its kitty of investment funds would come via a loan from a Vizard trust, Brigham Pty Ltd, and Vizard would receive ninety per cent of all CTI's share-trading proceeds. The remaining ten per cent would go to Lay for executing the trades.

CTI was an inordinately complex structure. Vizard's explanation of it was outlined in a memo that he drafted for his lawyers in early February 2001, two months after Vizard accused Hilliard of stealing from the family's accounts. Through his counsel, Hilliard had flagged to Vizard's lawyers—though not specifically stated—that he knew about CTI's covert activities and perhaps Vizard might not want the rest of the world to know about them. Perhaps if Vizard backed off or reconsidered his version of events, it might remain confidential. (Vizard, however, was not in a position to thwart Hilliard's attack. In reality, his fate was sealed in December 2000 when he signed the compensation deal with Westpac. From that day, the bank was duty bound to report the theft to its insurers and to the police, so even if Vizard had wanted to renege on the settlement—and there is no suggestion that he did—he could not have halted Westpac's own investigation or the inevitable police prosecution of Hilliard.)

With Hilliard's veiled threat wafting through the air, Vizard drafted for his lawyers a version—but just his version—of how and why CTI was set up.

Vizard marked the memo 'strictly private and confidential' and he sent a copy to Greg Lay, accompanied by a note suggesting Lay might use it 'to assist you in jogging your memory' as the accountant prepared his own statement for Vizard's lawyers: 'I thought that if there were any matters that I have missed or got substantially wrong in your mind it would be useful for you to let me know at the meeting on Wednesday', Vizard wrote to Lay.

The memo is a bizarre document, littered with inherent contradictions and scattered throughout with Lay's subsequent handwritten notes, numerous query marks and tiny ticks of approval against some sentences. Lay deleted several phrases and in places tried to insert his own version, but the flurry of question marks and heavy underscoring indicates that Lay had considerable doubt or confusion—if not disbelief—about Vizard's version of events. On the cover page, Lay had drawn a diagram of three boxes with a series of flow-lines or arrows leading in and out of the boxes, and had written the word 'governance'. Lay would later tell the Victorian Supreme Court (in 2006) that this diagram related to a possible restructuring of the Vizard Foundation but that he annotated the memo because 'I was questioning whether they were, the—an accurate picture of events'.

He drew especially heavy lines and a prominent question mark against these two sentences: 'At no time did Vizard related entities direct Creative Technology or Greg Lay to acquire any shares or [*sic*] at a particular price. At no time did Vizard related entities direct Creative Technology or Greg Lay to sell any shares or [*sic*] at a particular price.' Lay must have known that was not true: ASIC and Vizard jointly told the Federal Court (in 2005) that Vizard specifically instructed Lay to buy and sell certain shares at certain prices during 2000, and that Vizard did so when he was privy to confidential information about the target companies.

Vizard stated in the February 2001 memo that he did not have any 'legal or beneficiary interest or control' over Creative Technology Investments. But that wasn't true either: all CTI's investment funds came from Vizard's Brigham, and he was, without doubt, the main beneficiary of its share trading.

In the memo, Vizard offered unsatisfactory explanations as to why he did not want to invest in his own name. Firstly, he said, he and his advisers lacked any relevant personal expertise in the technology sector and, secondly they did not have enough time to properly research the companies. On the face of it, they seemed like excellent reasons not to invest at all. But—and this was the most muddle-headed justification of all—Vizard suggested he was concerned about the public perception that might arise if he, as a director of Telstra, was known to be investing in technology or telecommunications companies 'some of which may have appeared competitive with Telstra or other companies with whom I hold an association—such as the then-forthcoming Vodafone float'. Vizard was not going to restrain himself from investing in these companies; he simply wanted to hide his involvement. It was the *perception* that he was concerned about, not the fact of his investment; he still wanted to invest in companies that might give rise to a conflict of interest but he wanted to do so from behind a screen so that nobody could see he was influencing the investment decisions.

In his memo, Vizard suggested Creative Technology Investments was intended as a 'blind trust' and that he had wanted something 'similar to the sort of arrangements usually put in place by directors of other companies'. He was 'adamant that unless such an arrangement could properly be put in place in accordance with usual practice it was probably best not to proceed'. A blind trust is an arrangement whereby someone places all investments in the care of an independent manager to ensure he or she has absolutely no influence either on the nature of the investments or on the timing of share purchases and sales. But with Creative Technology Investments, Vizard wanted to retain control over his investments; he would dictate CTI's share purchases, when it would buy and when it would sell.

Details of Brigham's loan to CTI were enshrined in a fourteen-page loan agreement, dated 10 December 1999, which was signed by Greg Lay on behalf of CTI, and on Brigham's behalf by Sarah Vizard (using her maiden name, Sarah Wilmoth) and by one of Vizard's lawyers, Ross Millen of Deacons. This document spelt out exactly how much CTI would spend, at least initially, and which shares it would buy. Brigham agreed to lend $650 000 to Creative Technology Investments (it was later bumped up to $1.01 million) and its instructions were that CTI had to spend it on five specific stocks: $50 000 would go to ERG, an Australian swipe-card technology development company; $200 000 to PMP, a printing company; and $150 000 would be spent on shares in Vizard's old television alma mater, the Seven Network. Two US companies also were earmarked for investment, but they were relatively unknown in Australia: $150 000 would be spent on Extant Inc, which was building a broadband data network in the States; and $100 000 was earmarked for shares in

US-based Exodus Communications Inc, which planned to build an internet data storage centre in Sydney. Strangely enough, on 13 December, just three days after Brigham directed CTI to buy shares in Extant, Telstra publicly revealed it had signed a deal on 29 November to buy 20 per cent of Extant Inc for $US31.64 million. It is not clear if Lay ever carried out Vizard's instructions to buy shares in Extant, but in 2003 he told the Melbourne Magistrates' Court that Creative Technology Investments did indeed invest in a US company around that time.

ASIC spent two years investigating CTI's share trading. Its officers checked share registers, trawled through stockbrokers' trading contracts, examined loan documents involving the Vizard companies, as well as emails and board papers emanating from Telstra's boardroom. They interviewed Vizard's fellow Telstra directors and they quizzed Greg Lay at length. They pieced together some of the instructions flowing from Steve Vizard to Lay; cross-checked when certain information was presented to Telstra's board and when Creative Technology Investments bought or sold shares; and examined movements in certain companies' share prices after Telstra made public announcements.

In the end ASIC isolated three separate sets of share trades as highly suspicious. They were detailed in a document that ASIC filed at the Federal Court on 4 July 2005 as an agreed statement of facts. Although it was a statement of stark facts, with no interpretation, it amounted to Vizard's admission of deceit. Short and simple, Vizard wanted to make money and he saw a short-cut. Telstra was striking lots of deals with new telecommunications and internet companies in 2000, and if Vizard could get his hands on shares in some of those companies before everyone else did, before the wave of day-traders and hapless suburban investors weighed into those stocks, he might make a few extra million dollars. After all, knowledge is gold in the market and every email Vizard received from Telstra's boardroom telling him which company was next in its targets must have seemed like a little map directing him to where treasure might be buried. Ultimately, it proved an irresistible temptation.

18
All very market sensitive

Sausage Software was one of the brashest, hottest stocks during the Australian share-market boom of the late 1990s. Its HotDog software tools were in demand from small- to medium-sized businesses that wanted to establish a presence on the internet, and by May 1999 the company had attracted the attention of St George Bank and US-based Intel Corporation, which respectively acquired six per cent and five per cent of the company's shares. Led by chief executive Wayne Bos and chairman Gil Hoskins, Sausage Software was full of braggadocio—it was just the kind of fledgling company that fervent followers of the dot.com sector believed would generate a miraculous fortune.

Telstra's interest in Sausage Software began around April 1999 when it agreed to help the company design and distribute software for big businesses interested in conducting their regular commerce over the internet, and three months later, on 28 July 1999, Telstra agreed to buy 14 million new Sausage shares at $1.35 each, representing a ten per cent shareholding. It also acquired 70 million options which, if exercised, would leave Telstra in control of 40 per cent of Sausage. The telecommunications group clearly intended to get much closer to Sausage Software and, to ensure that it remained privy to developments inside the software company it assigned two of its senior executives to join Sausage Software's board. At the same July 1999 board meeting, directors also gave their imprimatur for Telstra to buy 25 per cent of the shares in a then-unrelated software company, Solution 6 Holdings. Nine months later, Telstra started to see some fascinating action from its dual investments.

Just after 9 am on 2 March 2000, a confidential email zinged through cyberspace from the offices of Telstra chief executive Ziggy Switkowski to all members of the Telstra board. 'This is an early alert of possible developments over the next several days', Switkowski told directors. A share-based merger was brewing between Sausage Software and Solution 6 which, if successful, would create 'a substantial new age company' and possibly trigger 'a rearating [*sic*] of their already high [share-market] values'. Telstra's senior managers were excited about the plans, and they wanted Telstra to retain 40 per cent of the merged group. Telstra would accept the offer for its shares, sell some of its developing e-commerce subsidiaries to the combined Solution 6/Sausage Software group, and inject cash into it. 'As I understand it, these moves could happen quickly, that is within the next few days. I will keep you informed. Ziggy.'

Three days later, on 5 March, Switkowski emailed a bundle of documents about the proposed merger, now dubbed Project Boxster, to all Telstra directors including Steve Vizard. 'This transaction now has a head of steam,' he wrote. 'The following charts are largely self-explanatory [*sic*] . . . what Ted [senior Telstra strategist, Ted Pretty] and his team aim to achieve is an optimal recognition of our existing equity, our option positions, the opportunities to redeploy some existing businesses, and assert a degree of ultimate control while preserving the dynamism of these entities. Ziggy.' Switkowski suggested Telstra would obtain the funds to exercise its Sausage options by selling another asset valued at close to $50 million, but he did not provide any details.

What was not publicly known, however, was that Sportsview.com, the company jointly owned by Vizard, Eddie McGuire and Stuart Simson, had been in negotiations with Sausage Software since late December. Those negotiations were intended to secure Sportsview a stake in the listed Sausage Software, but they proved fruitless and eventually Sportsview backed itself into MultiEmedia. Sportsview.com terminated its talks with Sausage some time before 7 March—exactly when is not clear. Before the talks ended, Vizard emailed Greg Lay saying, 'I know you are keen on Sausage Software . . . As you know, Sportsview is involved in major negotiations with them [*sic*] . . .'

ASIC claimed that on 7 March, with confidential information about Telstra's plans in his possession, Steve Vizard directed Greg Lay to use Creative Technology Investments to buy about $500 000 of shares in Sausage Software at the going market price. Lay placed Vizard's share order with Melbourne stockbroking firm, Shaw Stockbroking, and secured 86 000 Sausage shares at prices between $5.68 and $5.81. But Creative Technology Investments did not have $500 000 in its bank accounts at that time; the $1.01 million it received from Brigham in December had been spent on numerous shares and the bank balance had dwindled to $108 263. So two days before payment was due on the Sausage Software shares, Performing Arts Services transferred another $200 000 into Creative Technology Investments' bank account. A further $240 000 arrived in the account as a refund from CTI's unsuccessful bid to buy shares in another company. All up, the purchase of the Sausage Software shares cost $501 289 after broker's fees and stamp duty.

More board papers about the proposed Solution 6–Sausage Software merger arrived in Telstra directors' in-boxes via email on the morning of 16 March, and another batch arrived after lunch. And at 7 am the next day, Friday 17 March, Telstra directors held a board meeting and agreed to take the two-step process of paying $101 million to exercise the options in Sausage and then to accept

Solution 6's offer of six of its shares for every ten Sausage Software shares held by Telstra. But Telstra directors made it clear at this meeting that they had some concerns about working with Sausage Software's chairman Gil Hoskins and chief executive Wayne Bos. They resolved that Telstra's participation in the merger hinged on Hoskins leaving Sausage Software within three months.

Vizard attended that early morning meeting of 17 March by telephone, but he never mentioned that just one week earlier he had acquired $500 000 worth of shares in Sausage Software for Creative Technology Investments. He stayed absolutely silent about his vested interest.

The Solution 6/Sausage Software merger deal was not formally announced to the Australian Stock Exchange (ASX) until 9.21 am on Monday 20 March, and trading in the two companies' shares was suspended for a few hours while investors digested news of the multi-billion dollar proposal. Because Solution 6 was offering to issue new shares in return for Sausage Software shares—a scrip-for-scrip deal—the share price of each company immediately became intrinsically linked to the other's price. Yet it was almost impossible to fix either company with a reliable future earnings profile or a projected revenue estimate. When trading resumed at 11 am, Sausage Software shares changed hands for $6.00, up five per cent from the last sale on Friday afternoon, and the shares continued to rise during the day, peaking at $7.50 before closing at $7.40—a gain of almost 30 per cent from Friday's closing price. Based solely on the share prices at the end of trading on 20 March, investors valued the combined upstart software group at an absurdly high $4.5 billion.

A week later, as the share-market's initial euphoria dissipated and the companies' share prices weakened, Steve Vizard directed Greg Lay to sell half of Creative Technology Investments' stake in Sausage Software (43 000 shares) at prices above $7.00. Lay relayed this instruction to the brokers at Shaw Stockbroking, but the firm only managed to sell 647 shares at $7.00 each on 28 March. Already, investors were starting to lose interest in Sausage Software.

Telstra held another board meeting on Wednesday 29 March, when directors were asked to verify the minutes of their previous meeting on 17 March. Vizard attended, but once again he said nothing about his Sausage Software investment.

That week marked the start of the share-market rout, the slide that became known as the 'tech wreck'. Share prices weakened around the world as giant telecommunications and software companies in the United States failed to hit their quarterly revenue targets, and investors' faith in the high ambitions of technology entrepreneurs began to wane. By Friday 31 March, the market tone was downright pessimistic. Vizard decided to offload some of his technology holdings. He told Lay to cut the asking price on the first tranche of Sausage Software shares (42 355 shares) from $7.00 to about $5.93, and Shaw Stockbroking sold them over two days for prices ranging from $5.93 to $6.20. By getting out then, Vizard retrieved $257 379 after paying broking fees and stamp duty.

But the share-market's decline accelerated. Over the next three weeks, the specialist ASX Miscellaneous Industrials Index, which measured the value of almost two dozen Australian technology stocks (including Sausage Software and Solution 6), tumbled by one-third. Sausage Software's shares plunged to just $1.70 by 17 April, and yet after the initial sale of 43 000 shares Vizard apparently did nothing to stop his losses. It was not until just days before the end of the financial year, on 27 June, that he ordered Lay to dump the other 43 000 shares at no less than $2.10 each. Lay's stockbrokers got them away at $2.18. The Sausage Software foray was a hopelessly bumbled investment. All up, Vizard lost $150 719 (after broking costs and stamp duty) on the stock.

The second series of covert share deals identified by ASIC involved the share registry company Computershare, which in 1999 struck an alliance with Telstra to develop financial transactions software suitable for securities exchanges. In mid-1999, Telstra bought the Royal Bank of Scotland's five per cent stake in Computershare for $84.3 million, and six months later Telstra exercised some options that boosted its stake to 15 per cent. Vizard decided to buy his own parcel of Computershare on 6 January and he told Greg Lay to spend $100 000 on the stock, but not to pay more than $7.18 a share. Lay picked up 14 000 shares for $101 676.

In March 2000, when Telstra's executives were plotting how to pay for the exercise of Sausage Software options, they proposed selling an unnamed Telstra asset for about $50 million. These plans were vaguely alluded to in board papers, and it was not until 16 March that directors formally learnt the earmarked asset was Telstra's stake in Computershare. In that 16 March email, Switkowski said negotiations were underway to sell the shares and most likely the sale would be done by 30 June.

'I am meeting with the C'share [*sic*] management tomorrow to determine the choreography of our sell down,' Switkowski told directors on 16 March. 'Of course this is all very market sensitive information. Ziggy.'

Indeed it was highly price-sensitive—if Telstra's plans to sell its Computershare holding had leaked to the market, Computershare's price would have plunged. In the background, one of Telstra's senior strategists who helped engineer many of these technology alliances and investments, Tim Buckley, was holding confidential discussions with Computershare's chief operating officer, Mark Elliott. By their estimates, Telstra would be able to sell its 15 per cent stake at about $6.60 a share, or a 15 per cent discount on the prevailing price of $7.76, but the share-market was proving increasingly volatile and there was no certainty that Telstra could sell all its shares in one day. Buckley figured Telstra might retrieve anywhere from $520 million to $615 million—a big profit on its original investment of

$291 million—but he also proffered some estimates showing how much Telstra might pocket if it sold at 20 per cent below the existing price. Directors discussed this at the board meeting of Friday 17 March, the same day they discussed the Solution 6/Sausage Software proposal. And just as Vizard failed to tell his colleagues about his Sausage Software shares, so too did he forget to mention how in January Creative Technology Investments had paid $101 676 for a small holding in Computershare.

It is not clear exactly when Vizard told Greg Lay to sell Creative Technology Investments' holding in Computershare. ASIC told the Federal Court that Vizard's instructions were issued some time between 2 March and 31 March, so it is possible that Vizard told Lay to sell all his Computershare shares *before* he learnt of Telstra's plans. Still, Vizard admitted in the Federal Court that he made 'improper use' of the confidential information. On the morning of Friday 31 March, as Lay was trying to get rid of half of CTI's Sausage Software shares and one day after share-markets began sliding, he also placed a sell order with Shaw Stockbroking to get CTI out of Computershare. The brokers sold all the shares at prices ranging from $7.40 to $7.58, realising a profit of $2592 after costs and stamp duty. Vizard was taking big risks for measly returns.

Ironically, Telstra proved far more cautious in its share trading than Vizard. With the share-market tumbling in late March and throughout April, Telstra delayed the sale of its Computershare holding. It was not until 28 June that the board formally agreed to sell the shares. Two weeks later, on 13 July, Telstra revealed it had sold 53.3 million Computershare shares at $7.25 each, a discount of about 11 per cent instead of the 15–20 per cent envisaged earlier in March.

In June 2000, as Vizard, Lay and Hilliard began preparing tax returns, they realised CTI's trading had been well off the mark. Instead of reaping windfall gains, the portfolio had lost hundreds of thousands of dollars. Lay suggested they dump some of the stocks;

the share-market was sliding and if they lightened up before the end of the financial year they could crystallise some useful tax credits. But just weeks later, Vizard waded in again for the most brazen of his illegal share trades.

It is incontrovertible that when Vizard told Greg Lay to buy Keycorp shares, he knew about Telstra's plans to invest more than half a billion dollars in the swipe-card technology supplier and gain majority control—a move that, in all likelihood, would have bolstered the Keycorp share price. Telstra directors learnt of these plans, dubbed Project Galaxy, during a board meeting on 28 June 2000. Vizard was at that meeting, and he received follow-up emails on 4 July, 7 July and 10 July, with each email revealing a little more detail about the negotiations. Telstra would merge its business interests in EFTPOS (electronic funds transfer at point of sale) platforms with Keycorp's transactions terminals business and together they would set up internet-based payments services so that retailers and businesses could communicate with their banks.

Switkowski's email to all Telstra directors on 7 July emphasised that speed was of the essence: Keycorp's share price was rising strongly every day and that meant the terms of the deal were swiftly turning against Telstra. He also pointed out that two boardroom colleagues, John Ralph and Ross Adler, who were both directors of the Commonwealth Bank of Australia, had flagged that they might have conflicts of interest because the bank owned 12.8 per cent of Keycorp. 'I have talked to each of them in the last 24 hours,' Switkowski wrote. 'They are aware of the general intention, but none of the detail.' Both Ralph and Adler subsequently abstained from voting on the deal.

At 6.38 pm on Wednesday 12 July, Telstra's directors received by fax some board papers explaining the Keycorp proposal in more detail, plus a resolution in support of the deal and a voting form. Vizard filled in the voting form, signed it and dated it '13/7/00', and sent it back to Telstra by fax. But the next morning, on Friday 14 July, Vizard ordered Greg Lay to use Creative Technology Investments to buy $250 000 of shares in Keycorp at no more than $13.40 a share. Lay this time called brokers at BNP Paribas Equities Private, who purchased 18 650 Keycorp shares at $13.40 each.

It was not until five days later that Telstra directors formally resolved to buy the Keycorp shares. Vizard attended that Wednesday 19 July board meeting by telephone. The stock exchange was told of Telstra's purchase two days later and, predictably, Keycorp's share price jumped immediately, rising from $12.80 at the close of trading on the Thursday evening, to $14.50 on Friday and peaking that day at $15.79.

True to form, Vizard said nothing about Creative Technology Investments' purchase of Keycorp shares at either the 19 July board meeting or a subsequent one on 26 July. On either 26 or 27 July, Vizard told Lay to get rid of 12 000 of CTI's Keycorp shares at no less than $14.28 each. But BNP Paribas could not attract enough bidders at that price and only 2713 were sold, realising $38 363. For several weeks the balance of CTI's 9287 Keycorp shares sat in the stock exchange's automated trading system awaiting a potential buyer, until finally on 30 August the system erased the sale order because the asking price was so far beyond the market's reach. That parcel of Keycorp shares remained unsold for more than two years; it's not clear why Steve Vizard allowed the shares to idle while the price continued to fall.

Keycorp represented a whopping loss for Vizard. All up, he paid $252 346 for the shares and lost at least $188 864 on the trades (after costs). For all that inside knowledge, Vizard proved to be a lousy trader.

When news of ASIC's allegations against Steve Vizard broke on Monday 4 July 2005, the businessman conveniently was on the other side of the world. He was not around to witness any of the initial anger and outrage. He had finalised the last few matters with ASIC's senior investigators in the last week of June, signed his big loopy signature to some court documents and then vanished in the jetstream. By Monday he was winging his way to the Greek Islands for a winter holiday.

Before leaving, though, he telephoned then-Premier Steve Bracks to tender his resignations as head of the Victorian Major Events Company and of the organising committee of the World Swimming Championships. A few weeks earlier, he had notified the Melbourne Cricket Club that he wouldn't seek re-election at the August annual general meeting. He then quit the board of Oakton Computing, left instructions with his lawyers and PR agents, gathered his luggage and immediately flew overseas to join Sarah and the children, plus his close friend, the bookmaker and former champion footballer, Simon Beasley, for a two-week holiday in Europe.

It was left to Vizard's PR agents, Mike Smith and David Wilson to field the barrage of queries, and naturally the paid advisers tried to fashion their client in the best possible light. It was a tough gig. Smith's message was that Vizard was 'grateful that these matters have been brought to a head finally after two years of uncertainty'. On 4 July, Smith told ABC Radio: 'It's now focused on three particular matters. They are serious matters—Steve understands that—but they are civil matters, not criminal matters. It's "breach of director's duties", not "insider trading".'

Vizard, the minders noted, wasn't a 'criminal', as such. ASIC had resorted to civil charges which were 'minimalist—it's the lowest threshold you could get'. Vizard, they said, had signed a 'deal'—a term ASIC strenuously rejected. He had signed the 'deal' because he was heartily sick of the whole investigation. Vizard, his advisers said, had made a mistake, an error. He admits he made an error and he's going to be a brave lad and cop it sweet.

These advisers telephoned the editors of several leading newspapers and media outlets and argued that for all the public brouhaha about this share trading, Vizard didn't make any money at all from it—he lost money. Hundreds of thousands of dollars. These weren't 'lucrative' transactions at all, they said.

Numerous high-profile supporters in the ranks of parliament and in the arts community stepped forward with glowing tributes. Publicly, then-Premier Steve Bracks spoke warmly of how Vizard had made 'an outstanding contribution to enhancing Victoria's reputation' as a sporting and cultural destination, how he worked 'tirelessly' to promote the state, and how he had left 'enduring legacies'. Bracks suggested the government would consider appointing Vizard to more boards and honorary roles if the Federal Court cleared him. Bracks evidently had been poorly briefed, because a few days later he conceded that the return of Vizard to public life would be 'problematic'.

Former State Premier Jeff Kennett, who appointed Vizard to several government advisory panels in the 1990s and the chairmanship of the NGV's board of trustees, initially declared his sympathy for the Vizard family. But, in time, as Vizard's PR minders continued to ring Kennett's office to solicit a kind word, Kennett's enthusiasm turned solidly against Vizard. Kennett readily accepts responsibility for making what he says was a 'bad assessment of his ability to lead the gallery'. But he feels bitterly disappointed and personally betrayed by Vizard:

> As the details of his share trading became public, I became disillusioned because not only did I believe that Steve was a young man with intelligence and a great deal of creativity—even though I was disappointed at the lack of completeness of his application while in charge of the gallery—I felt that he had allowed greed to put himself offside with the standards of decency and acceptability. I suppose my lingering feeling

> is one of being personally let down, and that he continued to seek my public support for him as the intricacies of his share trading affair became more public—[it was] support I felt I was no longer able to give … because he betrayed some very basic elements of public standards. My great feeling is one of betrayal of trust.

Ron Walker, who did not respond to several requests to comment for this book, at the time believed it was a matter of Vizard working out 'his differences' with the corporate authorities. 'I think it's a very sad day for Victoria because Steve is a great servant of the state,' Walker said. 'He had time to devote to things, he was single-minded, focused, had energy and drive, and did it all without pay. We need ten more Steve Vizards in the State of Victoria to do the things he was doing.'

Ten more Steve Vizards. It's an interesting thought.

Two weeks later, back he came, flushed with anger, haggard with jet-lag, and touched with a little sunburn. It was not a good look. As Steve Vizard struggled with his luggage in the arrivals hall at Melbourne's Tullamarine Airport late in the evening of Saturday 16 July 2005, he sought a little space, some peace. But a chaotic scramble of media awaited and buffering the pack was a handful of airline passengers who, excited by the frenzy of cameras, snapped open their mobile phones and starting recording the celebrity too.

Vizard was grim-faced and not at liberty to discuss his foul predicament. But at the urging of his PR minders, he had cribbed a few notes on the plane and now he paused briefly to say: 'I am here, and I will cop it on the chin.' The journalists crowded closer.

'I am acutely conscious of the fact that very many people feel that they have been let down,' Vizard said. 'To all of those people—to my friends, to my colleagues, to my family and to the public at large—I want to be crystal clear: I am deeply, deeply sorry and I intend to work actively over the rest of my life to set things right.' He then asked reporters to leave his family out of it—back off—and just before he climbed into a car driven by his business associate Shaun Levin, Vizard threw out a puzzling line. The public 'debate' about his share trading, he said, 'has been based on very limited information. I do look forward to a fuller picture being painted at some more appropriate time'.

Whatever could he mean? Did Vizard really have a substantial defence, one that had not yet surfaced? Or was he suggesting, ever so carefully, that perhaps ASIC got its facts wrong? It was cryptic, it fairly rippled with defiance, and it grossly undermined any semblance of sincerity in his so-called apology.

19
Good question, Your Honour

Steve Vizard breathed deeply, clasped his hands in his lap and looked straight up at Justice Ray 'Fink' Finkelstein, who was perched on his seat behind the court's vast panelled bench. On that morning of 21 July 2005, Courtroom 8A of the Federal Court was crowded to the back wall and beyond. Some observers were left standing in the corridor, craning to see through a tiny glass window, while a handful had slipped into an adjoining court to watch the proceedings on a televised link.

Fink rustled through some papers as he double-checked that he had all the documents he needed to get this hearing underway. He set aside draft submissions: one from the plaintiff, ASIC, which would be represented by Neil Young QC, and one from Vizard's defence team, led by James Judd QC. The judge nodded at a few written requests from journalists, who were salivating at the prospect of getting their hands on more information about Vizard's share dealings, and then he waved a crucial document at the lawyers sitting along the bar table, and marked it Exhibit ASIC-1: 'Agreed Statement of Facts and Appendices'. This was the damning summation of Vizard's share trading: twenty-eight pages of stilted chronology detailing the share trades of 2000 and outlining the alleged breaches under the Corporations Law (as it was called in 2000), all culminating in the side-by-side signatures of Mark Steward, the deputy executive director of enforcement at the Australian Securities and Investments Commission, and Steve Vizard.

The facts in this document were agreed in total and without reservation, and they detailed how the businessman took advantage of his position as a Telstra director by trading shares based on confidential information. Now while that may *sound* like insider trading, for reasons that remain highly peculiar to this case, Steve Vizard was not prosecuted for that offence under either the criminal or civil provisions of the Corporations Law. Instead, he was accused of falling foul of subsections 183(1) and 232(5) of the Corporations Law by improperly using confidential information that he gleaned through his role on the Telstra board so that he could gain a financial advantage. He was also accused of procuring Greg Lay to trade shares on his behalf. The regulator deemed that he had abused the implicit and legislated trust placed in him by shareholders and investors generally, and that he had done it deliberately.

But because he was not accused of 'insider trading' *per se*, to the general public it seemed very much like Vizard was sliding away from the strong arm of the law. Furious and passionate indignation swept through boardrooms and legal chambers, across newspapers, television and radio. What was the point of toughening the laws governing corporate behaviour if ASIC was going to shy away from enforcing them? For all the rhetoric about acting tough, when it finally landed a high-profile scalp—indeed, *any* scalp—the public expected it to seek appropriately harsh penalties.

ASIC was accused of cutting a cute deal behind closed doors with Steve Vizard's smooth-talking lawyers, a deal that looked especially artful considering the harsh penalties levied a year earlier on Sydney stockbroker Rene Rivkin. He had been prosecuted for insider trading and subsequently jailed for nine months of weekend detention. Rivkin was found guilty of illegally trading Qantas Airlines shares in 2001 soon after Impulse Airlines' founder, Gerry McGowan, told the stockbroker about secret negotiations between the two companies. At the time, he was specifically told not to use the information because it was highly confidential and therefore constituted 'insider' information. 'Obviously,' Rivkin said to McGowan, 'a person of my standing would not contemplate such a thing,' and within a few short hours he ordered 50 000 Qantas shares.

Facing a civil prosecution instead of a criminal trial, Vizard was assured he would not go to jail. Nor would he have a criminal conviction recorded and, regardless of any court-imposed corporate ban, Vizard would be free to continue doing business on the stipulation that he did not manage any companies or serve as a director. ASIC and the Commonwealth Department of Public Prosecution (DPP) were accused of being risk-averse and overly conciliatory to Vizard. Yet the Vizard matter was far from straightforward.

Australia's insider trading laws allow authorities to pursue either criminal or civil remedies, but the choice of a civil prosecution has only been available since 2001. A civil prosecution permits a lower standard of proof—'on the balance of probabilities'—but because the share deals occurred in 2000, ASIC could not use the civil route. ASIC did, however, prepare a brief for a criminal prosecution of insider trading, which it presented to the DPP in November 2004. At that stage, ASIC had advice from senior counsel who were certain that there would be little prospect of success with a criminal prosecution; proving the case 'beyond reasonable doubt' would be impossible.

ASIC's investigators issued ninety-three subpoenas to various parties in a bid to locate documents about Vizard's share trading. They repeatedly applied to the County Court to gain access to thirty-seven boxes of documents which were in the court's custody for

Roy Hilliard's criminal trial. Some forty witnesses were interviewed and ASIC secured sixty-two signed witness statements, including statements from each of Vizard's former colleagues on the Telstra board, and the regulator raided Vizard's home and offices. But repeated notices to produce certain documents pertinent to the share trades turned up very little; it seemed a substantial number of documents related to Creative Technology Investments and its activities had gone missing.

Most importantly, ASIC's investigators could not lock in what ASIC and the DPP considered a crucial piece of evidence that would have smoothed the path to a criminal prosecution—a witness statement from Vizard's accountant, Greg Lay. In effect, there were only two key witnesses to Creative Technology Investments' share trades: Vizard, the instigator, and Lay, the executor. One vehemently denied it and the other was not prepared to say anything. (Roy Hilliard's role was marginal: he kept some of the share-trading records and signed some cheques that transferred funds from Vizard's accounts to CTI, but he did not execute or direct the trades.)

Steve Vizard, of course, denied everything. In particular, he denied that he really 'knew' about Lay's share trading. He claimed he was aware that Lay was buying and selling shares for Creative Technology Investments, but he insisted it was 'discretionary' trading. He argued that Lay had total freedom to trade shares as he wanted and Vizard did not instruct or order him to buy or sell any particular shares. So in order to make the vital link between Vizard and the share trades, ASIC needed Greg Lay to speak up.

Two years earlier, of course, Lay had admitted on oath that he bought and sold shares as directed by Steve Vizard, but that evidence in the Melbourne Magistrates' Court was very general and did not address particular transactions. During 2004, Lay voluntarily gave several interviews to ASIC about his role in Creative Technology Investments and its share dealings, and some of those interviews were taped. But when ASIC drafted a statement of what it understood Lay had said, the accountant began to back down. He refused to sign the draft witness statement. Lay feared that he too would be prosecuted for offences such as insider trading or for receiving the proceeds of illegal share trades.

Before ASIC handed its brief to the DPP in late 2004, and while Lay was still pondering if he should sign his draft witness statement, Lay's solicitor approached ASIC and said the accountant wanted a watertight commitment that ASIC would never prosecute Lay in relation to the share trades. In fact, Lay wanted a blanket indemnity, one that covered both himself *and* his firm, Bentleys MRI, for anything that might be deemed illegal. Now this was an especially tricky and ultimately unfeasible request. The DPP was not permitted to give unlimited protection to a potential witness; under its prosecution policy, the DPP had to state precisely which offences or activities were covered by a given indemnity.

Yet, looking just at the draft statement, the DPP could not see anything especially incriminating for Lay. So officers from the DPP and ASIC asked Lay if he would supply what is known as an induced statement, one that would detail all the activities he potentially might be asked about in court. It would be a statement that could never be used against him. The purpose of that induced statement, at least for Lay, was to secure clearance from other government agencies that they would not prosecute him for other potential breaches of the law. But the prosecuting authorities might still have used that induced statement against Steve Vizard. Lay refused to supply it. Nor did he take comfort in several further efforts by the DPP and ASIC to appease him. He refused to sign anything.

ASIC now doubted if Lay, once brought into court, would give the same version of events he had outlined in interviews. The regulator simply was not entirely sure what he was going to say, and the DPP suspected Lay might clam up in the witness box and refuse to answer questions for fear of incriminating himself. In short, if the criminal case was going to hinge on the evidence of an extremely reluctant and possibly unreliable witness, it was unlikely to be proved beyond reasonable doubt.

The final option was to invoke section 19 of the ASIC Act and compel Greg Lay to give formal evidence to the regulator. But there were enormous problems about using such evidence in a subsequent court case—and, as a Parliamentary Joint Committee found later, the DPP and ASIC seemed to be at cross-purposes anyway on the potential usefulness of the evidence. ASIC's executive director of enforcement, Jan Redfern, told the committee in September 2005 that ASIC's view was that the DPP would not have used the contents of a section 19 transcript as a basis for a prosecution. Yet the DPP's Damian Bugg told the committee that even if a witness refused to sign a statement voluntarily, the fact that they told the truth (or otherwise) in a section 19 examination might give the authorities some direction about how that witness would perform later in court.

Many criminal prosecutions proceed on the basis of zero cooperation from the witnesses and yet they succeed, and that is because other evidence, perhaps forensic or documentary, is available to support the prosecution's case. Without Lay's evidence, ASIC and the DPP believed a criminal prosecution was impossible. And even with some form of cooperation from Lay, the case still would have been highly problematic because when it came to proving each of the details of Creative Technology Investments' share transactions, the documentary trail had gone cold; plenty of documents that might have been expected to be retained were missing. In short, it would have been Lay's word against Vizard's.

By May 2005, both ASIC and the DPP deemed they could not go further with a criminal prosecution. But besides a lack of reliable witnesses, there may have been another reason why this particular case might have failed. Justice Finkelstein hinted as much on 19 July when, during an urgent court hearing to clarify some technical matters, he obliquely signalled that an insider trading prosecution potentially would have failed a courtroom test. The judge noted that ‘a lot of it hinges around whether it [the information] was price-sensitive’. Of the three sets of covert trades outlined by ASIC, at least one and possibly two arguably did not meet that test of price sensitivity, the judge said. By his reading of how the share-market moved around the time of each of the three sets of transactions, ‘I would say “one yes”, “one no”, “one maybe” ’. And that, Fink said, made it ‘a one-all draw’.

Now the crucial element missing in all this had been, naturally enough, a confession from Steve Vizard. Right up until the last two weeks of June 2005, he denied wrongdoing. But when ASIC finally let Vizard know that he would not face criminal charges, and when it instead confirmed that after two years of investigation it would sue him under the civil provisions, Steve Vizard rolled. He cut his losses. He knew he would not go to prison under a civil prosecution; he faced probably five years in exile from corporate life but not much more; and even if ASIC asked for the maximum possible financial penalties of $600 000, he could afford it easily.

He also knew that if he made a stand and defended the allegations, he would be tied up in court for years, and all his financial affairs would be dragged into the public realm. Already the probe had gone on for too long; it had proved disruptive and unsettling for the whole family. Vizard just wanted to, as he would say, move on with his life. So he signed ASIC’s prepared statement and offered full and binding admissions. At the same time, ASIC agreed to ask the court to impose a lenient penalty—as it was entitled to do—because Vizard had ‘cooperated’ by not forcing the regulator into a long and hostile trial. Cooperation, obviously, is a loose term.

The exasperating element for ASIC was that although Vizard admitted to activities that amounted to criminal behaviour—to wit, insider trading—the regulator was barred, by law, from turning around and using those same admissions in a criminal proceeding. What Steve Vizard conceded for the sole purpose of resolving the civil case could never be used in a criminal prosecution of the same matter. But if new, strong and verifiable evidence ever emerged about Steve Vizard's share trading, ASIC could always try again.

There was one last point. For reasons that were never made clear, ASIC and the DPP did not believe they had enough evidence to prove beyond reasonable doubt that Vizard was deliberately 'dishonest'. So they did not take up a criminal prosecution for breach of fiduciary duties.

But neither ASIC nor the Commonwealth DPP would explain their deliberations until Justice Finkelstein handed down his decision. For their silence and the inept manner in which they did handle the public explanation, the authorities weathered blistering public criticism.

James Judd QC heaved up his lever-arch folder of affidavits, exhibits and submissions and placed it on the small wooden lectern shared by both parties at the bar table. On the top of all those documents, he smoothed out a single sheet of white paper. Today, he would speak for Steve Vizard. Slowly, and in his characteristically reserved tone, Judd read without emotion for several minutes while Vizard sat stony-faced and downcast in the front row.

'I am deeply sorry,' Judd read from Vizard's statement. 'In 2000, I failed in my duty as a director. I let down my fellow directors, my colleagues, my family and the community. My actions at the time were a serious contravention of the law. I deeply regret what I did, and I accept that appropriate penalties should be imposed to reflect the gravity of my contraventions. I make no excuses.' Vizard had made 'a fundamental error' by investing in technology companies when Telstra was 'a major player' in the sector and 'I created a situation of conflicting interests and failed in my duty to manage those conflicts. As a result, I improperly used information which was confidential to Telstra.'

To that point, it all sounded sincere. Vizard had identified the wrongdoing and with each line of his apology he imparted what seemed to be open regret. But then, in the next few lines, Vizard's request for forgiveness teetered on the verge of self-centred angst:

> I have spent substantial time re-examining events of five years ago. I have tried to explain to myself and to others how I got into this mess. It is difficult to overcome the desire for self-justification.
>
> The fact is I failed in my duties owed to Telstra and lost sight of the very important distinction between those obligations and my own interests. The lesson for me, and I hope others, is that the duties of a director are paramount. I recognise that it is no excuse to attribute the contraventions to a busy schedule or the pressure of other obligations. I recognise that they cannot be quarantined, competed against or put at risk. I deeply regret the contraventions, not just because they have resulted in these proceedings, both legal and otherwise, but because I know that what I did was wrong.
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> I can only hope that my experiences will be a salutary reminder to others of the importance of their duties of trust and confidence owed to the company, the risk of blurring the line between personal interests and duty to the company, and the consequences for directors who do so.

And then he apologised again to 'the many people I have let down . . . my family, my colleagues, my friends and the community as a whole—I am deeply sorry. To the extent that the law will permit, I will spend the remainder of my life trying to make it up to them. I unreservedly apologise.' Almost immediately after Judd finished reading, Vizard's PR agents, anxious as ever to get the message out, began passing the statement to reporters around the courtroom.

Vizard's brother Andrew entered the witness box. He was giving evidence, he told the court, 'in most difficult circumstances—I love Stephen, but I was hurt by his actions', he said. Like other members of the Vizard family, he had been deeply 'shocked and disappointed' by what his brother had done and he considered himself 'one of those who has been hurt'.

Stephen, as Andrew occasionally called him, was 'a loving father and family man', married for seventeen years, with 'five terrific young kids', an uncle to sixteen children, and he was a vibrant, active member of a 'big, boisterous [extended] family'. That family relationship, the love and care it generated, was Vizard's 'most precious possession . . . [and] I would say that Steve's house, his home, is the pivot around which that extended family works'.

But the private lives of fellow family members had also been disrupted by what he had done, Andrew said. Their mother, June, had been 'chased down the street by TV reporters', Andrew and his wife had been snapped in the street 'by stalking photographers', and Andrew believed his own reputation as a company director had been jeopardised. And, he said, the family took exception to the media mentioning Sarah's brothers and sisters and other family members in relation to Steve's actions because, Andrew said, as the Vizards' saw it, the media was 'probably most improperly inferring that there's some sort of, you know, use of power or abuse of power there'. 'Those are just some of the consequences to the extended family,' he said. 'But we are much more concerned about Steve and Sarah's immediate family because they're at much more acute risk, we believe, and the most horrible punishment that I think Stephen faces—and the family faces—is that they will be tarred by Stephen's actions for the rest of their life.'

As for his brother's reputation, it was 'already devastated', he said. 'It's my opinion that there will be—that it's irrevocable, and there is little that the law can do to change the very public humiliation that has already occurred to Stephen through that press intensity. And interestingly enough, Steve is prepared to cop all of that on the chin and he is prepared to take whatever consequences of action come his way, because that's the way he always acts. He is a person who is always prepared to accept his mistakes, to learn from them and to move on—and he is on that journey right now.'

Andrew Vizard spoke of how his brother was 'deeply remorseful' and would never make a similar mistake again. Nor was he going to hide from his punishment; he had turned up to court, despite the obvious public humiliation, and he wanted somehow to resume participating in the community. Steve intended to 'try as best as he can, for the rest of his life, to actually help the community and make up the wrongs that he has done', he said. 'And he has the 100 per cent support of our extended family in that.'

As he spoke, Andrew Vizard clearly was very nervous and very emotional. He glanced occasionally at his brother, who in turn watched him with an almost unbroken gaze. And when he stepped away from the witness box and picked his way behind the bar table to resume his front-row seat, he and Steve inclined their heads and exchanged the quietest of comments.

The next character witness was Gerard Vaughan, the chief executive of the National Gallery of Victoria, who very briefly described how Vizard made 'a very considerable contribution' to the gallery during its redevelopment in the late 1990s, mainly because he helped keep the NGV name prominent despite the substantial disruptions: 'In my view the best contribution that Steve Vizard made was on the marketing and branding and communication side, giving us advice and working with us to stay in the public eye'.

The only other witness to step up was Margaret Manion, the Emeritus Professor at Melbourne University, who had known Vizard since his student days almost three decades earlier. He was, she said, 'a very compassionate man and a strong family man . . . a man of high character . . . He has always been open and honest in his dealings with anything that I've been connected with. He generates enthusiasm . . . He is also a person who's an innovator and an entrepreneur, who wants things to happen. And in some ways that's exciting and challenging—you don't quite know what's going to happen next.'

James Judd then flicked through a small pile of ten letters from various well-known figures who had thrown their support behind Vizard, each graciously noting how he had lent his name or his time to different charities. One was from Walter Mikac, whose first wife, Nanette, and young daughters, Alannah and Madeline, were killed by gunman Martin Bryant at Port Arthur in 1996, and who was a co-founder of the Alannah and Madeline Foundation, which cares for child victims of violent crime. Mikac said Vizard worked tirelessly for the Foundation: 'It is people like him who helped give me the courage to survive my own crisis. At this time, when faced with a crisis of his own, my wife and I wish to lend our support to a great and much loved Australian.' Yachtsman John Bertrand, who led Alan Bond's successful challenge of the America's Cup in 1983, said Steve Vizard was 'a major contributor' to the Alannah and Madeline Foundation.

Yet another letter-writer suggested that Vizard may have been 'stretched to the limit' in recent years as he tried to meet obligations to the community as well as his family: 'It appears to me that in appreciation of the mounting trust [that] the community was showing in him, Steve felt obliged to cope without saying "No!" and pushed himself to the brink of a breakdown. For someone who doesn't need the money, no other explanation for his predicament seems feasible.'

According to an affidavit from Vizard's lawyer, Ross Freeman, which was handed to the judge, all but one of these missives of praise had been drafted at the specific request of Vizard's lawyers. A couple of handwritten letters had arrived from people in rural areas who had stayed at Vizard House. The unsolicited letter was from Rod McGeoch, the businessman and lawyer who led Sydney's bid for the 2000 Olympic Games, and who was also on the Sony Foundation with Vizard. He said that if Vizard had indeed engaged in unlawful conduct 'then it is totally at odds with my knowledge of him and with the character and attributes that he has exuded in all the time that I have known him'.

The image conveyed to the court was that Vizard was a wholesome, loving family man, a community-spirited man, but one who had made a seriously dopey mistake. It was an error he obviously regretted, and now he just wanted to get on with his life. Whether the judge would buy that line was a different matter.

ASIC's counsel, Neil Young QC, began his submissions by outlining in detail what Steve Vizard had done to breach his fiduciary duties while he was on the Telstra board. He noted how Telstra's code of conduct barred directors from trading shares during certain periods, how directors were required to disclose their interests as well as their potential conflicts of interest to their colleagues, and how Telstra stressed to its directors the laws related to insider trading. He detailed the links between Creative Technology Investments and Vizard's Brigham trust and noted that while superficially there was no 'discernable connection' between the two entities, the ultimate beneficiary was always clear—Vizard was meant to keep most of the windfall proceeds from CTI's share trading. As for the remaining ten per cent of proceeds that had been contractually earmarked for Greg Lay, it never eventuated. Brigham retained far more than had been agreed and CTI, or rather Lay, retained a paltry $2800 after broking costs and expenses.

Justice Finkelstein, though, wanted to test some hypothetical scenarios to tease out how the court should penalise the wrongdoing. In effect, he gave Young plenty of chances to talk up the penalty if he wanted. What kind of penalty was the court meant to impose, for example, if someone traded shares using inside information but didn't make a cracker out of the exploit? Conversely, what if he or she made a huge profit? Or what if the trader gambled an enormous sum, the shares rose wildly, but they were cashed in for only a tiny profit? What if the shares had never been sold?

Young replied that just because someone lost money through illicit share trading did not mean the court should ease up on the penalties. Far from it. At the same time, the judge certainly had to take into consideration that the trader had the *opportunity* to make plenty of money. But to try to calculate a court-imposed penalty based on a hypothetical value of shares that had not yet been cashed in was 'going a step too far'.

On the other hand, Young said, the offences were indeed serious ones. For the same breach—improper use of information—Vizard could have been prosecuted as a criminal and ended up in jail. But in that case, ASIC would have to prove Vizard had been either 'reckless' or intentionally 'dishonest'. The choice of initiating either criminal or civil proceedings was not a matter for ASIC—it fell to the Commonwealth DPP, Young said. And in this case, the DPP had decided that, based on all the evidence gathered by ASIC as well as the admissions from Vizard, and weighing up what evidence would ultimately be allowed in court, a criminal prosecution would fail. Whatever penalty Fink imposed on Vizard, the financial penalty and strike-out orders had to be harsh enough for everyone to get a clear message that breaches of this kind would not be tolerated.

'Improper use of board information in particular is a deliberate and most serious breach of trust by the contravener,' Young said. 'Usually there's no scope for any such conduct to be anything but deliberate—in our submission, that's the case here . . .' Vizard had embarked on 'a deliberate course of conduct—not once, but on three separate occasions, spread over a period of some months', he said. 'It was deliberate, not a mistake, not the natural or inevitable result of a conflict of interest, but a deliberate and unlawful action.' Vizard's actions amounted to a gross breach of his duties.

As well, he had done this while inside 'one of Australia's largest corporations whose business operations affect virtually everyone and every aspect of the economy'. He had joined the board at the behest of the Commonwealth, so it was 'in many respects, almost a semi-government appointment'.

Ultimately 'it is difficult to reach any conclusion other than that the contraventions were motivated by financial greed', Young said. 'No other motivation has been suggested. Large sums were staked with a view to substantial financial gain.' Vizard knew what he was doing, Young said. He was an experienced company director, as well as a barrister of the Victorian Supreme Court and a commercial lawyer. He knew that he should have disclosed his share dealings at Telstra board meetings; he knew he had a vested interest in the deals Telstra was plotting, but he said nothing about it to his colleagues. He kept it secret.

Yet ASIC believed, and the judge readily agreed, that Vizard did not deliberately set up Creative Technology Investments to subvert the law. The problem was, of course, that Vizard eventually took advantage of its structure. The fact that Vizard had admitted what he had done—even if those admissions came after two whole years of vigorous and heated denials, on oath and publicly—should win him some leniency, Young said. And while Vizard could 'count himself lucky' that he was not in a criminal court, his admissions helped prove exactly what ASIC might never have demonstrated to the satisfaction of a court, either civil or criminal.

There was one point, however, that worked against him. Vizard's apology would have meant so much more, Young suggested, if, instead of relying on his legal representatives, he had apologised personally to the court, on oath.

Adding it all up, ASIC could have asked the court to strike Vizard out of corporate activities for between seven and twelve years and to penalise him \$150 000 to \$170 000 (compared with the upper limit of \$200 000) for each offence. But there were offsetting elements, including the fact that Vizard had helped ASIC by making admissions, and he seemed genuinely sorry about it all. The regulator figured that a penalty of \$130 000 for each offence—a total of \$390 000—plus a five-year ban from all boardrooms seemed fair.

That might have been what ASIC thought, but to almost everybody else in the courtroom—with the obvious exception of Steve Vizard and his lawyers—it didn't seem right at all. Perhaps the proposed five-year ban suggested by ASIC was in line with the outcomes from earlier cases of fiduciary breaches, but five years seemed absurdly light considering the very serious nature of what he had done. It was disappointingly tame, and outside the court it was greeted with disbelief and widespread ridicule. Just a few days earlier, several senior barristers who were not connected to the case had spoken out saying that if the court imposed anything less than ten years, it would be considered a joke. Many business leaders and legal specialists wanted Vizard struck out for fifteen years. And \$390 000? This was terribly rich Steve Vizard. Considering the businessman might well have been jailed if a criminal prosecution had been mounted, ASIC had proposed an unusually lenient penalty.

Vizard's counsel, James Judd, urged Fink not to bump up the penalties—after all, Vizard had also offered \$200 000 to reimburse the expenses of ASIC's investigation. Vizard had enjoyed 'a very high reputation and [was] a highly regarded person of integrity within the Australian community', Judd said. Surely his community work and his philanthropy should win him some credits. And the court could not ignore Vizard's 'fall from grace, the extent to which his reputation is damaged' and the unlikely prospect that he would do it again.

And at that point, Fink leaned well forward and interrupted. This concept of public disgrace was intriguing. Only a few days earlier, he said, he had read a scholarly article about how shaming might amount to a form of punishment, and how in white-collar crime a public humiliation may in fact be the best possible form of punishment. Keeping that in mind, what did it matter if Vizard had once been highly respected? So what if his life until then had been a tale of unblemished and trustworthy corporate behaviour? he asked. 'People get into the position that the defendant got in his public life, including his public commercial life—a director of Telstra—because he was a "pillar of the community",' Fink said. 'There's a not unreasonable view about, that in white-collar crime, past good behaviour has only a minimal role to play.'

That wasn't quite what Judd had meant; he was emphasising Vizard's previous standing as evidence of how far the man had fallen: 'If one has been a pillar of the community, [then] the taller the pillar, the greater the fall . . .'

'Sort of the Shakespearean view of tragedy?' Fink suggested.

There was more pathos and more self-regret for the court to hear, though. Vizard would now have to 'live with the consequences of what he has done and the impact on his family', Judd said. The damage to his reputation 'has been public and complete . . . [T]he circumstances surrounding these contraventions, the admissions, the status that Mr Vizard enjoyed, the fall from status, the surrounding publicity are matters that cannot but bring the message home to others in a very profound way.'

Fink had heard as much as he needed about Vizard's family life, his previously high community status, and the harm he had caused. But there was something fundamental missing in this *mea culpa*, something that everyone wanted to hear that remained unspoken. It was the obvious question, and it seemed to flit just out of reach for hours until finally the judge collared it and dragged it into the open. For everything that Steve Vizard purported to be—considering his unblemished record, his charitable works, his prominence in the community—why did he do it?

Why, indeed? Why would Steve Vizard risk so much? Why would he risk huge fines and the prospect of a jail term? Why would he risk his vigilantly cultivated reputation? Why jeopardise everything for side-trades that amount to spiv dealings? He did it. He was not denying it now. Stripping it right down, Vizard cheated and Vizard deceived. But why? If there was a time and a place for resolving the enigma, it was now. If there was something in terms of an alternative explanation—a 'fuller picture', as Vizard had suggested just days before—this was his opportunity.

Judd faltered. 'It's a good question, Your Honour,' he said, struggling a little and looking down at his notes. 'That is the question which is most difficult to explain, and it's the question which Mr Vizard in his statement to the court found difficult . . .' It was not difficult to say what he did, Judd said. 'It's difficult to explain why a person with the reputation and the standing and the position and the education and the like would do it. The only explanation, Your Honour, is a serious personal failing.' It was that simple. Human frailty, Judd said. Temptation had got the better of him. Vizard had created the risk of conflict for himself and he should have managed that conflict.

Still, he had been a very busy man during 2000, Judd continued. Vizard's diary indicated that between March and July 2000 he had been due to attend some sixty board and subcommittee meetings; he had shifted the family down to Roxby Park and was commuting long distances to Melbourne most days; and he was often away, interstate and overseas. It had been an unusually 'demanding and intense' four months—'the busiest period of his life'—and now Vizard recognised that he had been seriously overcommitted. If he had only 'taken home', Judd said, the message that he should not trade in shares of companies that did deals with Telstra then 'one presumes that the temptation would not have been there and perhaps those contraventions would not have taken place'.

Perhaps. Or, to look at it another way, perhaps Vizard knew exactly what he was doing, and now that he had been caught he was trying to rationalise pure greed as little more than ethical clumsiness. Perhaps Vizard did it because he could. He saw his chance and he took it. There was no 'fuller picture' to be painted at a later date, and to suggest that a busy schedule might possibly be a justification for moral failings was an affront to common sense.

Justice Finkelstein did not have to make a snap decision on any of this.

'I would like a couple of days to think things over,' he said. 'Adjourn the court now, please.' And at 4.10 pm, it was all over.

Steve Vizard now found himself in a stupendously tricky situation. With these Federal Court admissions, it was obvious that he had lied on oath in the Magistrates' Court. When faced with the choice of admitting wrongdoing in 2003, Vizard had opted to tell a cracking big fib, one that was bubbling back up to swallow him whole.

Victorian police did open a file in relation to possible perjury charges. They sized up Vizard's sworn evidence from 2003 and noted how remarkably different it was from his *unsworn* agreed statement of facts to the Federal Court, and then they put it all to one side. There were valid defences for what Vizard had done; for example, perhaps when Vizard was answering questions about insider trading in 2003 he sincerely did not believe at that time that what he had done constituted illegal behaviour. But if the businessman one day climbed into a witness box and formally admitted what he told the Federal Court, thereby contradicting on oath what he had said in the Magistrates' Court, he might yet find himself fending off a perjury charge.

No wonder, then, that Steve Vizard pulled the plug on his next scheduled courtroom appearance.

20
'Flogging the servant'

While in early July Vizard was still blithely sunning himself in the Mediterranean and touring the ruins of Pompeii, his lawyer Leon Zwier fired off an urgent letter to Crown prosecutor Doug Trapnell, raising the matter of *The Queen v. Roy Charles Hilliard*, the criminal trial of Vizard's bookkeeper, which had not yet started but was about to enter a complicated phase of pre-trial hearings in the County Court. For several weeks Trapnell had been negotiating with Vizard's senior counsel, Robert Richter QC, to sort out exactly when Vizard would be ready to take part in those pre-trial hearings. The Crown needed him to give evidence against Hilliard; it needed Vizard to confirm that Hilliard never had authority to take millions of dollars from Vizard's bank accounts.

In his letter of 12 July, Zwier told Trapnell that the Australian Securities and Investments Commission, 'despite its awareness of the facts', had warned Vizard that whatever he said about his share dealings as a witness at Hilliard's trial would be considered 'newly admissible evidence'. In other words, Vizard risked handing ASIC the fresh evidence it needed to launch a criminal prosecution for insider trading. So instead of taking the risk of incriminating himself, Vizard would opt not to answer any questions about either the evidence he gave in 2003 during Hilliard's committal proceedings in the Melbourne Magistrates' Court, or his own share dealings and those of Creative Technology Investments.

The Crown's long-running case against Hilliard, which had endured repeated postponements, appeared dangerously close to derailment. Greg Lay also feared incriminating himself so he too backed away from answering questions. Vizard's lawyers and the prosecution held urgent talks, but the following day Zwier sent another fax to Trapnell: 'For the avoidance of any doubt we confirm that we have advised Mr Vizard, and Mr Vizard has accepted this advice, that he should and therefore will refuse to answer any questions concerning or relating to or touching upon any of the issues raised in his earlier evidence in the Committal Proceeding including share trading, financial and taxation matters on the grounds that the answers may tend to incriminate him.' It is intriguing that the proposed field of no-go questions had widened considerably in twenty-four hours so that now it encompassed Vizard's 'financial and taxation matters' as well as his share trading.

What Zwier was spelling out was a total reversal from what the trial judge James Duggan had heard in the County Court just a few weeks earlier. Judge Duggan had agreed to hold a *voir dire*, a pre-trial hearing to decide if certain contested details, namely Vizard's evidence against Hilliard, could be used, but previous efforts to schedule the *voir dire* had been delayed in 2004 because, variously, Vizard was overseas or under investigation. On 16 June Richter told the judge during a preliminary hearing that Vizard would certainly turn up for the *voir dire* and answer any questions; he just wanted to hold off for a week or two while ASIC's investigation, which he said had ended, was signed. Vizard's lawyers were 'reasonably confident' it would be finalised imminently.

'And those matters being wound up will remove any claim against self-incrimination that Mr Vizard might otherwise have raised and sustained—or sought to sustain—in the course of being cross-examined . . .' Richter said. '[W]e expect that would then place Mr Vizard in a position of being able to answer all questions without claims of self-incrimination.'

How swiftly things change. Vizard's subsequent refusal to answer questions crippled the Crown's theft case against Roy Hilliard, and while the prosecution could demand his attendance, there was not much point; it was clear that Vizard's credibility had been irredeemably shattered. So the Victorian DPP and Hilliard's lawyers went into a huddle and emerged with a cribbed sheet of allegations to be levied against the bookkeeper. The DPP's charges of 78 counts of theft (covering 175 cheques instead of the 202 alleged two years earlier) had been reduced to fourteen rolled-up counts of making false entries in the accounting books and records of Vizard's various companies. Hilliard agreed to plead guilty.

Roy Charles Hilliard stood in his double-breasted black suit, alone and dejected at the rear of tiny Courtroom number 5.2 at the Victorian County Court. A security officer stood two or three metres away and various barristers, lawyers, reporters and observers filled the three dozen or so cushioned seats across the room. But otherwise the tall, gloomy bookkeeper was isolated in his world.

'How say you, Roy Charles Hilliard?' Judge Jim Duggan's associate called out fourteen times. And fourteen times Hilliard replied: 'Guilty'.

'You can be seated, Mr Hilliard,' the judge said.

Mr Hilliard. He could be thankful for that. At least he retained an honorific in court despite pleading guilty to criminal charges. Mister Hilliard would salvage every vestige of dignity he could, even if it was a two-letter honorific. He had been branded a thief, a liar, a con-man, a crook in the previous four years but today, Tuesday 26 July 2005, was the day that he would level a similar volley of accusations against his former boss, Steve Vizard. It was Mr Hilliard's day in court.

Prosecutor Doug Trapnell outlined to the judge how, over nine years from July 1991 until he resigned in October 2000, Roy Hilliard was the only person who wrote cheques for either Vizard's Performing Arts Services group or Steve and Sarah Vizard's personal bank account. But between 2 July 1993 and 8 June 2000, Hilliard had made false entries in eight different cashbooks linked to seven companies in the Vizard group. In total, the false accounting entries related to a sum of more than $3 million. Seven counts related to fifty entries for cheques valued at $438 000 which all went to Hilliard's benefit—to his Diners Club account, his share-trading accounts with two stockbrokers, and to British Airways and Cunard for holidays. The other seven counts described 142 bookkeeping entries linked to $2.58 million of cheques.

But, said Trapnell, because the Crown was not prepared to call Steve Vizard as a witness, Judge Duggan could not conclude that Hilliard received a single dollar more than $438 000. Without Vizard's evidence, the Crown could not prove that Hilliard kept the remaining $2.58 million for his own benefit. Nor could the Crown do much about Hilliard's claim that Vizard approved him receiving the $438 000, and there was no way of demolishing Hilliard's claim that the other $2.58 million ended up in Vizard's pockets, and that Hilliard had dutifully logged the chain of transactions as a company loan to Vizard. Hilliard had been willing to admit false accounting charges and, said Trapnell, 'in these circumstances' the penalty should be nothing more than a suspended prison sentence.

It was barely fifteen minutes into the day's proceeding and already the prosecution case was done. In short, after twelve months of investigations followed by four years of preparation for a court trial, the allegation that Roy Hilliard thieved millions of dollars from Steve Vizard had all but vanished—at least as far as the police case was concerned.

Hilliard's counsel Peter Hayes QC jostled to his place at the bar table and, in his typically brisk manner, launched a passionate defence of Roy Hilliard and an equally fiery denunciation of Steve Vizard. Yes, the $438 000 of benefits that Hilliard gained were substantial, he said, but every bit of it was received with Vizard's knowledge and consent. *All* the transactions were 'done for the benefit of Mr Vizard' who, Hayes said, wanted money sent offshore. It was always Vizard's money, 'so it is a victimless crime'.

If Hilliard ended up in jail on this matter, he said, it would simply not be fair. 'Mr Hilliard has been prosecuted, Mr Vizard has not.' There had been no investigation to determine if Vizard—and not Hilliard—had received the $2.58 million, he said. '. . . [T]he money was never looked for under any rocks belonging to Mr Vizard here or offshore.' And until very recently, Hayes said, 'it was a case of flogging the servant for the sins of the master'.

Clearly Peter Hayes didn't need any warming up this morning. He had a packed courtroom, and he played it to full advantage. Hilliard, he said, had battled 'literally massive forces brought by the wealth and power of Mr Vizard with [his] unlimited access to lawyers, accountants and investigators, by the bank, Westpac. All of his savings—every single cent—has been spent on trying to meet the charges against him.' Hilliard had become extremely anxious about the allegations, his relationship with Margaret McCready had collapsed, and he had tried to kill himself several times.

'He is, and we say this advisedly, a victim of Mr Vizard's manipulation,' Hayes said. Hilliard had been 'seduced by Mr Vizard's power and influence to commit the crimes in the first place, and subjected to Mr Vizard's manipulation of the court processes since the allegations have been raised'. He had 'suffered mightily'—his legal bills had vacuumed up all his money and his reputation had been stained—but the man making allegations against him had given 'plainly, directly, specifically and uncategorically false' answers two years earlier when questioned about his own illegal dealings.

Yet, he said, Hilliard was 'a man otherwise of unblemished character'. Certainly, falsifying accounting records was a serious matter but when the 'true perpetrator of those crimes' remained absent, considering the enormous impact on Hilliard, then his crime did not even warrant a suspended jail term.

Hayes recognised the golden opportunity he had in this court: Vizard was not going to appear, though at least one of his barristers was in court along with his PR agent, Mike Smith. Now was the time to read into evidence all those tantalising details about the businessman's clandestine share trading. Out came the entire contents of the February 2001 memo in which Vizard tried to jog Greg Lay's memory about Creative Technology Investments, a document that until then had been held tight within the County Court's files. Hayes called the memo a 'prompt', and pointed out how it differed in places from what Vizard had agreed in the Federal Court. Then he read to the court chunks of the transcript from the Magistrates' Court proceedings—all of it pertinent to Vizard's share dealings.

'Now why is all this important?' the practised Hayes asked, acutely aware that the throng of reporters in court was furiously jotting down every word he said against Vizard. Why? Because nobody should leave that court with the notion 'that he [Hilliard], somehow or other, got away with a bit of the deal' simply because Vizard refused to appear.

'But he's had a victory on that point,' Judge Duggan said. '. . . You can't really say that he's lost his day in court when the issue has been resolved in his favour . . .'

Hayes adjusted his waistcoat, barely conceded the point, and ploughed headlong into the next subject. Tax havens. Out came the slabs of transcript from 2003 when Hilliard claimed that Vizard had made inquiries about setting up a company in an offshore tax haven such as Monaco or the Channel Islands. Hayes read it all to the court, highlighting Hilliard's defence that he had been instructed to draw money from Vizard's accounts and pass it back to him in cash. Hilliard's claim was that Vizard wanted to send it all offshore, although he never provided any detail about how the cash would reach the foreign domains, or indeed whether it ever did.

Then reaching the home straight, Hayes read brief excerpts from witness statements that had been supplied to the court by Hilliard's doctors, his psychiatrist, his sister, and his former partner, Margaret McCready, all backing up how there had been extraordinary sadness and stress in Hilliard's life, both in his recent past and his now-distant childhood. There was even a character reference from Winston Wade, one of the two Vizard associates who interviewed Hilliard in 1991 when Steve Vizard was seeking a suitable bookkeeper. Wade described Hilliard as 'this very clever, shy man who doesn't feel he'll ever be employed again', and suggested that if Hilliard needed a job he would be happy to oblige.

Hilliard, Hayes said, had challenged incredible odds by fighting this case. He had been up against a formidable foe in 'truly unique' circumstances and along the way, he had paid out all his money to lawyers, lost his self-esteem and tried to kill himself. The circumstances warranted nothing less than 'the greatest possible compassion'.

It was left to prosecutor Doug Trapnell to temper the spin in Hayes' submission. For one thing, he said, the Crown did *not* accept what Hilliard posited in his defence; it simply could not call evidence to rebut it, which was a different matter.

Hilliard remained on bail until 12 August, when Judge Duggan convened a sentencing hearing. What Judge Duggan said at that hearing was important. He expressed his own doubt about Roy Hilliard's claim that all the cheques he wrote, the money he retained for himself, and his supposed routing of money back to Steve Vizard, was done for the benefit of Vizard. 'I am sceptical of that claim,' Judge Duggan said. He noted that because the Crown was in the hopeless position of being unable to call its key witness, it was not able to refute anything that Hilliard said. That did not mean, however, that what Hilliard claimed was entirely true.

'As indicated, according to you [Hilliard], Vizard's motive may have been to take money offshore,' Judge Duggan said. 'Accordingly, it was said, these were victimless crimes [and that the] ostensible victim, far from being properly so characterised, in reality was the instigator and the beneficiary. I am sceptical of that claim. It seems totally inconsistent with the investigation launched by Vizard and the vigour with which he pursued the return of the money shown to be missing . . .'

Yet, for all that, Judge Duggan accepted that because the Crown's case had toppled he now had to impose a sentence 'on the basis that [Hilliard's] claim is true'. And he was very wary of imposing an inordinately harsh sentence when, as Hayes had suggested, the servant might in fact be punished for actions carried out on his boss's orders. While falsifying records was a serious offence, Judge Duggan said, there was a big difference between doing it for personal gain 'and, as here, doing so at the direction of an employer and the ultimate beneficiary'. He sentenced Hilliard to two years' jail, but directed that the entire term be suspended.

Hilliard's defence had been a head-swivelling justification that swung the spotlight off him and focused it squarely on his accuser, Steve Vizard. He blamed the one person that the general public did not suspect of wrongdoing, and his claims ultimately destroyed that person's credibility. In turn, Hilliard became a curious emblem of the persecuted. He was hailed as the man who unmasked Vizard.

Five days later, he was interviewed by Emma Alberici on ABC TV's *7.30 Report*. It was the first extended interview he had given. Hilliard claimed that Vizard had allowed him to draw cheques and pay them first into his Diners Club charge card account and 'then spend it basically'. But he was not to spend it on 'assets that people would ask where the money came from—so it was purely for consumption, consumables'.

What Hilliard did not explain was why he would allow anyone to dictate how he spent $438 000, money that was, at least according to Hilliard, a 'gift' from Vizard, yet which represented more than double his total pre-tax salary from 1993 to 2000. Perhaps Hilliard really was, as he suggested, 'an ingénue', easily manipulated, someone who would do as anyone told him to. Or perhaps he was simply not telling the truth.

Hilliard ended the interview in tears, and when Alberici asked his opinion of Vizard, he offered a strangely gothic description, a verse adapted from the Gospels of St Matthew: 'He's a whited sepulchre,' Hilliard said. 'Full of dead man's bones and rottenness.'

21
A fair share of shaming

Through all this, Steve Vizard kept a purposely low profile. As cheerily as possible, he greeted the television reporters who stomped their feet on the pavements outside his house on those chilly winter mornings of mid-2005. He liaised with his lawyers and fielded greetings from friends and associates, from people who stayed close, anxious that the torrent of vilification pouring through the media every day did not affect Sarah and the children too deeply. Yet he was a crushed man, bewildered by the public outpouring of anger. He still retained some hope that he would be back in action in the corporate world soon, but his ego had been battered and now was not quite the time to stick his head up. Vizard was simply eager for the whole mess to be over and done with.

But there was more to come. On the morning of Thursday 28 July 2005, he dressed neatly in a dark, pinstriped business suit, and headed back to the Federal Court with his lawyers to hear Justice Ray Finkelstein deliver his ruling. Briskly and with a stern clip of his words, Fink read to the court a brief summary of his reasoning. The full version is an exceptionally elegant judgement, one that leaves not a whisper of doubt about how the judicial system viewed breaches of corporate trust such as insider trading. It is clear, candid and thorough, and it utterly flayed Steve Vizard.

What he did was 'both dishonest and a gross breach of trust', Justice Finkelstein said, adding that the transactions had been 'carefully concealed and only discovered by chance'. Vizard had done it on purpose. 'Everything was done for personal gain. There was no element of need on the defendant's part . . . Perhaps from his perspective the amounts the defendant stood to gain were not enormous, but most members of the community will think otherwise . . . When all is said and done, but for the fact that Telstra did not suffer any loss, the defendant's actions would have been within the category of the worst case for an offence of this type.'

There was no accident in Fink's use of the word 'dishonest'. It was a clear indication that the judge believed Vizard should have been criminally prosecuted. Yet the prospect of ending up in court—potentially, prison—clearly had not deterred Steve Vizard from these illegal share deals. Fink would levy tough penalties that would demonstrate to everyone in the business world that 'if they break the trust that has been reposed in them they will receive a proper penalty'. There would be no easing back in his court. White-collar crimes, he said 'have a tendency to erode the moral base of the law and provide an opportunity for other offenders to justify their misconduct. They are diffuse in their impact and are easily concealed. Any slip from the high standards demanded of a director can put at risk the company, its investors and—in extreme cases—the economy . . . A message must be sent to the business community that for white-collar offences "the game is not worth the candle".'

Having said that, he delivered the Australian Securities and Investments Commission a swift kick. ASIC had suggested a financial penalty of $130 000 was adequate, considering Vizard's remorse and his so-called cooperation. Fink thought it was too low, but he was limited in what he could impose. He left it at $130 000, but suggested the government should lift the existing penalty cap of $200 000 per contravention.

There was much more. Vizard's achievement had been 'formidable' and he had made a 'great' contribution to the community. He was rewarded with honours and medals and appointments to boards. 'In the eyes of the public, he was a pillar of the community,' the judge said. 'But this was not to last.' He accepted that Vizard was deeply remorseful, that he understood the wrongness of his actions, and he accepted that Vizard would not do it again. Yet he 'deserves punishment for his moral culpability'. And the sentence had to be tough enough to show others what would happen if they chanced their arm in the same way.

'It is vital not only in the interests of the business community but in the interests of society that leaders of that community will act honestly in all their dealings,' he said.

There seemed to be a widespread perception, he said, that anyone caught breaching so-called white-collar crimes—fraud, bribery, insider trading and other offences related to dishonesty in business—might get off lightly (if not away with it). One reason might be that when judges sentenced offenders they usually took into account the 'unblemished past life, a reputation for honesty, an involvement in and a contribution towards community affairs', and that meant the maximum penalty was usually clipped back for good deeds. But there may well be a flaw in that traditional approach: 'It is their good character that has enabled them to occupy the position of trust which they have ultimately breached,' Fink said. 'Indeed, it is their good character that is often used to facilitate the offence . . . Corporate crimes are usually committed to accumulate wealth and power and are almost always the result of deliberate and calculated conduct . . . [F]or this kind of offence, it is the nature of the offence rather than the character of the offender that should be the principal consideration for the punishment to be imposed.'

So, if Vizard's past character was not to be chalked in his favour, aside from his remorse and promises not to do it again, what else might lower his sentence? Well, said Fink, Vizard had already endured 'his fair share of shaming'. That had to be taken into account; he had suffered an extraordinarily public humiliation in the previous few weeks, and his reputation 'which for so long had been one of his principal assets' had been ruined, his family profoundly affected.

Still, there was room for formal penalties beyond the public shaming—penalties that had to be tough enough to deter people generally, not just Steve Vizard, from breaking the law. A five-year corporate ban was simply not enough. And just like that, Fink doubled the length of ASIC's proposed corporate ban to ten years, saying that, in the absence of discounts that Vizard was entitled to under the law, the court would have imposed a much longer strike-out. It would be 2015 before Steve Vizard could once again manage any company or serve as a director.

Vizard looked at his lawyers and with a tiny shrug uttered a fatalistic, 'Ah, well . . .' The morning's session had been furiously fast, it was over, and he was out of there. Stunned by the severity of the penalties and weary from the courtroom lecture, he took the lift downstairs, and stepped through the automatic glass doors and into the gusty forecourt. He had been comprehensively shamed and pilloried in the past few weeks and yet he kept his cool, edging his way through a close and rowdy pack of journalists even as a dishevelled man in shorts, jacket and thongs leapt wildly towards him, thrusting forward a pen and sheet of paper and demanding the celebrity's autograph.

Vizard quietly pushed on. He kept his eyes up, threading his way past cameras and microphones towards the footpath, some distance from the court entrance. And with the rattling of trams all but drowning out his voice, he turned and gave a brief statement ostensibly thanking family and friends for supporting him. Then he climbed quickly into his lawyers' waiting car, and in less than a minute he was gone. From that day, every board position Steve Vizard held was surrendered, and all responsibility for the family's affairs was entrusted to his brother, Andrew. Steve Vizard was leaving public life—but he was not yet able to leave the spotlight.

Barely two hours later, ASIC finally broke its exasperating silence. The regulator's deputy chairman, Jeremy Cooper, a slight, bespectacled, blond-haired lawyer, fronted a huge press conference at the commission's headquarters in La Trobe Street, just around the corner from the Federal Court. Steve Vizard's actions, he said, amounted to 'a pre-meditated and cynical exploitation of a privileged position'. He had demonstrated 'a complete disdain for the confidentiality of the boardroom'.

But why didn't ASIC launch a criminal action using the provisions specifically available for insider trading prosecutions? Why had it gone soft on Vizard? Wasn't this just another example of the rich winning out? How much had the investigation cost? Wasn't ASIC embarrassed by its failure to nab Vizard for inside trading?

Cooper was deeply uncomfortable in the hurly-burly of a press conference, and his performance was not entirely convincing. ASIC's reputation had not been damaged, he claimed bravely, but 'we didn't come out in a winning way here . . . we could have come out and explained things a little more clearly and fully'.

'It was a difficult investigation,' he said. 'In white-collar crime there aren't smoking guns and fingerprints . . . It's raised a lot of issues and a lot of emotions. It has brought the public into the complexities of a criminal case.' But, having said that, ASIC would never release the advice that transpired between it and the Commonwealth DPP. No, he said, ASIC was not embarrassed that Justice Finkelstein had imposed a ten-year ban instead of five years as ASIC had suggested; it was pleased because, as ASIC saw it, now there was a new benchmark in place. And ASIC hadn't 'messed it up': 'Not at all. I wouldn't like to be standing here, having lost a criminal prosecution, telling you that Mr Vizard had been acquitted and was scot-free. The result that we have delivered here has made him admit to what he has done . . . even in a criminal trial, you don't get anybody saying "I did this". I think Mr Vizard learnt his lesson. I certainly wouldn't want to be in his shoes at the moment.'

For several months, Steve Vizard became a homebody. He messed around with the kids, caught up with friends, but assumed an unusually low public profile. That is, until the early hours of 14 December when his sixteen-year-old daughter, Stephanie, discovered a drug-crazed burglar in her bedroom. Vizard gave chase as the man, laden with five laptop computers, raced into the street and jumped into a stolen car. Vizard narrowly avoided being run down. Police later said the offender, high on crystal methamphetamine, had been on a four-month crime spree during which he stole sixteen cars and broke into a dozen houses.

For a brief moment, Steve Vizard was a hero again.

22
Order in the court

As Steve Vizard's glorious reputation fizzed and burned to ash, one group of people watched his demise with a particular measure of discomfort. Westpac Bank's lawyers at Mallesons Stephen Jaques, its in-house counsel and its fraud investigators, were cringing with the painful realisation that the Steve Vizard they trusted was yet to stand in court for them. Westpac's officers were flabbergasted by confirmation of Vizard's role in illegal share dealings and concerned that Vizard's credibility was in ruins. The bank now had to face two equally troubling possibilities. Perhaps Steve Vizard had lied in December 2000 when he accused Hilliard of stealing money through a massive cheque fraud—in which case the bank had been swindled when it agreed to reimburse Vizard. Or perhaps Vizard was telling the truth but his evidence would not be accepted by a court. So should the bank, with its prodigious reputation and policy of chasing down unlawful activity, now pursue the wrongdoer? And if so, which one?

All this was enormously important to the bank because smouldering away in the background was the case of *Westpac Banking*

Corporation v. Roy Charles Hilliard, which had idled in the lists of the Victorian Supreme Court for almost five years. What began in December 2000 as an application to freeze Hilliard's assets had swollen into a multi-volume case as the bank tried to claw back from Hilliard the $3.05 million it had paid to Vizard. Now Westpac wanted Hilliard to pay it a similar sum because, the bank argued, the bookkeeper defrauded Vizard's accounts by drawing cheques that were not used in the interests of either Vizard or the Performing Arts Services group. There had been plenty of minor hearings in the case since December 2000: Hilliard's former partner, Margaret McCready, had endured a difficult struggle as she disentangled herself successfully from both Hilliard's affairs and the claims of the bank; and several times Hilliard's lawyers had asked the court to release hundreds of thousands of dollars from his frozen accounts to meet their fees. Many hundreds of documents had emerged during the discovery process: Westpac had subpoenaed records from British Airways, Cunard, Diners Club, Crown Casino and stockbroking firms, and in turn Hilliard demanded financial records relating to Steve Vizard's companies, his art acquisitions and share dealings. All this preparation had to come to a head one day.

Now that the criminal proceedings against Hilliard were at an end, Westpac and Hilliard would turn their minds to the civil proceedings. But the bank had to consider the prospect that if its case hinged on the evidence of the untrustworthy Steve Vizard, it may well fail. The settlement it had struck with Vizard on 19 December 2000 irrevocably bound the businessman to cooperate with Westpac as it tried to recover the money—so while he might claim the cover of self-incrimination on certain points, Vizard still had to get into the witness box if Westpac demanded. But would Vizard tell the truth, or would Hilliard? What if this movement of millions of dollars amounted to nothing more than Steve Vizard, for reasons known only to him, clandestinely shifting money back into his own pocket?

There was yet another problem, one that Westpac had known for a few years. Even if the bank succeeded, Hilliard was hopelessly broke. Unless he really did have funds stashed in a secret bank account somewhere, or perhaps in a tin box, there was nothing left to compensate the bank.

Roy Hilliard's lawyer, Magda Kron of Rudstein Kron, recognised the incongruity in Westpac's unholy alliance with Vizard and on 5 August 2005, in a four-page letter to the bank's solicitors at Mallesons Stephen Jaques, she suggested that in light of Vizard's failure to appear at Hilliard's criminal trial in the County Court, Westpac really should call an end to the Supreme Court case. The bank should pay Hilliard's legal costs *and* pay him damages because, she said, it had taken charge of his assets improperly five years earlier. Kron argued that Westpac had appeased Vizard too easily and accepted his version of events without properly examining the circumstances. She pointed to a letter, sent in May 2001 by Westpac's chief investigator, Trevor McMahon, to the investigating accountant commissioned by Vizard, David Warner of Carson & McLellan, in which McMahon wrote: 'As long as Steve states that he didn't authorise the drawings in any way, shape or form, I have no problem accepting this evidence'.

Westpac had acted 'precipitously', she claimed. It had jumped the gun before it knew all the facts, and now it was in the invidious position of hanging its case on a highly unreliable witness. If Westpac proceeded, Vizard was going to refuse to answer questions about his share dealings, his financial affairs and the Vizard Foundation—matters that Hilliard considered crucial to his defence. Perhaps Westpac should turn its sights on its own customer, she suggested, and 'explore all avenues of redress against Mr Vizard'. Hilliard was willing to help if Westpac wanted to investigate Vizard, but he would only cooperate if Westpac paid his mountain of legal costs plus all his future legal costs. And if Westpac refused to terminate the case within seven days and pay damages, Hilliard would make a new application to the court alleging abuse of process.

Mallesons Stephen Jaques lawyer Tony Troiani lobbed a reply on 15 August. Yes, he said, Westpac would spend the next sixty days carefully reviewing everything about the Vizard case. We'll let you know, he told Kron. As for an investigation into Vizard, Troiani extended an offer but no promises. If Hilliard had something substantial to prove against Vizard—something that would categorically demonstrate that Vizard did indeed take all $2.5 million of the $3 million alleged to be missing and stashed it somewhere—if Hilliard had something other than verbal evidence, Westpac would lap it up. In the meantime, if Hilliard's lawyers wanted to bring on an abuse of process application, good luck; Westpac would resist.

Westpac's senior executives and its lawyers pondered the matter and by the end of 2005 it had vowed to press on. It was a matter of principle, the bank said. It wanted to get to the bottom of the mess, and ultimately a court could decide once and for all if Steve Vizard had been ripped off.

And so the penultimate case in the saga of Vizard, his bookkeeper and the bank that paid out millions of dollars came before Justice Hartley Hansen in the Victorian Supreme Court on Wednesday 30 August 2006. It was a case that promised to be a showdown. Vizard would be called, so would Hilliard, and if all went according to plan it would be a free-for-all slanging match conducted, of course, under the labyrinthine rules of courtroom evidence and cross-examination. A graceless scrum of lawyers, media and public observers packed the corridor outside tiny Courtroom 7B for up to an hour before the case started that morning, many knowing that inside were just fourteen seats; the scramble would be ugly, and anyone who dared move during proceedings would lose their place and end up back in the corridor.

One padded seat was set aside for Roy Hilliard, three were reserved for Westpac's assistant lawyers, one or two for Vizard's lawyers, and a stalwart contingent of three members of the public grabbed chairs in the back row just behind Hilliard. There was barely any room for the dozens of reporters sent to cover the trial, let alone the few investigators and lawyers in business suits who arrived late from the Australian Securities and Investments Commission and the Tax Office. One by one, extra chairs were jammed into the room, until finally the tipstaff set up an audio system and extra chairs in the court vestibule.

Westpac's case had been scheduled to run for up to two weeks, but it was brought forward a few days because Hilliard's former colleagues at Information Age Travel, Christopher Wood and Kristen Hellstrom, were due to fly to remote China where they would host a tour group visiting the ancient tombs of long-dead emperors. Justice Hansen, though, was ready and raring to start: 'So,' he said, 'off we go.'

And Mark Dreyfus QC for Westpac launched into his opening address. Hilliard, he said, had been employed simultaneously at two totally unrelated companies for many years: Vizard's Performing Arts Services and Hilliard's jointly owned travel agency, Information Age Travel. He was a trusted bookkeeper in both roles, someone who did all the banking for each company and, as a result, he was in a position of opportunity to steal money from each of those companies and spend it on himself. He made false entries in the financial books and records of each company to conceal what he did with the money 'and that's what this trial is going to be about'.

Over the years, Westpac's claim had been pared down so that it was no longer suing Hilliard to recover cheques drawn for less than $10 000; in other words, the stream of $7500 cheques that Hilliard took from Vizard's United Film Completion were ignored, as were a host of others that fell just under the $10 000 limit. Nor was the bank suing in relation to several cheques, each for more than $10 000, which Westpac deemed had been drawn by Hilliard in breach of his authority, but which were used to pay Vizard's legitimate business expenses. All up, just sixty-one cheques valued in total at $2.06 million were in dispute. With interest on this sum, Westpac's claim against Hilliard exceeded $3 million—coincidentally, about the same sum it had reimbursed Vizard.

Much of what Westpac would tell the court over the next few weeks—and much of what Hilliard argued in defence—had already emerged during the Magistrates' Court proceedings of 2003. But some surprising evidence did emerge about the deceit that Hilliard wrought on his own travel agency. Not only did he take millions of dollars from Vizard and Performing Arts Services, but at the same time he was milking vast sums from Information Age Travel. Between December 1992 and August 1994, Hilliard withdrew some $240 000 from IAT's accounts to buy shares for himself, Dreyfus told the court. And he had drawn cheques from *both* Performing Arts Services and IAT to pay off his burgeoning Diners Club account, yet Hilliard's colleagues at IAT, Christopher Wood and Kristen Hellstrom, knew nothing about it.

Then, from at least July 1993, Hilliard began drawing money for his own purposes from Performing Arts Services and depositing those cheques into IAT's bank account. As money washed in from Vizard's accounts and mixed with legitimate income from the travel agency, there was 'a massive intermingling of funds', Dreyfus said, which enormously complicated Westpac's investigation of where the Vizard funds went.

At this point, most oddly, Hilliard's counsel, Peter Hayes, rose to his feet and interrupted. His black silken cape was sliding halfway down his back, and his belly was barely contained by his buttoned waistcoat. Dreyfus was merely trying to 'blacken Mr Hilliard', Hayes said, but if the judge would allow he would begin his own address as soon as the other side had finished. Hayes plumped himself down again.

Dreyfus clearly was offsided by this strategically unsettling outburst. 'Ordinarily there is silence during an address, Your Honour,' he protested.

'No, just keep going,' Justice Hansen told him. Peter Hayes snuffled a few times and turned his back on Dreyfus. Already it was getting testy at the bar table.

Dreyfus outlined the type of cheque transactions the judge would be shown in evidence, and he highlighted a list of cheques related to funds that had left Performing Arts Services and ended up in IAT's bank accounts. He also showed the judge plenty of blank cheque butts for Information Age Travel's transactions between 1993 and 2000. That was the way Hilliard did his bookkeeping, Dreyfus said. Legitimate cheques would have something scrawled on the butts, but mostly Hilliard did not write down any details at all. The incomplete series of IAT's cashbooks for that seven-year period showed that all the cheques that corresponded to the blank cheque butts were recorded as having been paid to 'ANZ'. But the forensic analysis of the cheque trail proved that the funds ended up in share trading accounts operated by Hilliard at Credit Suisse First Boston or Potter Warburg, or were used to buy rare stamps, to pay Hilliard's Diners Club or MasterCard accounts, or the cheques were simply cashed.

Westpac admitted it had made a mistake in allowing Hilliard to draw cheques beyond his $10 000 limit, Dreyfus said. But it made a second mistake because the bank did not know that Hilliard was using Vizard's funds for something other than the benefit of Vizard or PAS's business expenses—that is, that he was using the funds for himself. It was a key condition of the bank's mandate that cheques it honoured had to be paid for the benefit of the accountholder.

Dreyfus then sketched for the judge how Vizard, Westpac's main witness, had fallen foul of the authorities a year earlier with his dodgy share deals. And he outlined how Vizard's difficulties dramatically transformed what would have been a theft trial against Hilliard into a guilty plea in the County Court on false accounting charges. But as far as Westpac was concerned, Dreyfus said, 'there was a massive fraud committed here which has taken a long time to track down and . . . the full extent of it may never be known'. Hilliard's defence, that he returned to Vizard all the money except $438 000, was no more than 'a convoluted and . . . inherently unbelievable story'.

Peter Hayes began his opening address with a fine plea for sympathy. Hilliard, he said, was so broke that their side of the bar table couldn't afford transcripts of the proceedings. Hilliard was on a pension, and his lawyers these days were appearing for free. All his money had gone. 'We ask that Westpac be directed to provide a copy of the transcript—they can afford it,' Hayes said.

Secondly, he said, when the judge had time to examine all the pretty red and blue charts that Westpac had supplied to the court, charts depicting the destination of cheques drawn against Vizard's accounts, Justice Hansen had to be aware that the red entries on the charts represented those cheques that could be traced to Hilliard and the blue lines represented 'the great blue yonder'—the untraceable funds which, Hayes suggested, amounted to the 'secret cache' that Vizard hoarded for his own unknown purposes.

'Mr Hilliard says that he didn't receive these moneys,' Hayes said. 'It is noteworthy that Westpac, with its worldwide resources, produces no independent expert or investigation to show or even suggest that Mr Hilliard got the money in blue . . .' Westpac simply never made any inquiry to determine if Vizard really did receive the money, as Hilliard had claimed. 'Mr Hilliard was charged with theft of the blue money. His position at the committal was that he would plead guilty to false accounting in relation to IAT, but not theft—because he hasn't stolen the money.'

Hilliard would not dispute that he had misled his colleague at IAT, Christopher Wood, nor would he challenge the allegation that he falsified the books and accounts. But he would argue that all this was done 'as part of obtaining the secret cash cache for Mr Vizard, as

Mr Vizard had requested'. And when the court came to look at Vizard, it would find he was 'a person of no credit . . . who has committed disreputable acts', Hayes said. He was a businessman who often used 'loyal servants to generate false profits for his own gain, involving secrecy and deception, where he has actively misled the public, where he has contempt for others, and where his motivation appears to be greed and power'. What most people saw in Vizard was 'the laughing face of a public figure who uses his huge public following, we say, to be an entirely manipulative and disreputable person—and that modus operandi is exactly what Mr Hilliard says was happening with him'.

On and on, Hayes liberally tore shreds from Vizard's character until finally Mark Dreyfus pleaded for a halt to Hayes' opening address, describing it as a 'rant' and a 'diatribe' that Hayes had conducted for some years. 'I object to this,' Hayes said, jumping up, then sitting down again.

'[I]t's not Mr Vizard who is on trial here,' Dreyfus insisted. 'It is Mr Hilliard who is the defendant in the action, answering a civil claim.'

Hayes began whispering loudly at Dreyfus, just short of the bar table's microphone. Why should Dreyfus interrupt Hayes' opening address when he had so 'piously' suggested that they should hear each other out in silence. Dreyfus started to object, but the judge waved his hands in the air and shut them both down.

'It's early days in the case,' Justice Hansen snapped. 'And if counsel start arguing with each other and interrupting each other, the conduct of the trial will simply degenerate, which won't help me.'

'It works both ways,' Hayes said petulantly.

'No need to say that,' the judge retorted.

Peter Hayes dusted himself down and regained his place. Hilliard had resigned, he said, because he was fearful about the potential ramifications for himself if Vizard's insider trading activities were ever discovered. Hilliard's team wanted to question Vizard about his share dealings because it showed how the businessman used his underlings to do his 'disreputable acts'. It was part of Vizard's pattern of behaviour, Hayes claimed, and while Vizard might deny it, ultimately the court would have to decide 'Mr Vizard's word against Mr Hilliard's . . . It's a credit issue of the most old-fashioned kind,' Hayes said.

Over the next few days, the court heard evidence from a few minor witnesses: Christopher Wood told the court about Hilliard's involvement with Information Age Travel, and Kristen Hellstrom described how she spent some time trying to reconstruct the travel agency's accounts after he was forced out of the company in early 2001. Hilliard's successor Barrie Stevens noted the remarkable lack of accounting and financial records when he took over the bookkeeping role in late 2000, and how he identified the fabricated entries of six paintings in the Vizard Foundation's art register. He also described his surprise when, after requisitioning old bank statements from Westpac, he discovered that numerous even-dollar cheques running into the tens of thousands of dollars had been drawn against Vizard's accounts. A former Westpac branch manager, John Fyfe, told the court how in the early 1990s if Hilliard wrote cheques for more than $10 000, the bank would send the cheques back to Vizard for his personal, written approval. That scheme, however, only lasted until the mid-1990s.

Batches of documents requisitioned by either side arrived at the court under subpoena, the bickering at the bar table continued almost unabated—as did the scramble for seats in the public gallery—and an expectant hum ran through every hour of discussion. Everything was geared in readiness for the appearance of Stephen William Vizard.

On Monday 4 September, the first day of Vizard's four days in the witness box, there were at least four Queen's Counsel and two barristers at the bar table. One of the QCs, Jeffrey Sher, was representing the government-commissioned solicitors who had acted for the Victorian Director of Public Prosecutions in Hilliard's criminal proceedings. Both Westpac and Hilliard had issued subpoenas to the DPP's solicitors as they attempted to draw into the Supreme Court some exhibits, witness statements and transcripts from the earlier cases in other courts. But when Sher indicated that the DPP was reluctant to have its people cross-examined, the discussion became decidedly opaque. Justice Hansen was at a loss. He could see counsel up and down the bar table were struggling not to say too much, each glancing at the other with knowing looks and listening intently to each other's words. He was not going to push them but, he said, he could not recall ever seeing such 'finessing' in a commercial case. Eventually Hansen did accept into the case a pile of various transcripts and exhibits, including ASIC's statement to the Federal Court which detailed Vizard's illegal share dealings. All of it added 'context', as he said.

It was late morning before Vizard was called. He stood silently at the rear door of the court then, ushered by lawyers, he squeezed past the crowd at the bar table, and settled into the wood-panelled witness box. He had all the legal props a man of wealth could afford: a Queen's Counsel—James Judd—if needed plus Leon Zwier from Arnold Bloch Leibler, and yet more lawyers. He would need as much help as he could get; less than three months earlier he had been formally interviewed at police headquarters in relation to possible perjury matters, a meeting instigated by his lawyers in a bid to clear up the matter before the Westpac trial began. Now in the back row of the court were a few officers from various government authorities with notebooks in hand. Jammed hard against the side wall were half a dozen journalists, more were crowded into the anteroom, and on the far side of the room a small knot of observers gathered, as they did every day of the trial, to pick apart every fact, phrase and nuance of the courtroom evidence. Everyone was waiting for Vizard to slip up.

Directly across the room from Vizard, in his clear line of sight, was the sallow-faced Roy Hilliard, sitting motionless with a lined notebook perched on his knees.

Vizard, battling a slight cold, was sullen and tentative as he responded to questioning by Mark Dreyfus for Westpac. Hilliard, he said, began work as a bookkeeper for the group in 1991 on an initial salary of $45 000, rising to $60 000 by 2000. He was in a high position of trust: 'Everything to do with our financial affairs Mr Hilliard was supposed to look after,' Vizard said. Yet after 1992, Vizard and Hilliard usually met only once a month, sometimes less frequently. The bookkeeper, he claimed, was not closely supervised.

Vizard was shown several documents that authorised Hilliard to sign cheques against his accounts, but when shown a copy of the February 1996 fax, which supposedly lifted Hilliard's authority from $10 000 to $50 000, the businessman pointed to several aspects of the signature which he claimed did not match his usual mark. It was a jerky, 'staccato' signature on the document, Vizard said, and there were one or two extra lines that he never usually made. He denied signing it. As for Hilliard's claim that Vizard received all his money back in cash, the businessman rejected it as 'absolutely not true'. He had never authorised Hilliard to write cheques and pay them to IAT's accounts, nor was Hilliard permitted to write $438 000 of cheques to cover his Diners Club expenses and holidays.

Barely half an hour before the luncheon adjournment, Hilliard's counsel, Peter Hayes, began his cross-examination of Vizard by pointing out that on many occasions Hilliard had signed cheques for more than $10 000 on behalf of Vizard companies.

'I'm now aware that's the case,' Vizard said.

But, said Hayes in his most chastising voice, you 'categorically denied' as much during the 2003 Magistrates' Court proceedings. And before Vizard could respond his counsel, James Judd, objected. Vizard would refuse to answer questions that might leave him open to possible perjury charges, Judd said. So some evidence he gave in the Magistrates' Court proceedings and the matters related to his share dealings as told to the Federal Court would be out of bounds. 'The problem is that Mr Vizard is at risk of prosecution in relation to the accuracy of answers that were given by him at committal . . .' he said. An investigation was in train, one in which ASIC was assisting the police, so it remained an enormously touchy area for Vizard and 'we must err on the side of caution'.

Hansen decided to hear each objection as it came. But the very next question from Hayes—again, about evidence in the Magistrates' Court—drew the same response from Vizard. Hayes began to get irritated. There couldn't possibly be a claim on that relatively innocuous question, he argued. But there was. Indeed, there were plenty of claims for privilege—so many that by the third day of cross-examination Vizard simply resorted to saying, 'Same objection, Your Honour,' and the judge replied, 'Upheld.' Vizard's responses under cross-examination became a delicate dance as he tiptoed away from the gaping chasm of perjury and Hayes tried to nudge him ever closer.

Hayes handed Vizard a six-page list of cheques that had been drawn against the Performing Arts Services accounts dating back to 1996. Each had been signed by Hilliard, and each was for more than $10 000. Hayes suggested they had been drawn to settle bills for Vizard, for land tax and other obligations, but Vizard claimed he knew nothing about them. On the fifth page of the list was a cheque for $500 000, dated 17 December 1999, which was paid to Creative Technology Investments. Hayes asked if Hilliard was authorised to sign that cheque, and immediately Vizard declined to answer.

'I press the question, Your Honour,' Hayes said and sat down.

Judd began to explain how the files of both ASIC and the Commonwealth DPP in relation to Creative Technology Investments remained very much open. Criminal proceedings could yet be initiated over Vizard's share trading, he said.

But, Hayes protested, there was a big distinction between Vizard telling Hilliard to write the cheque and the reason why the cheque was drawn, namely to trade shares. In any event, it was unfair for Vizard to 'hide behind' the claim for privilege when Hilliard stood accused of being a thief. Plenty of high-powered legal counsel had surrounded Vizard every step of the way—through the Magistrates' Court when he was first asked about CTI's share dealings, then into the Federal Court when he conceded breaching the Corporations Act, and now in the Supreme Court. It was not only 'wholly unfair' to claim the privilege, Hayes suggested, it was 'a stunt—with respect'.

Justice Hansen told Vizard to answer the question.

'Mr Vizard, did you authorise Mr Hilliard to write the cheque for $500 000 that I was drawing your attention to a moment ago?' Hayes said.

'No.'

Hayes put it to him again. 'Do you say on your oath that Mr Hilliard was not authorised to sign that cheque?', and Vizard replied: 'I do.'

Backwards and forwards it went for the rest of the day, with Vizard seeking privilege, Hayes pushing the issue, Judd citing excerpts from the legislation, and Hansen suggesting Hayes try again. It was a polite tussle, but Hayes got the last word in: Vizard, he said, had been asked very directly in the Magistrates' Court about his share trading and he had not told the truth. 'There is a world of difference between thinking you can get away with telling an untruth and then having it pointed out that people are on to you . . .' Hayes said, 'but the fact is Mr Vizard advisedly and knowingly, with counsel present, gave those false answers.'

Just as the court was about to adjourn for the day, however, Justice Hansen made a surprisingly broad ruling about privilege: Vizard would have to answer questions about evidence he gave in the Magistrates' Court in 2003 or in relation to the Federal Court statement. It was an odd and entirely unexpected ruling, one that seriously jeopardised Vizard. Recognising the very serious ramifications, his lawyers that night rushed to haul in extra counsel so that when the courtroom doors swung open the next morning, Vizard had *two* QCs to help out. But before any of the counsel could say anything, Justice Hansen unexpectedly reversed his ruling: Vizard could claim privilege as each question arose.

It was a quagmire: Vizard repeatedly declined to discuss evidence he had given in the Magistrates' Court and he steered well clear of anything to do with his share dealing; Hansen upheld the objections, and Hayes made almost no ground. Hayes tried a slightly different tack by quizzing Vizard at length in relation to paintings that, according to documents from the early 1990s, had been acquired by the Vizard Foundation. Roy Hilliard claimed Vizard retained at least fifty-four of the Foundation's valuable paintings in his home during the 1990s and never publicly displayed them. He wrote as much in a memo that he gave Vizard in 1998 (and which was exhibited in the Magistrates' Court); Vizard had amended the memo by writing instead that the artworks 'have never had appropriate public exhibition'. Now in the Supreme Court, Vizard clarified his amendment, saying it meant some of the Foundation's works were in storage—including in a storeroom at his home.

Hayes singled out one painting that certainly had been in the Vizard home: John Olsen's *Self Portrait by the Sea* or *By the Sea*. 'Is that a painting that does or has hung in your lounge-room in Irving Road, Toorak?' Hayes asked.

'I couldn't say, but it's a painting that has hung at our houses at various points in time,' Vizard replied.

'You know it well?' Hayes asked.

'I don't know the name, but we have only ever had one Olsen painting so that would be the painting.'

'It hung in your lounge-room for many years, didn't it?'

'Yes.'

And, said Hayes, it was listed as an asset of the Vizard Foundation for many years?

'Well,' Vizard said, 'as a result of the work done by the investigating accountants, they identified a number of our personal paintings and property that was wrongly identified in various asset registers maintained by Mr Hilliard.'

'Olsen's *By the Sea* was acquired in 1992, wasn't it?'

'I couldn't say,' Vizard said.

'Really?' Hayes said facetiously, and he showed the court documents that indicated *By the Sea* was acquired by the Foundation in April 1992 and subsequently registered in the Foundation's list of assets from June 1992. 'Now, Mr Vizard, you do agree that in the early 1990s the Foundation purchased this John Olsen painting called *By the Sea*, don't you?'

'No,' he said.

Hayes pulled up his black silk gown, which was sliding way off his shoulders, and took Vizard through a little drill. Did he claim this Olsen painting as a tax deduction at some stage?

'No,' said Vizard.

'That's not true, is it, Mr Vizard?'

'I don't believe it to be so,' Vizard said.

'Was the Olsen *By the Sea* painting ever on public display?' Hayes asked.

'I don't believe so.'

'It was on display in the sense that it was in the lounge-room of your home, wasn't it?' Hayes said.

Vizard clearly was irritated, and he replied very tersely: 'It's our painting.'

So, Hayes suggested, it must have been a shock to learn that it had been on the asset register of the Foundation since 1992, yet it 'rested cosily in your lounge-room' all that time.

'It was our painting,' Vizard said again, 'and wrongly recorded as being owned by the Foundation along with twenty other works.'

Hayes asked why Vizard was so certain that twenty paintings bought by the Foundation instead rightly belonged to the family.

Said Vizard: 'The investigating accountants spent about a year and a half trying to reassemble the records of the Foundation. They sought to go back to every dealer that the Foundation, or we, or any Performing Arts Services company had dealt with over the years and try to reconstruct who had purchased the painting[s], at what cost, whether it actually existed and whether it had been disposed of, and try and determine accurately the real state of the records of both the Foundation, Performing Arts Services company and our own family.'

Hayes also showed Vizard numerous sales records dating from the 1990s that had been subpoenaed from Melbourne's three big art auction houses, Deutscher-Menzies, Christie's and Sotheby's. It was clear that from at least 1999, Steve Vizard had sold at auction many paintings that had been registered as assets of the Foundation since the early 1990s. Quizzed about several of the paintings—artworks by Brett Whiteley, Lloyd Rees, John Perceval and many other Australian artists—Vizard claimed he could not recall if any one of them had ever been publicly displayed. Vizard said there had been hundreds of artworks in the Foundation and to say if this one or that one had been exhibited was simply beyond him.

The implication behind all Hayes' questions about the artworks was that Steve Vizard exploited the Foundation as a way of using pre-tax money to buy art for his own enjoyment. He was suggesting that Vizard routinely transferred funds to the Foundation from his business entities and trusts—and so lowered the tax assessable income for those trusts and other entities—and then he would simply dip into the Foundation's bank account and buy whatever artwork took his fancy and hang it in his own home. It was, Hayes suggested, a way of using the tax-exempt status of the charity for his own purposes.

'You used the Foundation as a convenient form of structuring your tax and having paintings for your own personal use as you chose, didn't you?' Hayes asked.

'No,' Vizard said.

For four days, Hayes' questioning of Vizard teetered close to revelation of some sort. Look at this document, Hayes would say, flapping a piece of paper as though there was nothing clearer in the world than hard-copy proof. But Vizard would look at the document and say he could not recall, or he would deny Hayes' suggestions or blame Hilliard for putting in false entries. At other times, Vizard claimed the cover of privilege against self-incrimination. To be fair, Hilliard's legal team covered a lot of ground in those four days: the businessman was questioned closely about many cheques signed by Hilliard, about the Foundation's art collection, his business dealings and tax returns. And he was asked to explain why a loan account he had with Performing Arts Services gradually increased to $5 million by the mid-1990s before it was repaid in full and then reverted to a substantial credit. There was no doubt that Vizard was fudging many of his answers. But try as he might to prise an edge to Vizard's defensive shield, Peter Hayes could not break through.

Soon after Vizard stepped down from the witness box on Thursday 7 September, Hayes began Hilliard's defence. Westpac was simply wrong to claim that Hilliard did not have Vizard's approval to write cheques for more than $10 000, he said. For years, the bookkeeper had purchased art for Vizard and the Foundation, and that meant he signed plenty of cheques for tens of thousands of dollars. He wrote several cheques for sums of up to $500 000 to finance Creative Technology Investment's share-buying spree in 1999 and 2000, and he paid all Vizard's big bills.

Roy Hilliard would argue that he was a close and trusted employee of Vizard's and he did what Vizard asked him to do. '[Hilliard was] a fool who went too readily along with the machinations of his master

. . . He was a fool for being so loyal . . . But boy, if he was a thief he was just about the worst thief in recorded history—he did things so openly . . . A man on [a salary of] $45 000, for heaven's sake, living the life of Riley . . . Mr Hilliard will say he thought he was entitled to the luxuries he got because of the work he was doing, the very small salary he was otherwise getting, and the risks he was taking for Mr Vizard.' Yes, Hilliard lied about his tertiary qualifications, and he pleaded guilty to falsifying accounts. Yes, he took funds from Information Age Travel's bank accounts too, and he stole certain financial records and other documents when he left Vizard's employ. But he did so because, Hayes said, he was so concerned at having to blow the whistle on Vizard's activities. Hilliard would say 'that he lives the life of a pensioner in the most humble of circumstances' and that he was fighting a 'fundamentally unfair' case with his arms tied behind his back, Hayes said. Yet for all that, Westpac wanted Hilliard to be exhibited as 'the bad person, and Mr Vizard to stay at the top end of town'.

The way Peter Hayes described the case, it amounted to an epic battle pitching a sad, broke pensioner against the big, nasty bank. A David and Goliath struggle. The unrelenting prosecution of the weak yet brave, by the almighty and tyrannical. The mean pursuit of a 'fool' by a charismatic celebrity millionaire. If you believed Hayes' rhetoric it was a lop-sided, greedy grab to get money from a man who didn't have anything left.

Hayes played the pity card for all it was worth. He was good at it. It was almost too easy to forget that this man, Roy Hilliard, stood accused of theft.

23
'I say it happened'

Roy Hilliard should have been the focus of Westpac's civil trial but with so much attention on Steve Vizard, the bookkeeper almost disappeared in the crowd. Each day he dressed in the same dark suit and sat in the same front-row seat of the Victorian Supreme Court, just behind his lawyers. Only occasionally would he lean forward to hand them a file from his bulging black cases. With a fine felt-tipped pen he would jot down notes of just two or three words, and then he would sit absolutely motionless for hours, listening to the testimony of other witnesses. He said very little, even to his lawyers, and when his adversary, Steve Vizard, was seated diagonally opposite in the witness box, Hilliard remained frozen, one leg crossed over the other, slumped in his seat. He certainly looked at Vizard—their line of sight intersected all day—but he betrayed no emotion. Only once did Hilliard comment so that others around him might hear: when Vizard under cross-examination made an unremarkable quip, Hilliard whispered loudly, 'Every good tragedy has its comic relief.' Otherwise he was wan and disconsolate, wooden and unsmiling.

On Monday 11 September 2006, Roy Hilliard began three days of intense examination. Under questioning by his own counsel, Peter Hayes QC, Hilliard retold his story of the cheque transactions, describing his bookkeeping duties and how he communicated with the businessman and how Vizard's bills normally were paid. It was all mundane stuff, but then he claimed that in 1992 he began withdrawing cash from his travel agency, Information Age Travel handed it to the businessman and took funds by cheque from Performing Arts Services to cover the sum. Hilliard said he accounted for all this by registering it in the personal loan account that Vizard maintained with PAS. By May or June of 1993, he said, he had withdrawn 'hundreds of thousands of dollars' from IAT's accounts, in amounts of less than $10 000 at a time, and channelled the money to Vizard.

Hilliard claimed that when he drew telegraphic transfers at the bank for IAT, he would simply add $7500 or $8500 on to the required amount and draw the extra sum in cash. Then he would store the cash in a filing cabinet in his office and 'when it reached an amount of $15 000 to $20 000, I gave it to Mr Vizard'. Hilliard claimed that he always handed the money over in envelopes and it was always done during closed-door meetings when no one else was present. He made records of these transactions, so he said, and printed them out from his computer; he would subsequently show Vizard the running total of the cash transactions and then destroy the document. Hilliard claimed that when he quit working for Vizard in 2000, he warned the businessman that the 'arrangement' would be coming to an end. Vizard 'was not best pleased but he accepted the inevitable', Hilliard said, adding that Vizard ordered him to destroy any computer records of the transactions. He also claimed that Vizard personally approved each of Hilliard's expenses, but asked why Vizard then didn't simply sign the cheques for those same expenses Hilliard said: 'He didn't like signing cheques'.

The following day, under cross-examination by Mark Dreyfus QC for Westpac, Hilliard readily admitted that his bookkeeping for Steve Vizard's Performing Arts Services had been fraudulent and that he falsified the financial records of his jointly owned travel agency, Information Age Travel, but he denied destroying Performing Arts Services' accounting and financial documents. He agreed that he misled his business partner at IAT, Christopher Wood, and that he devised false profit figures for the travel agency. He conceded he had cheated the Tax Office by not declaring income. He admitted he took some documents with him when he retired as Steve Vizard's bookkeeper, and that he had not been honest. And he admitted he had breached his duties as a company director, secretary and company officer, and so breached the law.

What was most disturbing about all this, however, was Hilliard's disarming indifference. It was all done, so he claimed, in the service of Steve Vizard. By his thinking, that made it justifiable. It didn't make his actions morally right but, according to Hilliard, he had succumbed to the demands of a powerful businessman.

Nor did he seem to have any compunction about using IAT's accounts to buy items for himself. Dreyfus asked him: 'A cheque written by you on the IAT account, the travel agency account, could be for cash or for stamps or for wine or for shares or for anything else that you chose to buy for yourself, and the accounting records of IAT, which you maintained, will say nothing about it. That's your pattern isn't it?' And Hilliard replied: 'That's right, yes.'

The court got its own glimpse of Hilliard's eclectic tastes when Dreyfus handed the judge two items Hilliard had given his business partner, Christopher Wood, in 1998 and 1999, ostensibly as Christmas presents. One was a valuable ancient coin depicting Syracuse, the king of Sicily, and the other was a very old copy of *Romanae Magnitudinis Monumenta*, a 1699 book with engravings by Pietro Santi Bartoli showing views of ancient Rome's monuments. These were paid for using IAT's funds but Hilliard denied that he stole anything. He claimed that he was entitled to use IAT's money to pay for his Diners Club expenses, his own share portfolio and other things.

'You are just making this up as you go along, aren't you, Mr Hilliard?' Dreyfus suggested.

'No, not at all,' he replied coolly. And it was this air of nonchalance that pervaded Hilliard's testimony. He did not seem to care especially that he had broken the law.

Dreyfus pointed out how Hilliard had told the Magistrates' Court three years earlier that he gave Vizard cash sums of $10 000 to $15 000, yet under questioning from his own counsel in the Supreme Court the bookkeeper claimed it was $18 000 to $20 000. 'So the evidence that you gave at the committal was false, was it?' Dreyfus asked.

'Mistaken,' Hilliard said.

But, said Dreyfus, it doesn't make sense. All the money that Hilliard claimed he withdrew from Vizard's companies and repaid the businessman in cash was *after*-tax money. Vizard could not have been trying to dodge tax through the elaborate scheme described by Hilliard—his companies had already expensed the tax against these monies. Hilliard wanted the court to believe that Vizard was trying to turn 'white money' (on which tax had already been paid) into 'black money' (illegal, or tax-avoided, money). 'Can I suggest to you that it is an utterly illogical—indeed, incomprehensible—scheme for anyone to have engaged in, in respect of the millions of dollars that you say were used in this way?' Dreyfus argued. 'What do you say?'

'I say it happened,' Hilliard said simply.

As proceedings wound down that afternoon, Hilliard seemed rattled. He took extra care as he levelled a polystyrene cup against his lips and sipped water, then ever so slowly lowered the cup to a small bench in front of him. He seemed tired and empty, not quite in touch.

That evening, after the court adjourned, *Age* journalist Jonathan Green saw Hilliard wandering by himself in laneways near the court, apparently disoriented and alone. Green was concerned for Hilliard's health.

The following morning, Thursday 14 September 2006, Hilliard failed to appear in court. His barrister, Danny Masel, told Justice Hansen that the case would proceed anyway, although he acknowledged there was a 'problem'. For the previous few years Hilliard had been living in a small brick villa in the Victorian regional city of Castlemaine, slightly more than an hour's drive northwest of Melbourne. Each day of the court proceedings, he commuted from Castlemaine to Melbourne and back again. But on this particular morning, his mobile phone was turned off and no one had been able to contact him.

'So I simply can't tell Your Honour where he is,' Masel said. He suggested that the case should go ahead and they would call the next witness. But an hour later, after Hilliard's lawyer contacted Castlemaine police and still no one had seen or heard from him, Justice Hansen asked curtly whether Masel really did consider it proper to continue.

'Your Honour, I have no information as to Mr Hilliard's disposition at all,' Masel said, adding that he had nothing to suggest that it would be inappropriate to go on but at the same time he simply did not know where his client was. 'It's a matter for Your Honour's discretion, ultimately.'

'It's not necessarily,' the judge replied, clearly unimpressed. There was nothing to suggest one way or the other what had happened to Hilliard, but nor was it clear that Masel had instructions to continue. Hansen very abruptly adjourned the court.

Television, radio and newspaper crews swiftly converged on the town of Castlemaine in search of Roy Hilliard. They visited his home, took photos through the window of his villa and knocked on the door of Margaret McCready's house; she now also lived in the same town. Police began searching the nearby bushland, but late in the afternoon a tired Roy Hilliard walked into the Castlemaine hospital and told staff he had attempted, for a fifth time, to kill himself. He rested at the hospital for several days and returned to court a few weeks later for a brief end to his cross-examination.

The trial of *Westpac v. Roy Hilliard* lasted for fifteen days, and ended on 28 September 2006. Both parties gave rollicking closing addresses, each side verbally poking the other and claiming that their client had been denied this or that. Peter Hayes for Hilliard summed up Steve Vizard as a 'lying, thieving humbug'. Mark Dreyfus for Westpac claimed Hilliard had 'lied, cheated and stolen for so long that he can no longer tell fact from fantasy'. Hayes argued that Westpac had settled too quickly with Steve Vizard and pursued his client with indecent haste; Dreyfus said it didn't matter how fast someone pursued a thief.

Hayes claimed there were plenty of cheques to show that Vizard authorised Hilliard to withdraw large sums by cheque, and that Vizard had lied to the court; Dreyfus, in turn, said the judge should resist Hilliard's arguments that he was 'authorised' to write cheques of more than $10 000 because, he said, any private arrangement between Vizard and Hilliard was irrelevant: the bank had a written mandate specifying a limit as to how much Hilliard was allowed to handle, but it had mistakenly breached that mandate by honouring the cheques. And by law, the bank was now entitled to recover the money from Hilliard because the bookkeeper had 'unjustly enriched' himself with the proceeds of those cheques. Hayes said the bank certainly had a mandate—for up to $50 000—one that it received by fax in February 1996; Dreyfus said the signature on that fax was forged.

All up, it was a highly unusual case. Even Justice Hansen admitted as much, several times. But just over two months later, a relatively fast turnaround by some judges' standards, Hansen published a whopping 129-page decision. There had been copious documentation, the judge said, plenty of details of cheque transactions, charts, invoices, memos, faxes, cheque vouchers but in the end the most critical factors were the honesty and reliability—or otherwise—of Steve Vizard and Roy Hilliard. In short, neither was a satisfactory witness.

Justice Hansen's assessment of Steve Vizard was especially damning; eight pages of the judgement were set aside to pick apart Vizard's credibility as a witness, and yet more was woven into Hansen's assessment of the facts of the case. He gave Westpac a clip over the ear for some sharp tactical manoeuvring when it realised Vizard had given false evidence: Vizard had said Hilliard was never authorised to write cheques of more than $10 000—a patently false claim—but the bank never tried to explain the exact arrangement between Vizard and Hilliard, and that was probably because it would have highlighted the untruths behind what Vizard said.

To be fair though, Westpac was stuck with Vizard, and Vizard—because of the terms of his December 2000 settlement—was glued to the bank. Certainly Vizard was a little constrained by the threat of perjury and possible future criminal charges over his illegal share trading, and there was added pressure with so many reporters and other observers noting his evidence during the trial, Justice Hansen said. 'But in another sense that awareness might have inclined the witness to accuracy in answer.'

Unfortunately, what Hansen observed over several days did not especially please him. Vizard was an intelligent man, he said, although 'driven and focused. He demanded much of those in his employ . . . He impressed me as a person alert to the main chance. I consider that he had a far greater awareness of the financial affairs of the PAS [Performing Arts Services] group than his evidence might have indicated . . . He was firm and certain when it suited the case, as in evidence in chief . . . [b]ut in cross-examination his approach and demeanour changed. He went from the firm and certain to being defensive and forgetful and even engaged in false denial when it did not suit the case.'

In general, Vizard 'fashioned his evidence to the line he wanted to take'; in relation to some cheques he gave evidence 'that ranged from false denial to obfuscation and feigned forgetfulness . . . For the cross-examiner the process of having Mr Vizard face up to this [falsity] was like drawing teeth.' Vizard's performance, as the judge called it, was 'part of the attempt to deflect the Court from a true understanding of Mr Hilliard's role and authority in writing cheques . . . The consistent strand is a lack of candour.' Summing up, the judge described Vizard as 'an unreliable witness', and without cogent, independent evidence he did not accept what Vizard said when matters were in dispute.

Nor did he accept Hilliard's evidence, but the judge certainly demonstrated far more sympathy for Hilliard's position: 'Mr Hilliard impressed me as an intelligent, articulate and thoughtful person of serious disposition. He attended to questions and answered carefully, maintaining concentration although under very considerable personal stress.' Hilliard had nothing to show for his claim that Vizard had taken all the money back in cash: 'It all rested on his [Hilliard's] oral say-so. Hence, perhaps not surprisingly, at times in cross-examination when he was pressed on a matter he simply answered to the effect that that is how it was or that is what happened.' Yet Hilliard had deceived his colleagues, committed frauds on the Performing Arts Services group and his own travel agency, admitted cheating the Tax Office and taking company records without authorisation, and—if his defence was correct—he 'laundered' money. Taking all that into account, the judge could not rely on Hilliard either, unless there was independent evidence corroborating what he claimed. He said there was no evidence to support Hilliard's claim that he paid cash back to Vizard.

As for the faxed $50 000-limit authority of February 1996, Justice Hansen said Vizard's answers 'were yet ambiguous, guarded and bordered on the disingenuous', but Hilliard's evidence about the fax was very clear. Westpac, he said, did not prove that the fax was forged.

On the question of how the six paintings ended up in the art register of the Vizard Foundation in 1995, the judge did not believe Hilliard's story that Vizard ordered him to write them into the assets schedule. But—and this was a surprise—neither did he believe Vizard's claim that Hilliard had fraudulently registered the paintings as a bookkeeping ruse to cover up his thefts. As a result, Justice Hansen said, it was not clear how the paintings ever ended up in the register or who put them there.

Weighing it all up, the judge disregarded the evidence of both Hilliard and Vizard and decided that it was sufficiently clear that Westpac honoured the cheques in the mistaken belief that they would be used to buy goods and services for Vizard. But instead of the money going to Vizard, Hilliard had deposited it in the travel agency's account and then withdrawn it as he wanted. In other words, after disregarding the evidence of Vizard and Hilliard and considering all the evidence in total, Justice Hansen found that Hilliard did steal Steve Vizard's money.

By Westpac's initial reckoning, it was entitled to $2.48 million plus $1.54 million in interest. Justice Hansen told the bank to go back and add it up again. Three times the compensation argument came before the court in the summer of 2006-07. Westpac had reimbursed Vizard a total of $3.067 million between December 2000 and September 2002, but it had paid Vizard only a portion of the total value of the cheques that had been misappropriated. It gave the businessman $1.577 million for unauthorised cheques of more than $10 000; $139 762 for cheques below the $10 000 threshold; $1.1 million in interest plus a final payment of $250 000 to resolve the claim. But in claiming some of that back from Hilliard, Westpac had overreached, initially by including sums that it should not have and then by calculating interest on interest. The final sum payable by Hilliard would be $1 545 489 (representing 75 per cent of the value of the sixty-one cheques at the heart of the trial), plus $1 million interest.

Not that it mattered. The man was broke.

24
Luck of the game

Roy Hilliard spent more than $700 000 on lawyers between 2000 and 2006, so that by the time Westpac brought him to the Victorian Supreme Court in September 2006, he had no money left. That's what Justice Hansen heard; indeed, he praised Hilliard's lawyers for representing their client for many months without payment. But even after losing to Westpac, the dogged bookkeeper did not give up. He had nothing left to lose and, in his view, everything to gain.

On 1 June 2007, the Victorian Court of Appeal granted Hilliard leave to appeal Hansen's judgement and it rejected Westpac's bid to strike out the application. Hilliard's argument was that the trial judge should not have allowed Steve Vizard to decline to answer questions because his rulings effectively denied Hilliard the opportunity to argue that Vizard used other people to 'undertake secretive transactions'. He wanted to argue that the court should have entertained the possibility that, in the same way Vizard had commissioned his external accountant Greg Lay to execute underhand share trades, so too had he asked Hilliard to conduct secret and possibly illegal activities. But Hilliard also wanted to clear his name. In written submissions to the Court of Appeal filed on 18 May 2007, Hilliard's barrister Danny Masel contended: '[Hilliard's] reputation has been very publicly tarnished, and there is a public interest that he have [*sic*] the opportunity to set the matter right.' (The appeal is likely to proceed in 2008.)

In February 2007, the Tax Office formally asked the Supreme Court to let it examine several documents used in evidence during Westpac's case against Hilliard. A government solicitor told Justice Hartley Hansen that the Tax Commissioner wanted to examine several issues that had been raised. In particular, the Tax Office asked to see the memo that Steve Vizard prepared for his accountant Greg Lay in February 2001, in which he attempted to explain his rationale for setting up Creative Technology Investments—the same memo that Lay heavily annotated with question marks and which Hilliard's counsel, Peter Hayes QC, later described as a 'prompt' for Lay. The Tax Office also requested access to letters that shot back and forth between Hilliard's lawyers and Vizard's lawyers in January and February 2003—just weeks before Vizard gave evidence at the bookkeeper's committal proceedings—and it asked for full access to a manila folder of documents, including receipts, share trading contracts and other items, which Peter Hayes had used to devastating effect in exposing Vizard's illegal share trading.

As well, the Tax Office asked the court for a letter that Greg Lay wrote to Roy Hilliard on 16 October 2000, the day before Hilliard formally retired, and a letter that Performing Arts Services sent to Westpac in November 1992 when Vizard made Hilliard a cheque signatory for share purchases made through certain Melbourne stockbroking firms. It also asked to examine a schedule of payments that had been drawn up by Hilliard during the trial. The schedule was, according to the bookkeeper, an approximate reconstruction of cash payments that he made in and out of Information Age Travel's bank accounts.

It was not clear if the Tax Office's target was Steve Vizard or Roy Hilliard—or both. Hilliard had admitted to the court that, among other things, he hid dividend income from the Tax Office and he never declared the $438 000 which he said Vizard 'gifted' him as a fee for his services—money that Vizard said Hilliard stole. On the other hand, Hilliard claimed that Vizard wanted to stash cash offshore—a claim that was never substantiated. Hilliard had also claimed that in 2000 he suspected the Tax Office was about to launch an extensive audit of Vizard's affairs, and so he quit working for the businessman, fearing that somehow he too might be in trouble. But what Justice Hansen finally heard—and Hilliard acknowledged—was that Steve Vizard had never been audited by the Tax Office, not in the mid- or late-1990s, not in 2000, or since.

In the normal rhythm of a story, that is where it would end. The cardigan types from the Tax Office launch an investigation, which might wind on for years. The bank chases Hilliard to the bankruptcy courts—and when they get there they might find that his tin box is bare, or not. As for the lawyers, they busy themselves with slates of other cases. And Steve Vizard? He's ready to 'move on'. He wants people to forgive him and to forget his wrongdoing, to put it all behind them.

Yet Steve Vizard cheated the community and he fully deserves ten years in corporate exile. But while Hilliard might plug away via the court system to right what he sees as wrongs, Vizard will remake his reputation, never fully but enough for him to seem acceptable again. Perhaps one day he will be forgiven, but not yet. And that is because what Vizard did, and did deliberately, amounted to one of the most shameful breaches of trust. As one of Australia's honoured community leaders, the do-good philanthropist, company director and man-of-the-people, he betrayed us all from inside the boardroom. He asked us to trust him and to believe he was telling the truth, while all the time he was subverting the law and lying. Vizard has been rightfully shamed and shown up to be what he really is: dishonest. He was a lawyer and he had been a company director for several years. He knew what he was doing. To suggest he was just a bit clumsy, too busy to pay proper attention, or that one of his associates mucked up the arrangements is disingenuous.

Much has been written about insider trading and the authorities' efforts to eradicate share-market cheats, and yet there is substantial—and perhaps justified—cynicism about the integrity of the trading environment. That cynicism, sadly, was reinforced in this case when the prosecuting authorities lost their nerve. While they will argue they did not have sufficient evidence, they could, and should, have gone out on a limb and nailed Vizard using the criminal provisions of the Corporations Act. Certainly the civil suit was done cleanly and swiftly, but rogue players sully everyone and paralyse investor confidence.

Overwhelmingly our designated corporate leaders do follow the legal and ethical mantras that govern this market and they try to uphold those edicts. The smartest directors, company officers and even politicians do not cut themselves out of share-market investment altogether, however. Instead, they put their financial affairs into the care of a trustee who manages the investments on their behalf. If properly structured, the arrangement barricades the investor from the portfolio's acquisitions or divestments, ensuring he or she has no influence on either the selection of assets or the timing of those transactions. As well, companies have strictly designated limits delineating when directors and senior executives can buy or sell shares, and strict rules governing trading in associated companies. Directors have explicit and implicit duties to their shareholders and to their wider stakeholders—legislated and moral duties—to work in the interests of the company as a whole and not for their own interests.

Simply, when faced with a conflict they must do everything possible to avoid putting their own interests ahead of those of the company. They must not misuse their position as an officer of the company. They must not use confidential information obtained during the course of their work to further their own position, either financially or in kind. It is an absolutely clear-cut issue, and anyone who has even a grazing interest in the share-market or business world knows that when it comes to insider trading the rule is simple: don't do it. But none of this dictating from the pulpit will sway the intentionally dishonest cheat.

Plenty of lawyers will tell you that the structure Steve Vizard designed for his share trading—the one that lets someone peep under the blindfold, as journalist Alan Kohler so memorably termed it—is exceedingly common. Maybe there really are lots of directors who provide lists of potentially interesting companies to their trustees, as Vizard did, and maybe a few of those lists have the names of potentially interesting companies outlined in red ink—*nudge, nudge*—or perhaps there is an extra-broad, wordless grin when a particular company is mentioned—*wink, wink*.

Step back from the trading forum, though, and examine what Vizard really did; step back and listen to what he *said*—and therein lies a more insidious wrongdoing. He held us all in contempt. He told us lies. You, me and our courts were not worth being told the truth. His position mattered more.

In May 2007, Hilliard's counsel, Peter Hayes QC, died suddenly in mysterious circumstances while on business in Adelaide. Heroin, cocaine and female escorts featured in the media reports about his death, and the manner of his death triggered an unholy brawl inside the Victorian Bar about the incidence of illegal drug-taking among the ostensibly esteemed members of the legal community. As barristers and senior counsel ripped rosettes from each other's silken gowns, howling into the wind about drug-taking being the unspoken black scourge of the legal fraternity, one former lawyer was well away from the scrum, busily finishing some crucial paperwork: Steve Vizard was quietly negotiating the deal of his life.

Vizard had dabbled in property for many years, constantly 'trading up' as real estate agents call it. In 1991, he and his wife Sarah sold their home in Ash Grove, Toorak, for $530 000, and shifted to a much bigger one in Irving Road. They extensively renovated the Irving Road property and sold it in October 1997 for a reported $3.7 million. In October 1998, they bought a house in Yarradale Avenue for $2.75 million and sold it a year later for $3.2 million. The farm at Roxby Park cost just over $1 million in 1992, and Vizard received five times that sum a decade later when he sold it for $5.15 million. There were a few other properties along the way, but the landmark one was Vizard's Orrong Road residence, with its ivy-covered brick fence, its faux-classical pediments and balustrades, and its gardens stuffed with box hedges and knee-high bulbs. Vizard paid $5.25 million for this corner site in September 2000 and later snapped up an adjoining tennis court for $1.2 million. In May 2007, a prospective buyer spied Vizard's home and asked a property agent to inquire how much the owner wanted. Exactly how much Vizard initially demanded matters little; the final deal was struck at a whopping $17.5 million.

Lucky, *lucky* Steve Vizard. The unexpected sale of his prime residence set a record price for Melbourne residential property, at least for a few weeks. More importantly for Vizard, it crystallised a profit of at least $10 million. Vizard's spirit might have been diminished and his reputation crushed, but in 2007 his bank balance was as healthy as ever. You could hear the collective groan across Melbourne.

Endnotes

I have drawn liberally from many media reports and interviews with Vizard over the past two decades and, where possible, tried to pinpoint the origin of the information and cite it either in the body of the text or in these endnotes. My apologies in advance if I have omitted to cite a specific source that perhaps should have been included.

Several interviews by journalists struck me as highly perceptive, notably one by Adelaide-based Penelope Debelle ('The time of his laugh', Good Weekend, *Age*, 20 April 1991, pp.15–23), which appeared at the peak of Vizard's television fame and one month after he was awarded the Gold Logie. I returned several times to this surprising profile because it most accurately reflected what Debelle termed Vizard's 'alter ego', the hard-nosed businessman behind the apparently easygoing comedian. As early as 1991 Debelle said: 'Vizard has enjoyed probably the best press granted to anyone in television in the past decade. He has charmed the media and been rewarded with glowing coverage. Even he laughs in disbelief at having his picture on the cover of *Time* (the Australian edition).'

Many people gave hours of their time, their memories and their insights to describe for me the Vizard that they knew. Most of them would not have talked at all had I not agreed to keep their identities confidential, their conversations private. Other sources immediately wanted to go on the record, and I thank them.

There were several court proceedings in the Vizard story:

- *Performing Arts Services and Another v RC Hilliard and Another* (Federal Court, ex parte application before Justice Peter Gray, 14 December 2000).
- *Westpac Banking Corporation v Hilliard and Another* (Supreme Court of Victoria, No 2127/2000, initiated December 2000, trial before Justice Hartley Hansen, decision 6 December 2006 and subsequent).
- *Christopher Graham Wood v Roy Charles Hilliard* (Supreme Court of Victoria, No 5069/2001, March to May 2001).
- *The Police v Roy Charles Hilliard* (Melbourne Magistrates' Court before Magistrate John Hardy in November and December 2002, then from March to May 2003).
- *The Queen v Roy Hilliard* (County Court before Justice James Duggan, July 2003 to August 2005).
- *Australian Securities and Investments Commission v Stephen William Vizard* (Federal Court, No VID677/2005 before Justice Ray Finkelstein, 21 and 28 July 2005).

I attended some of these cases and I have drawn from the official transcripts (both text and taped), affidavits and exhibits, witness and character statements, statements of claim and numerous other documents from these cases. I have also used the notes and memories of colleagues who attended.

Chapter 1

1. Records of Godfrey Lancelot Vizard's application and official correspondence in relation to his years as a patrol officer in Papua and New Guinea are retained at the National Archives of Australia (Reference: A518, 280/3/1014).
2. Details of Lance Vizard's adventures as a patrol officer, including the man-overboard incident, were described at his funeral by

Andrew Vizard and published later in an obituary, 'No spectator along the trails of life', *Warrandyte Diary*, February 1994. Vizard refers to his father and family several times in his own book *Two Weeks in Lilliput: Bear Baiting and Backbiting at the Constitutional Convention*, Penguin, Ringwood, Victoria, 1998.

3. Some family history details from official births, deaths and marriages records retained by the State of Victoria as well as immigration records maintained by the New South Wales government.
4. Thank you to current owners of Kembla, Diana Lawrie and her family.
5. Details of early childhood and adult life are drawn from various personal interviews plus articles, in particular: Doug Aiton, 'The new republican', *Sunday Age*, 09/11/1997; Alan Attwood, 'Vizard the versatile', *Age*, 29/04/1980; Maree Cuddihy and Jill Hollingworth, 'The Williamson interview—Steve Vizard', for a publication by Leadership Victoria, an initiative of the Williamson Community Leadership Program, December 1999; Karen Kissane, 'Late-night live wire', *Time*, 23/04/1990; Larry Schwartz, 'Laughing all the way to the bank', *Sunday Age*, 31/03/1996; Steve Vizard, 'Life before we outsourced it', *Age*, 21/11/1997; Steve Vizard, 'What I've learnt', *Age*, 23/08/2003.
6. Muriel Reddy, 'I think I conducted my own syllabus', from Education Age supplement, *Age*, 06/12/2004.
7. Lawrence Money, 'All for one and one for all', *Sunday Age*, 07/06/1992.
8. Details of campus life from personal interviews; the archived student life and culture collections at the Rowden White Library, Melbourne University; plus *Farrago* (editions from 1975 to 1980).
9. Vizard's one-man play, *Cole's Funny Picture Person*, starred his supervisor, the late actor Norman Kaye, who died 28/05/2007.

Chapter 2

1. Details regarding the 10BA tax arrangements can be found in David Gonski's *Review of Commonwealth Assistance to the Film Industry*, January 1997, especially pp. 24–7 and 39–40. See Australian Film Commission website: www.afc.gov.au.
2. Kissane, op cit.
3. '. . . my life was irrevocably filled with happiness', photo-essay 'Scrapbook—Steve Vizard', Life magazine, *Sunday Age*, 14/09/1997. Captions by S Vizard.

Chapter 3

1. Vizard's version of his ideas for *Fast Forward* was told to Garrie Hutchinson in 'When you're hot . . .', *Sunday Herald*, 18/03/1990, pp. 30–3. Vizard told Hutchinson that when Fenton asked if he had any ideas for sketch comedy, 'I told him what I thought comedy shows should have—fast moving, regular, identifiable characters, but with rapid turnover, and it really should make use of the medium a lot, remote controls, changing channels, fast-forwarding through segments and stuff'.

Chapter 4

1. Qintex teetered dangerously close to collapse for much of 1989 as doubts intensified about its stated debt levels. When a deal to buy MGM United Artists fell through in October, a syndicate of banks commissioned insolvency specialists, David Crawford and John Allpass of Peat Marwick Hungerford, to analyse its financial position. On 21 November the Victorian Supreme Court formally appointed Crawford and Allpass to take control.
2. Dennis Pryor, 'Test pattern for the Vizard of 7', Green Guide, *Age*, 10/02/1990.
3. Leo Schofield, 'Leo at Large', *Sydney Morning Herald*, 10/02/1990.

4. Vizard's interviews with James Strong and Deborah Wardley-Lawrie were conducted during the pilot episodes of *Tonight Live* in late November 1989.
5. Paul Leadon, 'Athletes were great but commentators missed the gold', *Sydney Morning Herald*, 03/02/1990.
6. Robin Oliver, 'Vizard vetoes $15m Packer offer', *Sydney Morning Herald*, 18/08/1990.
7. Bobbi Fabian's photo published in Sunday Review, *Sunday Herald*, 17/03/2001.
8. Rick McKenna, his wife Gina Riley and comedian Jane Turner later joined with *Tonight Live* director Ted Emery and produced the hugely successful comedy series *Kath & Kim*.
9. Greenwood quotes from Tony Squires, 'In Sydbourne Tonight', The Guide, *Sydney Morning Herald*, 11/03/1991.
10. The Seven network of stations was known at the time as Australian Television Network, but I have used the shorthand description Seven Network. Television Holdings Ltd bought ATN out of receivership in June 1991, paying $481 million. Bob Campbell was THL chief executive and one of its founding shareholders.
11. Artist Services did plenty of contracted work for Seven, but other than the sketch comedy series *Full Frontal*, which succeeded the second series of *Fast Forward*, its program proposals proved lacklustre; none achieved the kind of success enjoyed by *Fast Forward* and *Tonight Live*.

See also Bob Phillips, *Like No Other Business—50 Years of OZ TV*, Studio City Publications, Melbourne, 2005.

Chapter 5

1. Mike Safe fielded a 13-page CV in early 1995: 'The disillusionment of Mr Steve Vizard', Australian Magazine, *Weekend*

Australian, 25–26/02/1995. Wendy Tuohy received 15 pages in early 1997: 'Small-screen dream team', Saturday Extra, *Age*, 05/04/1997. Jane Cadzow ploughed through 17 pages 18 months later: 'Citizen Vizard', Good Weekend, *Sydney Morning Herald*, 03/10/1998. Cadzow specifically refers to the speeches and naming of people in the audience. Other sources say the CV swelled to more than 20 pages after 2000.

2. Transport Accident Commission (TAC) annual report 1993–94; Vizard resigned 31/01/1996. TAC's annual reports do not state how many meetings he attended.
3. TAC Corporatisation Completed with Board Restructure, press release from the Office of the Treasurer, Alan Stockdale, 08/03/1994.
4. In 'What I've learnt', (op cit.), Vizard says: 'I used to be on the board of Telstra and TAC. I do it because I want to learn about stuff. I see them as all part of the spectrum of life.'
5. A written submission by Vizard's counsel James Judd QC in the Federal Court (21/07/2005) noted Vizard had been '[a] director of the Multiple Sclerosis Society of Victoria Limited. The defendant was a member of the board of the Multiple Sclerosis Society of Victoria Limited from 1994 until 1996. The Society is a not-for-profit health and disability care organisation committed to reducing the impact of Multiple Sclerosis on individuals, families and carers and on research into a cure for the disease.'
6. Rod McGeoch's letter was included in an affidavit sworn 21/07/2005 by Ross Freeman of Minter Ellison, filed in the Federal Court as character evidence for Vizard.
7. Vizard as a potential political candidate from Bruce Jones, 'Rise above the scrum: Downer', *Sun Herald*, 18/09/1994.
8. Mike Safe, 'The disillusionment of Mr Steve Vizard', op cit., 25–26/02/1995.

9. Vizard served on the MCC committee for eight years; his resignation was officially accepted at the MCC's annual meeting on 17/08/2005. He notified MCC chairman David Jones in late June 2005 of his intention to resign, although at the time he did not give the committee a reason.
10. Some details of Vizard's financial network derived from corporate records retained by the Australian Securities and Investments Commission and personal interviews.
11. For more information about the Melvin Jones Fellowship of the Lions Club, see http://www.lionsclubs.org.
12. Wendy Tuohy, 'Vizard unveils his good works', *Age*, 03/12/1993.
13. More information about the Vizard Foundation's art collection of the 1990s, which is at the Ian Potter Museum of Art, can be found in Naomi Cass, Chris McAuliffe et al., *See Here Now: Vizard Foundation Art Collection of the 1990s*, Thames & Hudson, Melbourne, 2003. From 1992 to 1996, the Foundation also sponsored a teaching position in contemporary art at Melbourne University.
14. For more information on deductible gift recipients, see http://www.ato.gov.au/nonprofit/pathway.asp?pc=001/004/006. To check the DGR status of a charity, see http://www.abn.business.gov.au.
15. Gerard Vaughan witness statement, *ASIC v Vizard*, Federal Court, 21/07/2005.
16. Jeff Kennett's comments from personal interviews.
17. New Era for Victorian Major Events Company, press release from the Office of the Victorian Premier, Steve Bracks, 02/04/2001.
18. Correspondence between Vizard and the Victorian government obtained under FOI, November 2006.

Chapter 6

1. Correspondence between Steve Vizard, Senator Richard Alston

and Department of Communications, Information Technology and the Arts obtained under FOI, February 2007.

2. Vizard's luncheon negotiations with Fairfax's Michael Hoy regarding the partial acquisition of Artist Services can be found in Stephen Dabkowski, 'Vizard's business vision', *Sunday Age*, 20/08/1995. Also, Ben Holgate, 'From goofy TV host to production mogul', *Age*, 15/08/1995.
3. '. . . more firepower' from Tony Wright, 'Telstra board members forced to resign', *Sydney Morning Herald*, 28/09/1996.
4. Paul McGeough, 'Howard's new power elite', Spectrum, *Sydney Morning Herald*, 14/09/1996.
5. Details of the US trip by Telstra directors in late 1999 from personal interviews. See also the memo prepared by Vizard, 05/02/2001, exhibit in *Queen v Hilliard*.
6. Sportsview material drawn from: Alan Kohler, 'News and Seven get first grab at AFL webcasting', *Australian Financial Review*, 16/03/2000; Caroline Wilson, 'AFL warns on net deal', *Age*, 23/03/2000; Darryl Timms, Mark Robinson, 'AFL, MCC in talks', *Herald-Sun*, 24/03/2000; John Durie, 'Aussie Rules braced for big money game', Chanticleer, *Australian Financial Review*, 24/03/2000; Ivor Ries, 'Vizard grabs key role in $500m AFL rights deal', *Australian Financial Review*, 15/06/2000; and David Elias, 'Vizard—the man of many hats', *Age*, 18/07/2005.
7. See also MultiEmedia notices to Australian Stock Exchange: 31/01/2000, 15/02/2000, 21/02/2000, 29/02/2000, 01/03/2000, 02/03/2000, 22/08/2000.
8. Christopher Webb raised concerns about Vizard's MultiEmedia shareholding in 'Well, hello, darling—haven't we met somewhere before?', Strictly Private, *Age*, 06/06/2000.
9. Kate Askew quoted Adrian Ballantine in 'Snagged—how Vizard bit off more than he could chew', *Sydney Morning Herald*, 09/07/2005.

10. See Oakton Computing statements to the ASX filed 21/08/2000, 22/08/2000 and 28/08/2000.

Chapter 7

1. Material drawn from court transcripts and witness statements, affidavits, exhibits and oral evidence in *Police v Hilliard* (Victorian Government Reporting Service, transcripts prepared by Legal Transcripts Pty Ltd); *Queen v Hilliard*, (transcripts by VGRS); *Westpac v Hilliard* (Victorian Transcription Services). Further information from personal interviews.
2. Passenger records of P&O *Strathnaver* and details of Hilliard's passage to Australia are from National Archives of Australia electronic database. Item 7306278.
3. References to the Willows dinner can be found in transcript *Police v Hilliard*, 15/05/2003, p. 464.
4. For Hilliard's childhood, see *Queen v Hilliard*, exhibits and transcript of plea hearing 26/07/2005, p. 36.
5. Kristen Hellstrom affidavit sworn 02/05/2001 in *Wood v Hilliard* VSC 5069/01: 'In late 1990 and 1991 IAT suffered because of Hilliard's incompetence.' She referred to Hilliard's failure to notify travel agency clients that a tour in Greece would not be accompanied by a tour leader, and his delayed disclosure that IAT at the time was seriously in debt.
6. '. . . a very confused situation', *Police v Hilliard* 15/03/2003, p. 419.
7. 'He's a hard man to refuse . . .' ibid. p. 467.

Chapter 8

1. Some detail of Stevens' efforts to verify the asset register are in *Police v Hilliard*, 13/03/2003; also *Westpac v Hilliard*, 01/09/2006, pp. 100 ff, and during examination of Vizard, ibid, 04/09/2006, pp. 180 ff.

2. 'exceptional works of art . . .', Vizard, ibid. 05/09/2006, p. 264.
3. David Warner, *Police v Hilliard*, 13/05/2003.
4. 'He refused to believe that a fraud had been committed . . .' Vizard, ibid. 11/03/2003, p. 79.
5. Lay's difficulty in getting Vizard to sign accounts: *Police v Hilliard*, 14/05/2003, pp. 374 ff.
6. Details of cheques from material tendered in *Westpac v Hilliard*.

Chapter 9

1. *Performing Arts Services v Hilliard*, Federal Court, 14/12/2000, transcript by Spark & Cannon.
2. Deed of settlement between Westpac, Performing Arts Services (and others), Stephen William Vizard and Sarah Jane Vizard, dated 19 December 2000, tendered as exhibit in *Queen v Hilliard*.
3. PKF's work mentioned in an affidavit sworn by Des Ryan, filed April 2001 in *Westpac v Hilliard*.
4. Cash withdrawals noted in PKF's report to Westpac, from Westpac letter to Carlton CIU, 10/08/2001, exhibit in *Queen v Hilliard*.

Chapter 10

1. McCready fought for months to disentangle her assets from the Mareva injunction and along the way Westpac copped a scolding from a Supreme Court judge. McCready and Hilliard borrowed funds for investment from Westpac in 1997 and used the apartment as security. The loan was in Hilliard's name only, the bank retained a charge over the property, but McCready took a charge over Hilliard's share portfolio to alleviate her risk (see affidavit sworn 24/05/2001 *Westpac v Hilliard*). Westpac knew about the arrangements but did not tell the court when it secured the injunction. McCready was angered by the bank's suggestions that her apartment had been financed by money from Performing

Arts Services and distressed that she had no prior opportunity to explain. When the matter came before Justice Allan McDonald in late May 2001, the court heard Warner of Carson McLellan and Ryan of PKF concede there was no evidence to show PAS money had gone towards paying for the apartment. The judge said Westpac failed to reveal everything it knew. See *Westpac v Hilliard* [2001], VSC 187, 08/06/2001.

2. 'Roy appeared shocked . . .' Margaret McCready affidavit filed 20/04/2001 in *Wood v Hilliard*.
3. Zelma Rudstein affidavit, ibid. filed 20/04/2001.
4. Reference to cognac and pills from Craig Binnie, 'Bookkeeper's note says . . . Vizard an evil, deceitful man', *Herald-Sun*, 13/08/2005, and from personal interviews (not with Hilliard).
5. '. . . criminally stupid' from McCready affidavit 20/04/2001 in which she said: 'This is an expression I sometimes use to describe behaviour which I consider as completely unacceptable and is usually said in anger to express my extreme disapproval. My use of this expression should never be understood to mean that I had been told by Roy that he had stolen. Roy has never said to me that he has stolen money from the PAS group, Vizard or IAT.'
6. Hellstrom, op cit., evidence in *Wood v Hilliard* and *Westpac v Hilliard*.
7. 'So basically what I did . . .' *Westpac v Hilliard*, 30/08/2006, transcript p. 70.
8. Justice Mandie's comments in *Wood v Hilliard*, 04/05/2001 and 07/05/2001.

Chapter 11

1. '. . . wasn't the objection [*sic*] right from the beginning . . .' from Binnie, op cit., plus personal interviews.
2. See evidence of Judyann Stevens in *Police v Hilliard*.
3. Hilliard's original defence was filed at the Victorian Supreme

Court on 09/04/2001, just one week after Vizard was appointed chairman of the Victorian Major Events Company. Details were sealed on the request of his lawyers. Further details filed 22/06/2001, and elaboration emerged in *Police v Hilliard*, 2003.

4. Letter from McMahon to Judyann Stevens, 10/08/2001, op. cit.

Chapters 12–16

1. *Police v Hilliard,* text and taped transcript. Special thanks to the staff at VGRS. I am indebted to *Age* colleague Selma Milanovic for her insights and accurate shorthand. Other material from personal interviews, colleagues, plus background drawn from *Westpac v Hilliard*.

Chapter 17

1. 'a gentleman of many talents . . .' *Network*, Deakin University, 07/04/2004.
2. Vizard's version of reasons for setting up CTI were in his memo to Greg Lay, 05/02/2001, exhibit in *Queen v Hilliard*.

Chapter 18

1. 'I know you are keen on Sausage Software . . .' This email was read to a meeting of the Australian Institute of Company Directors by the Commonwealth DPP, Damian Bugg, on 29/07/2005 in Hobart. ('Bugg bites back over handling of Vizard', *Sydney Morning Herald*, 30/07/2005.) Bugg told the AICD that in the absence of a formal statement from Greg Lay, the 'reasonable hypothesis consistent with innocence is that Lay was keen on Sausage, Lay got the advice, and Lay bought Sausage Software. And the prosecution [ASIC] could not rebut it'.
2. Details of Vizard's share trading are in ASIC's statement of claim, statement of agreed facts and outline of submissions in *ASIC v Vizard*, 21/07/2005.

3. 'It's now focused on three particular matters . . .': Mike Smith to reporter Alison Caldwell, *PM*, ABC Radio, 04/07/2005.
4. 'minimalist—it's the lowest threshold . . .' a close adviser to Vizard told reporter Kate Legge, 'Steve Vizard—the man who fell to earth—no laughing matter', Australian Magazine, *Weekend Australian*, 10–11/12/2005.
5. 'I think it's a very sad day for Victoria . . .' Richard Gluyas, Katrina Strickland, 'Abuse of power', *Australian*, 05/07/2005.

Chapter 19

1. 'Obviously a person of my standing . . .' *Regina v Rene Walter Rivkin* [2003], NSW Supreme Court 447, Case No 70065/01. Sentencing decision, 29/05/2003.
2. Commonwealth DPP media release 28/07/2005; personal interviews.
3. '. . . no other explanation for his predicament seems feasible' letter from John A Fitzgerald, exhibit to Freeman's affidavit filed 21/07/2005 as character evidence for Vizard, *ASIC v Vizard*.

Chapter 20

1. Emma Alberici, *7.30 Report*, ABC TV, 17/08/2005.
2. *ASIC v Vizard* (with summary), [2005] FCA 1037.

Chapters 21–3

1. *Westpac v Hilliard*, transcript by Victorian Transcription Services; personal interviews.
2. *Westpac v Hilliard*, [2006] VSC 470.

Chapter 24

1. '. . . peeping under the blindfold' from Alan Kohler, 'Confessions all came in wrong place', *Age*, 23/07/2005.

Index